

Implementing the Responsibility to Protect

January 15-17, 2010
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The
Stanley
Foundation

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Executive Summary

In 2005, the heads of state and government of United Nations member states assembled for the World Summit, which formally adopted the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Since 2005, the United Nations has moved from the affirmation of this principle to an extensive discussion of its scope and substance and, more recently, toward turning promise into practice.

During January 15-17, 2010, the Stanley Foundation convened a conference in Tarrytown, New York, to discuss the way forward in implementing the Responsibility to Protect. The meeting provided a forum for reflection and discussion among representatives of United Nations member states, Secretariat officials, and experts on this important topic. The conference started with a keynote address by United Nations Secretary-General Ban Ki-moon. This summary highlights key conclusions and recommendations that surfaced in the course of three days of substantive dialogue. The full report, which follows this summary, provides a more detailed synthesis of the discussions at the conference.

The secretary-general has posited that the Responsibility to Protect consists of three coequal and mutually reinforcing pillars:

1. The responsibility of each individual state to protect its population from genocide, war crimes, ethnic cleansing, crimes against humanity, and their incitement.
2. The responsibility of the international community to encourage and help states to exercise this responsibility and to help states build capacity to protect their populations, as appropriate.
3. The responsibility of the international community to be prepared to take collective action, in a timely and decisive manner in accordance with the United Nations Charter, on a case-by-case basis, and in cooperation with relevant regional organizations as appropriate, should the above preventive means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

The secretary-general outlined a strategy for implementing the Responsibility to Protect in his report submitted to the General Assembly in January 2009. The General Assembly discussed the report in July 2009 and, two months later, it adopted its first resolution on this concept by consensus.

The Current Political Climate for Fully Implementing the Responsibility to Protect

As the secretary-general stressed in his address to the conference, five years after the adoption of the 2005 World Summit Outcome Document, no state disavowed its responsibility to protect its populations from mass atrocities. However, consensus on the Responsibility to Protect in 2005 did not signify universal support for this concept among member states. Five years later, consensus on the Responsibility to Protect has greatly expanded and deepened. This trend is evidenced by the fact that, last summer, a very substantial majority of the United Nations member states spoke out in favor of the Responsibility to Protect at the General Assembly debate. Moreover, the United Nations membership generally viewed the secretary-general's report as balanced.

However, significant concerns about the Responsibility to Protect persist among part of the United Nations membership. These worries are most pronounced with regard to the coercive element of

the third pillar of the concept. Three distinct issues are at the heart of these worries. First, some states fear that the great powers could abuse the Responsibility to Protect. Second, there are concerns that the United Nations Security Council may apply this concept selectively. Third, a number of states are apprehensive that the scope of the responsibility could be expanded beyond genocide, war crimes, ethnic cleansing, and crimes against humanity at some point in the future.

What Near-Term Implementing Actions and Steps are Needed?

There is great interest at the United Nations in moving forward toward the implementation of the Responsibility to Protect. Two trends emerged from the discussions at the conference. First, the United Nations should take specific implementing actions to move forward incrementally in operationalizing the Responsibility to Protect. Second, the secretary-general must continue his discussions in order to offer reassurance and explanations in response to concerns expressed by a number of member states. At the conference, discussions on near-term actions to implement the Responsibility to Protect crystallized around five topics, each of which will be addressed in turn.

Developing an Early Warning and Assessment Capability at the United Nations

The 2005 World Summit agreed, in paragraph 138 of the Outcome Document, that the international community should support the United Nations in establishing an early warning capability for mass atrocities. There was broad agreement on the need for a focal point at the United Nations which could gather and assess all information related to mass atrocities available throughout the United Nations system. Another important function of early warning would be the mobilization of the United Nations and of regional and subregional arrangements in the event of an unfolding or impending mass atrocity.

The main challenge in successfully conducting early warning consists in the accurate assessment of all available information. Different speakers emphasized that the early warning capability has to conduct its work objectively, in a balanced manner and in accordance with the highest standards of integrity.

Conference participants agreed that a United Nations early warning capability should be located independent of any existing department and in close proximity to the secretary-general. A number of speakers favored situating the early warning focal point in the proposed joint office of the Secretary-General's Special Advisers on the Prevention of Genocide and the Responsibility to Protect. One participant cautioned that, as a relatively small entity, this office might confront challenges in gathering timely information from throughout the United Nations system.

Improving the Capability of the United Nations for Emergency Response Including Timely Decisions and Action

Conference participants agreed that emergency response under the third pillar of the Responsibility to Protect may involve several United Nations entities. In taking action, each United Nations organ has to respect the authority of other bodies under the United Nations Charter. The Security Council is endowed with considerable discretion in the exercise of its primary responsibility for the maintenance of international peace and security, in accordance with Chapters VI, VII, and VIII of the Charter. At the same time, it has to observe the conditions for collective action related to the Responsibility to Protect which are listed in paragraph 139 of the 2005 World Summit Outcome Document. The General Assembly has to discuss the normative aspects of the Responsibility to Protect, but it can also play an operational role in specific crises involving mass atrocities, acting under Chapter IV or Article 35 of the Charter or in accordance with the "Uniting for Peace" procedure. Several speakers pointed to universal membership in the General Assembly as a comparative

advantage vis-à-vis the Security Council, concluding that the former should play a very active role in emergency response.

At the first instance, member states look to the secretary-general to interpret an unfolding crisis, to issue warnings, and to make use of his good offices. The early warning capability should transmit its reports to the secretary-general, who would then inform the intergovernmental organs of the United Nations and regional arrangements about present or impending mass atrocities. When a situation is at the verge of manifest failure to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, the secretary-general may convene a standing group of high-rank officials from departments and agencies who need to respond to the crisis. This group should not filter the assessments prepared by the early warning capability, but its meeting should ensure that the secretary-general will see the full panoply of policy options before deciding which recommendations he will put forward to intergovernmental organs.

Establishing a Joint Office Working on Genocide Prevention and the Responsibility to Protect

A number of speakers expressed support for the secretary-general's plan to move ahead with operationalizing a joint office of his Special Advisers on the Prevention of Genocide and the Responsibility to Protect. The office could bring together and assess information on precursors of mass atrocities from throughout the United Nations system and mobilize timely action by national governments (pillars I and II) and from regional organizations and the United Nations (pillars II and III). Moreover, the office should promote making the Responsibility to Protect part of standard operating procedures across the United Nations system. It should also reach out to countries concerned, neighboring states, and serve as a focal point for cooperation with regional and sub-regional arrangements on the prevention of, and response to, mass atrocities.

The joint office should be small, and it should include senior staff. It would be preferable to finance the joint office through a regular budget appropriated by the General Assembly than to fund it entirely through a trust fund that received voluntary contributions. Two speakers suggested that the General Assembly may favor a gradual increase in the size of the office over the immediate operationalization of the office at full capacity.

Making the Responsibility to Protect Operational Throughout the United Nations System

A number of conference participants agreed that the Responsibility to Protect should become part of standard operating procedures throughout the United Nations system. The concepts underlying the Responsibility to Protect should be diffused to, and internalized by, United Nations departments and agencies whose work relates to mass atrocities. The secretary-general's leadership is extremely important for successfully pursuing this objective.

United Nations staff in the field should be mindful of possible threats of mass atrocities, and they need to convey information about precursors of mass violence to their headquarters. The Universal Periodic Review could offer states an opportunity to declare how the Responsibility to Protect is embedded in their national political culture. The Human Rights Council could request a report from the High Commissioner on Human Rights on how her office implements the Responsibility to Protect. The Economic and Social Council (ECOSOC) could ask United Nations agencies to report on steps to integrate the objectives of the Responsibility to Protect into their work. The reviews of the Peacebuilding Commission and the Human Rights Council offer an opportunity to "normalize" the Responsibility to Protect throughout the United Nations system.

Encouraging and Improving United Nations, Regional, and Subregional Interaction and Communication

Conference participants agreed that regional and subregional arrangements can play a critical role in implementing the Responsibility to Protect. The United Nations should work closely with regional organizations on the prevention of mass atrocities. The joint office could reach out to regional organizations and ensure that they incorporate the principles underlying the Responsibility to Protect into their work. While regional organizations should respect the requirement of prior Security Council authorization of coercive action under Chapter VIII of the United Nations Charter, they often serve as a second layer of protection when governments do not fully live up to their own responsibility to protect. One speaker pointed out that the international community can learn from Africa, the region which pioneered the normative development of the Responsibility to Protect as well as its operationalization through the African Peer Review Mechanism, the formation of The African Standby Force, the adoption of the first convention protecting internally displaced persons, and other initiatives.

Ongoing Needs for the Full Implementation of the Responsibility to Protect

Encouraging States to “Own” Their Responsibility to Protect Populations and to Build Capacity for Effectively Doing So

The primary responsibility to protect populations from mass atrocities lies with each government. *A priori*, the international community should pursue nonconfrontational ways of engaging governments that face protection deficits. However, the way states discharge their responsibility to protect affects their ownership of the steps needed to avert mass atrocities. When a state is unable but willing to meet the standard of sovereign responsibility, the international community can offer its assistance and encouragement in a cooperative manner. However, if a state is genuinely unwilling to protect its population, or if its government is perpetrating mass atrocities, it may well refuse to engage constructively with regional and international organizations seeking to ensure the safety of its population. In this case, the international community may have to pursue more robust action.

Both unwillingness and inability to protect populations from mass atrocities are rooted in a lack of good governance. The United Nations and its regional partners should help states improve their governance to prevent situations where they prove unwilling or unable to protect their populations. Peacebuilding support and development assistance can both make a major contribution to attaining this objective. International criminal tribunals and hybrid courts seek to work consistently with the Responsibility to Protect, but the pursuit of justice in societies afflicted by mass atrocities often raises delicate questions.

Ongoing Consideration of the Responsibility to Protect by the General Assembly

The General Assembly is the appropriate forum for continuing the intergovernmental dialogue on the Responsibility to Protect. The General Assembly should periodically consider this concept and turn it into a normal part of its work, devoting regular discussion to it in accordance with paragraph 139 of the 2005 World Summit Outcome Document. Thereby, the General Assembly should continue addressing the concerns of some member states on the implementation of the Responsibility to Protect. The secretary-general should submit periodic reports on the implementation of this concept to the General Assembly.

Next Steps

- The Policy Committee of the Secretary-General is considering the Responsibility to Protect at its meeting at the end of March. After that meeting, the secretary-general will make his decision on proposals presented by his Special Adviser on the Responsibility to Protect. The secretary-general's

special adviser is conducting informal consultations with member states prior to the policy committee meeting.

- The Friends of the Responsibility to Protect could organize a meeting that could also be open to nonmembers. The meeting could provide a forum for discussion. It could feature presentations by experts from regional and subregional organizations confronted with the challenge of preventing mass atrocities who would share their experiences.
- By September 2010, the secretary-general should prepare a concept note providing more detail on his intentions regarding the next steps in the implementation of the Responsibility to Protect. The concept note should specify the institutional set-up desired by the secretary-general. If the secretary-general decides to move ahead with the operationalization of the joint office of his Special Advisers on the Prevention of Genocide and the Responsibility to Protect, he should outline the work of the office and its relationship to the United Nations system and to regional and subregional arrangements. The concept paper should seek to inform ongoing discussions among member states without prejudicing their deliberations. The secretary-general should consult member states while drafting the concept note.
- To implement the Responsibility to Protect at the United Nations, the president of the General Assembly should host an informal session in the summer. At this session, the secretary-general should explain which future steps he intends to take. The General Assembly meeting should be informal and interactive. Rather than featuring a broad review of the Responsibility to Protect, which was conducted last year, the session should focus on specific implementing actions such as early warning and assessment capacity.
- Depending on the outcome of further consultations and of the General Assembly meeting, the secretary-general should consider seeking the approval by the General Assembly for a regular budget for a joint office of the Secretary-General's Special Advisers on the Prevention of Genocide and the Responsibility to Protect.
- The secretary-general should remain strongly committed to moving forward with the implementation of the Responsibility to Protect while continuing to seek suggestions from all member states on the best way for the United Nations to turn the promise of protection from mass atrocities into action.

The rapporteur, Christoph Mikulaschek, prepared this report following the conference. It contains his interpretation of the proceedings and is not merely a descriptive, chronological account. Participants neither reviewed nor approved the report. Therefore, it should not be assumed that every participant subscribes to all recommendations, observations, and conclusions.

Conference Report

Introduction

What near-term actions by the United Nations are needed to implement the responsibility to protect populations? How can the United Nations help states fulfill their responsibility to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity? Through which steps can the principles underlying the Responsibility to Protect become part of the standard operating procedure of the United Nations? How can the early warning capability announced in the 2005 World Summit Outcome be developed? How can the United Nations improve its capacity for emergency response? What is the current political climate for fully implementing the Responsibility to Protect?

These questions have become salient as the United Nations moves from the affirmation of the Responsibility to Protect to the implementation of this concept. During January 15-17, 2010, the Stanley Foundation hosted a conference in Tarrytown, New York, to discuss these important issues. The meeting brought together a group of state representatives to the United Nations, senior Secretariat officials, and experts. The conference started with a keynote address by UN Secretary-General Ban Ki-moon.¹

This report presents a synthesis of the discussions at the conference, and it summarizes key recommendations made by participants of the meeting. At the outset, the report briefly recapitulates the milestones in the normative evolution of the Responsibility to Protect since 2005. The current political climate for fully implementing the Responsibility to Protect is addressed in the second part of the report. The subsequent chapter extensively discusses near-term actions and steps by the United Nations and its partners to turn the promise of the 2005 Outcome Document into practice. The report also offers an outline of continuing needs for the full implementation of this concept. It concludes with a description of next steps ahead and specific recommendations made by conference participants.

The Pledge to Protect Populations From Mass Atrocities

At the 2005 World Summit, the heads of state and government assembled at the United Nations formally adopted the responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.² The secretary-general has posited that the Responsibility to Protect consists of three coequal and mutually reinforcing pillars:³

1. The responsibility of each individual state to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity, and their incitement.
2. The responsibility of the international community to encourage and help states to exercise this responsibility and to help states build capacity to protect their populations, as appropriate.
3. The responsibility of the international community to be prepared to take collective action, in a timely and decisive manner in accordance with the United Nations Charter, on a case-by-case basis, and in cooperation with relevant regional organizations as appropriate, should the above preventive means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

In 2006, the provisions laid out in the World Summit Outcome Document were recalled and reaffirmed by the Security Council in two resolutions on the protection of civilians in armed conflict and the conflict in Darfur.⁴ In July 2008, the secretary-general delivered a major speech on the Responsibility to Protect.⁵ Six months later he submitted his report on the implementation of this concept to the General Assembly.⁶ The General Assembly discussed this report and next steps in implementing the Responsibility to Protect in July 2009.⁷ On September 14, 2009, it adopted its first resolution on the Responsibility to Protect by consensus.⁸ⁱ

At the conference hosted by the Stanley Foundation in January 2010, several speakers stressed that the Responsibility to Protect is a political concept that seeks to influence global attitudes toward the prevention of, and response to, genocide, war crimes, ethnic cleansing, and crimes against humanity. Too often in the past, national and international political decision makers had failed to take effective action to prevent mass atrocities because they had deemed the political and material costs of engagement higher than those of inaction. The rationale behind the Responsibility to Protect was to change this calculus. Participants agreed that the likelihood of preventing mass atrocities would improve if the costs borne by governments failing to protect their populations from the most severe forms of abuse increased. The Responsibility to Protect also aimed at nurturing the readiness of the international community to encourage and help states to live up to their responsibility and to take timely and decisive action to end mass atrocities. One speaker pointed out that the concept's implementation would raise the political cost of casting vetoes in the Security Council that could prevent effective collective action against ongoing mass atrocities threatening international peace and security. In this sense, the Responsibility to Protect sought to achieve a gradual paradigm shift in the thinking of national, regional, and international stakeholders about genocide, war crimes, ethnic cleansing, and crimes against humanity. At the same time, according to one speaker, the Responsibility to Protect did not impose new obligations on states per se, since it merely reframed their existing responsibilities under international humanitarian law, refugee law, and international human rights.⁹ Participants concluded that the overall rationale of the Responsibility to Protect was to raise the prospect that timely action would prevent future mass atrocities. *A priori*, such preventive measures should be taken by national authorities of states facing a risk of future genocide, war crimes, ethnic cleansing, and crimes against humanity.

The Current Political Climate for Full Implementation of the Responsibility to Protect

At the Stanley Foundation's conference, UN Secretary-General Ban Ki-moon explained that, five years after the adoption of the 2005 World Summit Outcome Document, no state had disavowed its responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity. Other speakers noted that all states agreed that the international community must not allow another Rwanda, Cambodia, or Srebrenica to happen, and that the United Nations was committed to preventing such mass atrocities in the future.

Several participants pointed out that consensus on the Responsibility to Protect at the 2005 World Summit did not signify universally deep commitment to this new concept. While strong support existed among member states, a part of the UN membership had concerns about it. Some states were uneasy about the way the concept might be applied; others had more fundamental reservations. One speaker pointed out that many new concepts and norms had initially been met with skepticism by some states. He expressed the hope that such doubts would dissipate over time, arguing that states would gradually develop a common understanding of the concept as they discussed and reached consensus on whether, and how, the Responsibility to Protect related to actual crises.

At the conference there was broad agreement that, over the past few years, the debate on the responsibility to protect had made strong progress. Since 2005, consensus on this concept had both expanded and deepened. The Secretary-General's report made an important contribution to moving the discussion on this new concept forward.¹⁰ The report clarified the scope and substance of the responsibility to protect, and it was generally considered balanced by UN member states.

Today, support for the Responsibility to Protect among UN member states is much stronger than it was just two years ago. Several state representatives pointed out that a very substantial majority of their peers had spoken out in support of the Responsibility to Protect at the General Assembly debate in July.¹¹ The debate was generally viewed as a success since it provided for a fruitful, focused, and constructive discussion on the implementation of this concept. Several speakers lauded the role of Guatemala in promoting the subsequent adoption of a resolution by consensus. One speaker noted that support for the Responsibility to Protect had also increased within the UN Secretariat, as evidenced by the most recent discussion on this concept in the Secretary-General's Policy Committee.

Several speakers also cited recent steps by regional organizations as indicators of growing political support for the Responsibility to Protect. The Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa, which was signed in 2009, afforded protection from mass atrocities to some of the most vulnerable groups of people. It also reiterated the provisions of the Constitutive Act of the African Union on the Responsibility to Protect.¹² The report by the African Union's High Level Panel on Darfur, which was chaired by former South African President Thabo Mbeki and endorsed by the African Union's Peace and Security Council, used language consistent with the Responsibility to Protect.¹³ It was but another recent example of the increasing internalization of the concept in Africa.

At the same time, some concerns about the Responsibility to Protect persist among part of the UN membership, and it would be wrong to assume that all states have embraced all aspects of this concept. While acknowledging growing support for the concept, two speakers emphasized that the UN membership as a whole was still a long way from fully embracing it in its entirety. Conference participants agreed that the first pillar of the Responsibility to Protect—the protection responsibilities of the state—enjoyed universal acceptance. They also concurred that the second pillar—international assistance and capacity building—created no discomfort among member states. However, one speaker cautioned that successful implementation of the second pillar needed to avoid frequent dilemmas for preventive multilateral engagement. This participant explained that structural and operational prevention tools tended to be underresourced since they faced difficulties in proving success (which amounted to a nonevent), and since averted calamities generally did not receive as much attention from the public and from policymakers as those that did occur. The same speaker reasoned that the second pillar of the Responsibility to Protect could provide an overarching rationale for a variety of ongoing development aid measures. Since it reflected an objective shared by donors and aid recipients, it could provide a conceptual framework for avoiding controversies on aid conditionality.

The third pillar—timely and decisive response—provides for noncoercive and coercive measures, to be taken as appropriate if national authorities are manifestly failing to protect their populations from mass atrocities.¹⁴ Most concerns of member states about the Responsibility to Protect expressed at the conference related to the coercive part of the third pillar of this concept. This fact reflects the strong emphasis on coercive collective action in previous debates in the Responsibility to Protect. Several speakers noted that the coercive part of pillar III had consistently been central

to diplomatic and public discussions on the Responsibility to Protect, even though there was broad agreement that preventing mass atrocities (pillars I and II) should be a core objective for successfully implementing this concept.

At the conference, several speakers outlined three distinct concerns related to the implementation of pillar III of the Responsibility to Protect—the fear of abuse of this concept, unease about selectivity in its application, and apprehension of future expansion of the scope of the responsibility.

Two participants concurred that the most salient concern about the implementation of the Responsibility to Protect related to the fear of abuse by great powers. A third speaker explained that history showed that noble causes could be used to justify aggression. Several others cautioned that while these concerns were valid, the fear of abuse should not discourage the international community from fully implementing the Responsibility to Protect. One participant asked rhetorically whether the world should stand by and watch genocide unfold because of the fear about possible abuse of the collective responsibility to halt mass atrocities. According to this participant, abuse could be stemmed by ensuring that the definition of the third pillar of the Responsibility to Protect was clear. Three speakers pointed out that the recent historical record suggests great power disengagement from the world's most serious human security tragedies might pose a more salient problem than concern about interventionism. Somalia, Rwanda, and other conflict regions did not suffer from great power intervention, but from the absence of an adequate international effort to end mass atrocities. These participants described the need to strike a balance between the concerns of some states about abuse of this concept by great powers and the fear of fragile countries about the failure by the international community to take collective action if they suffered from mass atrocities.

Several participants held the view that selectivity in the implementation of pillar III of the Responsibility to Protect constituted the biggest potential hazard for this concept. One conference participant pointed out that when a government was *unwilling* to protect its populations from genocide, war crimes, ethnic cleansing, or crimes against humanity, the Security Council was frequently divided over the question of whether and how it should respond. Thus, it had at times been unable to take collective action in the face of egregious abuses against populations. The same speaker added that the Security Council had sometimes been unwilling to respond in a timely and decisive manner when a state was *unable* to take action. In the former type of situation, the use or threat of a veto could hamper the prospects for effective action under Chapters VI or VII of the United Nations Charter. These dynamics within the Security Council led to fears of a selective implementation of the Responsibility to Protect.

Conference participants agreed that the Responsibility to Protect applied equally to crises in all parts of the world. One speaker pointed out that the concept could have informed the international response to the secessionist wars in the former Yugoslavia if it had been adopted during the early 1990s. This participant also referred to several looming conflicts in Europe to which it might apply. Another speaker cited the Organisation for Security and Co-operation in Europe's High Commissioner on National Minorities as a sign of the continent's recognition of the need to engage in preventive diplomacy and early warning.¹⁵ No part of the world is immune to the danger of descending into mass atrocities, and all states have a responsibility to protect their populations from the most egregious forms of mass violence.

Despite the agreement on the universality of the Responsibility to Protect, there are concerns about potential double standards in the application of its third pillar by the Security Council. One speaker held that while the council mandated peace operations to protect civilians in many conflict coun-

tries, it made insufficient efforts to protect civilians in Somalia and Gaza. Another pointed out that early drafts of the 2005 World Summit Outcome included a provision on the nonuse of the veto in mass atrocity situations, which was subsequently deleted from the text.¹⁶ Two participants put forth the idea of calling upon the permanent members of the Security Council for restraint in using the veto in mass atrocity situations. Another speaker suggested that the veto powers could provide some indication of assurance that the veto would not be exercised to block timely and decisive collective action in the face of mass atrocities. The permanent Security Council members were very hesitant to use or threaten a veto in such contexts since they feared being publicly perceived as having allowed a mass atrocity to happen. Indeed, the Responsibility to Protect has been described as a political concept that seeks, among other things, to raise the political cost of casting vetoes that might prevent a timely and decisive response to mass atrocities by the United Nations. The comprehensive internalization of this concept by the international community and the global civil society could gradually restrain the risk of bias.

A third concern about the implementation of pillar III of the Responsibility to Protect relates to some states' fear that, in the future, the concept might be expanded beyond genocide, war crimes, ethnic cleansing, and crimes against humanity. One participant expressed concern that the Responsibility to Protect could be misappropriated by the Security Council and misapplied to natural disasters or other human security-related tragedies. There was consensus among conference participants that the Responsibility to Protect should be implemented within the boundaries established by the World Summit Outcome, and that its scope should therefore be limited to preventing and responding to genocide, war crimes, ethnic cleansing, and crimes against humanity.

What Near-Term Implementing Actions and Steps are Needed?

Conference participants generally agreed that there was great interest at the United Nations in moving forward toward the implementation of the Responsibility to Protect. A number supported the view that a key challenge ahead consisted in thinking about a way to make this concept operational within the framework of the United Nations and in close contact with regional organizations. One speaker noted that, at this point, member states could not foresee the details of procedures and structures which would turn the Responsibility to Protect from promise into practice at the United Nations. Another held that this was a very critical point in time when the United Nations needed to determine how to move this concept forward operationally and conceptually. In other words, a clear choice will lay before the General Assembly in the months and years ahead.

Two trends emerged from the discussion. First, the United Nations should take specific implementing actions to move forward incrementally in operationalizing the Responsibility to Protect. Second, there was a need for the secretary-general to continue his discussions, which would offer reassurance and explanations in response to the concerns that were expressed by a number of member states during last July's General Assembly debate.

Two speakers presented the view that the best way to move forward would be to dispel the fear of some member states about potential bias in the concept's application before moving to the operationalization of the concept. Other participants emphasized that the next concrete step in implementing the Responsibility to Protect should, in itself, offer clarity and reassurance about the way the Responsibility to Protect would be applied to future crises. They held that the ongoing dialogue, which sought to address legitimate concerns of some member states, should be complemented by simultaneous implementing actions. One of these speakers proposed to start the implementation process in basic ways, and move ahead incrementally. Others added that the General Assembly resolution adopted last year provided a legal basis for the secretary-general to move

forward, and that his report offered a broadly accepted doctrine for his next steps and near-term implementing actions.

At the conference, discussions on near-term actions to implement the Responsibility to Protect crystallized around five topics: the establishment of an early warning capability for mass atrocities at the United Nations; improvements in the emergency response capabilities of the organization; the operationalization of a joint office combining the work of the United Nations on Genocide Prevention and the Responsibility to Protect; the inclusion of the Responsibility to Protect into standard operating procedures throughout the UN system; and cooperation between global, regional, and subregional organizations on the implementation of this concept.

Developing an Early Warning and Assessment Capability at the United Nations

The 2005 World Summit agreed, in paragraph 138 of the Outcome Document, that the international community should support the United Nations in establishing an early warning capability. A number of speakers expressed the conviction that now was the time to operationalize the consensus reached in 2005. One participant deplored the lack of an early warning capability at the United Nations that could coordinate and assess information on genocide, war crimes, ethnic cleansing, and crimes against humanity. Another warned that the chances of successfully implementing the Responsibility to Protect in a crisis would be severely diminished in the absence of early warning. Early warning was essential for preventing mass atrocities, the core objective of the Responsibility to Protect. Anticipating and preventing future mass atrocities would help the international community avoid taking more costly and more controversial collective action to end genocide, war crimes, ethnic cleansing, and crimes against humanity.

One speaker stated that the main objective of the early warning capability should be to inform the international community at an early point in an emerging crisis when it could engage most easily with national authorities to avoid a threat of future mass atrocities. The establishment of an early warning capability would allow the United Nations to gather information from the field and analyze it at a time when preventive action would take the form of a seemingly routine and nonconfrontational dialogue. Conference attendees identified three main tasks for the early warning capability: information gathering, assessment, and mobilization of the UN system.

The United Nations rarely lacks information on present or potential future crises. The country offices of UN departments, agencies, programs and funds, government sources, media, and international and local nongovernmental organizations offer a plethora of information, which can help the United Nations shape adequate policies to avert, or respond to, mass atrocities. Conference participants agreed with the secretary-general's view that "the United Nations did not need to create new networks that could duplicate existing arrangements for monitoring or information-gathering on the ground."¹⁷ Instead of creating heavy bureaucratic instruments, it would be important for the secretary-general to ensure that the field presences throughout the United Nations were sensitive to precursors and root causes of mass atrocities, and that their reports to headquarters paid attention to disquieting patterns to the extent permitted by their mandate.

There was broad agreement that the UN Secretariat was in need of a focal point which could gather and catalyze all information related to mass atrocities available across the United Nations. One participant explained that detecting risks of genocide, war crimes, ethnic cleansing, or crimes against humanity required tapping into a diversity of streams of information which flowed from the field to the headquarters through six separate and often stovepiped information channels. Since each of the four crimes had different precursors, root causes, and triggers, the approach to infor-

mation gathering needed to be tailored to each of the four crimes. According to several speakers, the focal point should also pay close attention to collecting information available to regional organizations, which were “closer to the ground” in many instances. Another pointed out that successful early warning had to pay close attention to incitement of mass atrocities.

According to one speaker, information gathering posed great logistical challenges in failing states where the United Nations often maintained a limited presence on the ground. A country that was unwilling to protect its population from mass atrocities would be likely to obstruct the work and the free movement of the UN country offices and missions. It might also expel UN staff when it feared that it conducted intelligence work. Under these circumstances, information gathering was very difficult. The speaker urged all stakeholders at the United Nations to address these problems so they would not jeopardize early warning on genocide, war crimes, ethnic cleansing, and crimes against humanity.

Several speakers held that the main challenge in successfully conducting early warning consisted in the accurate assessment of the available information. One participant outlined two reasons why UN departments and agencies might sometimes fail to detect patterns of impending mass atrocities. First, no UN entity could see the full picture on mass atrocities since each of them only had part of the information. Second, asking the right questions about genocide, war crimes, ethnic cleansing, and crimes against humanity was not explicitly in their mandate. This participant held that the early warning focal point could close this lacuna by assessing information from across the UN system from a responsibility-to-protect angle. Another speaker pointed out that doing so involved difficult and sensitive judgments; even the best assessments of the peril of a specific situation might sometimes turn out to be inaccurate. However, the speaker was confident that, over time, the quality of these analyses would improve.

In addition to information gathering and assessment, conference participants identified the mobilization of the UN system as a third task of the early warning capability. One participant said that the international community should not rely on the “CNN effect”: the mobilization of political will for collective action to halt mass atrocities through intense media coverage. Rather, there should be an impartial mechanism that prepared objective assessments informing the UN system on a situation that warranted consideration of measures under pillars II or III of the Responsibility to Protect. Another speaker explained that the early warning capability agreed on in the 2005 World Summit Outcome Document should raise the attention of the international community to unfolding crises, mobilize resources for effective prevention and response, and offer a uniting objective for the work of different UN entities in situations of present or potential genocide, war crimes, ethnic cleansing, and crimes against humanity. One speaker added that the early warning capability could also seek to inform the global public about impending or present crises to galvanize the “wisdom of crowds” for the protection of populations threatened by mass atrocities.

Conference participants agreed that the credibility and legitimacy of the early warning capability depended on the most consistent application of the highest standards of professional ethics in the work of the focal point. Speakers used different words with similar meanings to express their views about the way the office is to conduct early warning: with impartiality, neutrality, objectivity, balance, and integrity. Two speakers who requested that the early warning capability be impartial insisted that its assessment of situations of concern for the Responsibility to Protect should not be influenced by political considerations. Moreover, the focal point should examine the entire spectrum of situations around the world –“without ifs, ands, or buts.”¹⁸ The participant who used the word *neutrality* emphasized that the early warning focal point had to pay close attention to crises

in developing and developed countries. One speaker argued that the concept of neutrality would be misplaced in this context and rhetorically asked whether it would imply steering in the middle between two conflict parties if one of them committed mass atrocities. The notion of impartiality raised similar problems for this speaker who preferred the term *objectivity*. Another participant suggested that instead of acting in a neutral or impartial manner, the early warning capability's work should be guided by a balance between the principles of nonintervention and nonindifference. Another expressed a preference for the concept of objectivity over the notion of impartiality with a historical example: the UN human rights architecture had two of its brightest moments at times when UN officials stood up to great powers by exposing abuses after the Soviet invasion of Hungary and French human rights violations in Algeria. Therefore, the early warning capability needs to muster the integrity and courage to work objectively in the face of political pressure.

In the area of information gathering, impartiality and objectivity imply that the early warning capability scrutinizes the credibility of all available information. One participant cautioned that states would not accept assessments based on information that does not originate with official sources. Another recommended that the early warning focal point should draw from all available sources. However, it would have to appreciate the reliability of the different pieces of information in order to arrive at a meaningful assessment of the situation. According to this speaker, insisting on the neutrality of all information used for early warning would preclude states from serving as information sources. The early warning capability would need to avoid getting stuck in debates on the neutrality of information since such disputes might preclude it from analyzing the crisis situation itself in a timely manner.

Conference participants made several observations regarding the location of the early warning capability within the UN system. They agreed that it should be established within the UN Secretariat independent of any existing department. They also concurred that early warning capability should be directly accountable to the secretary-general. One speaker explained that it should be established in close proximity to the secretary-general because its tasks entail shining a light on failures by the organization to address the underlying causes of an escalating crisis which deserves the secretary-general's attention. Two speakers recommended that the early warning capability should, at least initially, be modest in size. One of them held that a small focal point could insulate itself more easily against undue political influence from member states than a big bureaucratic apparatus.

A number of speakers expressed strong support for proposal to locate the early warning capability in the proposed joint office of the secretary-general's two special advisers on Prevention of Genocide and the Responsibility to Protect.¹⁹ One participant pointed out that the special adviser on the Prevention of Genocide already has an early warning mechanism in place whose capacity could serve as a nucleus for the capability agreed on in paragraph 138 of the World Summit Outcome Document. Another proposed that the mandate of the office of the special adviser on the Prevention of Genocide could be extended to encompass all four crimes. One speaker concurred that endowing an existing capacity with more resources was preferable to the establishment of an entirely new bureau. He warned that the creation even of a modest new institution at the UN Secretariat invariably creates fear of hidden agendas, which may lead to apprehension among some member states. Another participant presented the view that, even with an expanded capacity, the proposed joint office would be the smallest entity among UN departments and agencies dealing with the prevention of, and response to, mass atrocities. As such, it will face challenges in gathering information from across the UN system early enough to assess crises in a timely manner.²⁰

One speaker mentioned the office of the assistant secretary-general for policy coordination and strategic planning as another possible location for the early warning capability. A second participant proposed that an interagency process could take on the task of distilling information in the first instance. Such a structure could be inspired by the Counter-Terrorism Implementation Task Force.

Several participants opposed locating the early warning capability at the Department of Political Affairs. One said that it would be difficult for the department to avoid conflicts of interest given its current responsibilities. Another speaker expected concern within the Department of Political Affairs about the narrow scope of the early warning capability, which would be limited to genocide, war crimes, ethnic cleansing, and crimes against humanity, excluding other issues under the department's mandate. Finally, one participant alluded to the earlier debate about the proposal by the Department of Political Affairs to establish a limited network of regional offices and reminded his colleagues that this plan to establish an early warning mechanism within the department did not enjoy the support of the General Assembly.

One speaker addressed the idea of locating the early warning capability within the human rights bodies of the United Nations. The speaker did not support this option because it would endow the Responsibility to Protect with a strong human rights focus which would be opposed by some UN member states.

One participant offered advice on recruitment criteria for the early warning capability, saying staff members should be rewarded for maintaining the highest standards of integrity even in situations when impartiality entails a risk of stirring political controversy. The participant explained that the staff of the early warning focal point should be aware that their information and assessments will frequently be challenged by those who seek to conceal the truth about a crisis. The same participant went on to say that the staff of the early warning capability had to be prepared to accept the risk of endangering their own careers by maintaining the integrity of their work. The speaker concluded that the staff should not be composed entirely of persons who seek to pursue a career at the United Nations, but it should also include outside experts who do not plan to work for the United Nations until they retire.

One speaker recommended that the early warning capability should initially work on a small number of situations. It should seek to prove its value, integrity, and objectivity while gaining the trust of all stakeholders at the United Nations before expanding the scope of its work. Another participant worried about the amount of work the early warning capability would confront. Since the number of genocides and ethnic cleansing campaigns in the world was relatively low, the focal point would be able to sensitize the UN system and its partners to a few thoroughly assessed situations. However, war crimes and crimes against humanity might occur more frequently, and conducting information gathering, assessments, and mobilization in a timely manner would, at times, pose capacity challenges for the early warning capability.

Improving the Capability of the United Nations for Emergency Response Including Timely Decisions and Action

How can the United Nations take decisive action in a timely manner if prevention of mass atrocities proves to be inadequate and an emergency situation unfolds? When national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, the international community needs to arrive at a collective response (pillar III). One speaker warned that the United Nations should refrain from applying the same standard solution to each situation. Thus, following a single detailed road map in each context would lead

to imperfect policy decisions. Rather, the international community needed to adjust its emergency response to the circumstances of each mass atrocity situation on a case-by-case basis.

Which organ of the United Nations should take the decision on collective action in response to a national government's manifest failure to protect its populations from mass atrocities? Conference participants agreed that emergency response under the third pillar of the Responsibility to Protect may involve several UN entities. One speaker summarized the prevailing view by concluding that the General Assembly could play an important role while the Security Council had a special responsibility for maintaining international peace and security. In the first instance, however, the UN membership would look to the secretary-general to interpret an unfolding crisis, to issue warnings, and to make use of his good offices, including the dispatch of a special envoy.

A number of speakers emphasized that the operationalization of the third pillar of the Responsibility to Protect had to occur on the basis of the collective security arrangement of the United Nations Charter.²¹ Conference participants agreed that both the Security Council and the General Assembly should fulfill their responsibilities without encroaching on the authority of other organs under the Charter.

One participant explained that the normative aspects and dialogue on the evolution of the concept could only occur at the General Assembly. This participant added the General Assembly could also play an operational role in specific crises, acting under Chapter IV or Article 35 of the Charter or in accordance with the "Uniting for Peace" procedure.²² Three speakers advocated a very active role of the General Assembly. They pointed to its universal membership as a comparative advantage vis-à-vis the Security Council. One participant stated that the General Assembly should take early action in the context of situations that posed a potential risk of future mass atrocities. While acknowledging the assembly's representativeness, another speaker cautioned that the sense of urgency necessary for timely and decisive emergency response might get lost in stalemates that sometimes impair expedient conduct of business by the assembly.

Several participants recalled the powers of the Security Council under Chapters VI, VII, and VIII of the Charter. The Council could invoke its authority to take collective action in response to a mass atrocity situation that posed a threat to international peace and security. According to one speaker, the Security Council was endowed with considerable discretion in the exercise of its responsibilities under Chapter VI and VII of the Charter, but it would also have to observe the conditions for collective action implementing the Responsibility to Protect which were listed in paragraph 139 of the World Summit Outcome Document. Another participant pointed out that the Security Council clearly had to play a key role in the authorization of robust collective action. At the same time, the Council would not have to be involved in mandating all steps the United Nations could set in response to an impending or unfolding mass atrocity situation.

One speaker pointed out that the Human Rights Council, the Peacebuilding Commission and ECOSOC also could play important roles on the preventive aspects of emergency response. For instance, one of the key tasks of the Peacebuilding Commission was to prevent relapses into armed conflict in the aftermath of mass violence.

The discussion on the roles of the Security Council, the General Assembly, and other UN entities in responding to mass atrocities touched on the broader issue of member states' trust in different UN organs. Two participants agreed that the secretary-general was an impartial actor who enjoys a very high level of trust among member states. Both concluded that he should play a very strong role in

improving the United Nations capability to respond to genocide, war crimes, ethnic cleansing, and crimes against humanity. Moreover, Article 99 of the Charter provided the secretary-general with a range of options for taking timely action to avert an impending mass atrocity. One speaker emphasized that in an escalating crisis, the membership would want the secretary-general to offer early warning, assessments of the situation, and recommendations for collective action.

How should the transmission of assessments from the early warning capability be structured to maximize the likelihood that early warnings about mass atrocities would translate into timely collective action? Two participants pointed out that the early warning focal point should report its assessments to the secretary-general. According to one speaker, the secretary-general would subsequently share the information with all relevant actors, including the intergovernmental organs and the Secretariat of the United Nations as well as regional and subregional organizations. The same speaker noted that the secretary-general's impartiality put him in a good position to determine what leverage he should apply vis-à-vis other UN organs and regional actors. When the secretary-general transmits early warnings to the intergovernmental organs of the United Nations, the latter should conduct their own analyses of the crisis. Several participants expressed the view that reports originating with the early warning capability should be transmitted to the Security Council as well as the General Assembly even in situations when the council was expected to undertake collective action. One of these speakers reasoned that both intergovernmental bodies "should be on the same page" in terms of the information available to them. Moreover, the UN membership could occasionally encourage council members to take timely and decisive collective action. A few participants expressed the view that the assessments of the early warning capability should be reported sequentially to the General Assembly and the Security Council.

One speaker pointed out that early warning assessments should also be shared with key stakeholders in charge of the crisis response within the Secretariat. This participant explained that whenever an emergency situation arises, the secretary-general forms an ad hoc group of departments and agencies that need to respond to the crisis. The same speaker indicated that this group of senior officials would greatly benefit from early warning assessments. Another speaker explained that the secretary-general was considering replacing ad hoc arrangements with a standing mechanism internal to the Secretariat. This standing group would be convened when a situation was at the verge of manifest failure to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. The rationale for this mechanism would be to assemble a small high-level group from across the Secretariat and different agencies when the most far-reaching policy recommendations on collective responses to mass atrocities would be considered. This participant stated that the context of the third pillar required that the secretary-general could see the full panoply of policy options before he would decide which recommendations he would put forward to intergovernmental organs. In such situations it should not be up to the modestly sized early warning capability, which would not dispose of a capacity on the ground, to frame all policy options recommended to the secretary-general. According to the speaker, the advantage of such a standing mechanism over ad hoc groups was that the former provided a framework for senior UN officials to develop a routine in working with each other on emergency situations related to the Responsibility to Protect. The standing mechanism should include high-level representatives of all departments and agencies relevant for shaping policy options related to collective action in response to manifest failure by a government to protect its populations from mass atrocities.

Several speakers emphasized that the decision to establish such a standing mechanism inside the Secretariat would be a management decision by the secretary-general. The same participants expressed the view that the secretary-general should not be impaired in his prerogative to determine

the best ways to make the Secretariat work properly, and that member states should refrain from micromanaging the procedures through which the secretary-general solicits policy options from within the Secretariat. One speaker held that it would be incumbent upon intergovernmental organs to formulate guidelines for the secretary-general in this regard. Another participant wondered whether such a standing mechanism should have a counterpart composed of member states and cited the lack of an intergovernmental counterpart for the Counter-Terrorism Implementation Task Force as a negative example that should not be followed. A third speaker cautioned that the secretary-general should receive assessments from the early warning capability quickly and without political filtering. This speaker expressed hope that the standing group of high-level officials would not filter the assessment of mass atrocity situations delivered to the secretary-general. In this context, another participant warned that some member states might exercise undue political influence on the process of shaping policy options within the group.

Establishing a Joint Office Working on the Prevention of Genocide and the Responsibility to Protect

A number of conference participants expressed support for the secretary-general's plan to move ahead with operationalizing a joint office shared by his two special advisers on the Prevention of Genocide and the Responsibility to Protect.²³ One speaker reminded participants of last year's debate on the secretary-general's report and the subsequent adoption of a consensus resolution. This participant argued that the time had come to revisit the operationalization of the joint office, its mandate and nomenclature as well as its resources and staff. According to this speaker, the operationalization of the joint office would allow the two special advisers to pursue three objectives: to perform their work in a way that dispelled fear about hidden agendas, to have a strong impact on the prevention of mass atrocities, and to maintain the momentum for the full implementation of this concept.

Participants agreed that the scope of the work of the proposed joint office should include the prevention of all four crimes within the scope of the Responsibility to Protect. Different speakers identified a series of tasks for the joint office. The joint office could serve as a nucleus where information on potential or ongoing mass atrocities from across the UN system was gathered and assessed. Thus, it could form the early warning capability agreed on at the 2005 World Summit. The office should also mobilize timely action by national governments and regional and international organizations to prevent the perpetration of mass atrocities. Moreover, the joint office should promote making the objectives of the Responsibility to Protect part of the standard operating procedures of a range of UN departments and agencies. One speaker proposed that this task could be facilitated by endowing the joint office with the ability to disburse some catalytic funding to other UN entities. Broad outreach to countries concerned, neighboring states, groups of friends, and ad hoc groups should be an important part of the work of the joint office. The joint office was invited to ascertain its information by consulting member states and regional and subregional organizations confronting a crisis related to the Responsibility to Protect. The joint office should also test its advice to the secretary-general with a wide range of interested parties. In addition, the joint office could serve as focal point for cooperation with regional and subregional organizations with conflict prevention or conflict resolution capabilities. Finally, the joint office should regularly report on its work, through the secretary-general, to intergovernmental organs of the United Nations.

Several speakers held that the proposed joint office should be small, and that it should include senior staff. One participant explained that the office of the special adviser on the Prevention of Genocide currently had a staff of nine, which could form the core of the new joint office. According to one participant, the joint office would require the presence of some senior staff in order to ensure

access to high-ranking government officials. Two other speakers pointed out that seniority was also a prerequisite for successful collaboration with the leadership of departments and agencies on incorporating the Responsibility to Protect into their operating procedure. Another suggested that different parts of the UN system could second personnel to the joint office to serve as a liaison. In response, a participant cautioned that some past secondments within the UN system showed that individuals were not always transferred for the right reasons. This person suggested some staff could be double-hatted, working part-time in the joint office while also serving at another department or agency.

Two participants outlined that the proposed joint office should be headed by an under-secretary-general and an assistant secretary-general. One of them would promote the implementation of the Responsibility to Protect by governments, regional, and subregional organizations. The other senior official would work toward making the concept's objectives a normal part of the work of various UN departments, agencies, and programs. Two speakers cautioned that having two high-level officials in the office could trigger territoriality conflicts within the joint office. One of them observed that any office should rather have a single leader than many high-level executives. Two speakers noted with appreciation that the secretary-general's two special advisers on Genocide Prevention and the Responsibility to Protect had always avoided such territoriality disputes. One participant wondered whether the joint office should mature before it would be staffed with an under-secretary-general and an assistant secretary-general, or whether it should indeed be established with this structure from the outset. According to another speaker, the Fifth Committee of the General Assembly would likely favor a gradual increase in the size of the office and its leadership.

One speaker explained that the present mandate of the special adviser on the Responsibility to Protect originated with the General Assembly. At the same time, the mandate of the secretary-general's special adviser on the Prevention of Genocide was adopted by the Security Council. Another participant outlined that the special adviser on the Prevention of Genocide was advised by the executive office of the secretary-general to establish contacts with the General Assembly, and efforts to do so were underway. To implement his preventive mandate, the special adviser on the Prevention of Genocide had to analyze potential precursors of genocide. His office identified eight sets of categories of risk factors that can lead to genocide. Some of these root causes of genocide could also trigger other forms of mass atrocity. One speaker referred to the situation in Darfur and explained that it was often very difficult to distinguish genocide from other forms of mass atrocity. Indeed, as another participant observed, in its early stages genocide often entailed crimes against humanity, ethnic cleansing, and war crimes.

Conference participants agreed that operationalization of the proposed joint office would offer an opportunity to review the mandates of the two special advisers who share this office. Three speakers concurred that both could receive a new mandate that required them to report to both the General Assembly and the Security Council. One of these participants called on the General Assembly to adopt a new mandate with new reporting lines. Another speaker stated that both senior officials within the joint office should primarily report to the General Assembly while they might also report to the council. According to a third participant, the primary responsibility of the special adviser on the Prevention of Genocide should not remain toward the Security Council once the joint office was operationalized. This speaker added that the Security Council should refrain from requesting a high number of briefings by senior officials of the joint office. Another speaker noted that there was a need to dispel the fear of some member states that the adoption of new mandates for both special advisers could lead the Security Council to add the entire issue of the Responsibility to Protect to its agenda.

Conference participants made a number of suggestions for the name of the proposed joint office. They agreed that none of the four crimes within the scope of the Responsibility to Protect, including genocide, should be singled out. Thus, the name of the joint office should not read “Genocide Prevention and Responsibility to Protect.” Two speakers proposed that the name of the office should include the words “Responsibility to Protect Populations.” According to one of them, this title would reflect the central role this concept accords to the victims of mass atrocities. Another speaker presented the view that the term “Responsibility to Protect” should not be included in the title to accommodate those member states that do not fully embrace the implementation of this concept. This idea was rejected by three other participants who argued that it would be unwise to give up the semantic capital that this notion has accumulated in recent years. One of these three speakers reasoned that civil society groups would start questioning what the United Nations were doing to implement the Responsibility to Protect if the name of this concept did not figure in the title of the joint office. Another speaker proposed inserting the term “Implementation of the Responsibility to Protect” into the name of the joint office. Finally, one participant concluded that the posts of the two special advisers should be brought together under the title that is most reflective of the way the United Nations thought about the prevention of, and response to, genocide, war crimes, ethnic cleansing, and crimes against humanity.

There was fairly strong consensus among conference participants that it would be preferable to finance the proposed joint office through a regular budget appropriated by the UN General Assembly’s Fifth Committee than to fund it entirely through a trust fund that received voluntary contributions. Two speakers pointed out that the United Nations agreed in 2005 that implementing the Responsibility to Protect was a core vocation of the organization. Funding the joint office through the regular budget of the United Nations would underline the message that preventing mass atrocities was part of the core mission of the organization. One participant presented the view that it would be feasible to obtain voluntary funding for the task of implementing the Responsibility to Protect. However, the secretary-general refrained from taking this route in order to avoid creating the false impression that this concept was only supported by those states that are in a position to offer voluntary contributions for its implementation. One speaker cited the Counter-Terrorism Implementation Task Force as an example of a body whose work was financed through the regular budget after an extensive discussion among member states. This participant advocated a similar arrangement for the joint office. Another recommended analyzing the lessons learned from the establishment of the Office of the High Commissioner for Human Rights, which was partly financed through the regular budget of the United Nations in order to express universal ownership of the institution and to avoid suspicions about the independence and objectivity of its work. Several speakers pointed out that the appropriation of a regular budget should not preclude the joint office from seeking voluntary contributions as needed. In this context, one participant mentioned that the office of the special adviser on the Prevention of Genocide was funded through a regular budget and voluntary contributions.

One speaker explained that, in the past, the proposal to secure funding for the implementation of the Responsibility to Protect had not won the support of the Fifth Committee. At the time, part of the UN membership raised questions about the intergovernmental mandate for the work to be financed. Two participants pointed out that the resolution adopted by the General Assembly last September provided such a mandate. The timing of any request to the Fifth Committee for a regular budget for the joint office would depend on the outcome of further consultations among member states and between them and the secretary-general.

Making the Responsibility to Protect Operational Throughout the UN System

A number of speakers agreed that the Responsibility to Protect should become part of the standard operating procedure of the entire UN system. The Department of Political Affairs (DPA), Department of Peacekeeping Operations (DPKO), Office of the Coordination of Humanitarian Affairs (OCHA), Office of the High Commissioner for Human Rights (OHCHR), UN Development Program (UNDP), UN High Commissioner for Refugees (UNHCR), UN Children's Fund (UNICEF), UN Development Fund for Women (UNIFEM), and a number of other UN departments, agencies, funds, and programs should reflect upon how they can incorporate the standards of this concept into their ongoing work within the scope of their mandate. According to one participant, doing so would not necessitate the creation of Responsibility to Protect programs by these UN bodies. Indeed, systemwide coherence could be complicated by the existence of Responsibility to Protect programs in different places across the UN system. Rather, the concepts underlying the Responsibility to Protect need to be diffused and internalized throughout the UN system.

One speaker explained that a series of consultations with staff of different UN departments revealed that the understanding of the Responsibility to Protect concept within parts of the Secretariat remained limited. The speaker was confident that once designed and organically implanted in the system, the joint office would benefit high-level outreach within the Secretariat and help swiftly dispel any misconceptions and misunderstandings about the Responsibility to Protect. According to another participant, the adoption of a consensus resolution on the Responsibility to Protect by the General Assembly had convinced many international public servants that they should not view this concept as a divisive one. The consensus resolution greatly increased interest by departments and agencies in incorporating the principles of the Responsibility to Protect into their ongoing work.

Two participants emphasized that effective leadership by the secretary-general would be key for ensuring that the Responsibility to Protect became a normal part of the work performed throughout the UN system. A third speaker stressed that the joint office should become the focal point for transforming the responsibility into part of the standard operating procedure of a wide range of UN departments, agencies, and programs.

One participant emphasized that effective early warning required that UN staff in the field was mindful of the possible threat of mass atrocities and that it conveyed information about precursors of potential mass violence to the UN headquarters. Another speaker cited elections as a potential trigger of mass violence and suggested the secretary-general remind his representatives in post-conflict countries with upcoming elections to report on considerations relating to the Responsibility to Protect as appropriate.

Several participants agreed that the ongoing reviews of the Peacebuilding Commission and the Human Rights Council could provide an opportunity to “normalize” the Responsibility to Protect in the work of these bodies. Another proposed that ECOSOC could ask UN agencies to report on the steps they pursued to integrate the objectives of the Responsibility to Protect in their ongoing work.

One speaker cited the Peacebuilding Commission as an institution whose primary function was to prevent post-conflict countries from relapsing into armed conflict and mass atrocity situations. This participant argued that the commission could offer valuable lessons on the prevention of mass violence that should be fed back to the joint office.

Another speaker proposed that the human rights architecture of the United Nations should apply a responsibility-to-protect angle to many of its tasks. Indeed, the Responsibility to Protect is firmly rooted in international human rights law and international humanitarian law, and the human rights bodies have been engaged in activities closely related to the Responsibility to Protect since their inception. One speaker suggested that the Universal Periodic Review should offer states an opportunity to declare how the Responsibility to Protect was embedded in their national political culture. Moreover, the Human Rights Council could request a report from the High Commissioner for Human Rights on how her office incorporates the principles of the responsibility into its work.

Since the Responsibility to Protect is rooted in existing international law it would be inappropriate to use the word *mainstreaming* to describe the effort to ensure its internalization and operationalization throughout the UN system. The speaker who articulated this view suggested using the word *normalization* to capture the objective of making the Responsibility to Protect part of standard operating procedures throughout the organization.

Encouraging and Improving United Nations, Regional, and Subregional Interaction and Communication

There was consensus among conference participants that regional and subregional organizations could play a critical role in operationalizing the Responsibility to Protect. Speakers uniformly called on the United Nations to work closely with regional arrangements on the prevention of mass atrocities. Several participants strongly supported the notion that a key task of the joint office should be to reach out to regional and subregional organizations to ensure that they incorporate the principles underlying the Responsibility to Protect into their work. One speaker described national governments as the first layer of protection of populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. According to this participant, regional and subregional arrangements constituted the second layer, and the United Nations should work as a third. Another speaker cited earlier conversations with experts and officials from different regions. These discussions confirmed the view that regional organizations should play a critical role in operationalizing the second and third pillars of the Responsibility to Protect. A third speaker held that the joint office should consider itself subsidiary to those regional arrangements that had established operational mechanisms for the prevention of mass atrocities. This participant added that the report by the African Union-United Nations Panel on Modalities for Support to African Union Peacekeeping Operations recently added impetus to the strong involvement of regional arrangements in peacekeeping.²⁴ Similarly, regional organizations could play an important role in the prevention of, and response to, mass atrocities.

One speaker mentioned that the International Commission on Intervention and State Sovereignty tentatively put forth the notion that regional arrangements could even undertake military interventions without a prior Security Council authorization if the council failed to act in the face of mass atrocities.²⁵ This speaker expressed great satisfaction with the fact that the United Nations did not endorse this view. The secretary-general's report emphasized that regional and subregional arrangements had to seek prior authorization by the Security Council of coercive military action in accordance with Article 53 of the United Nations Charter.²⁶

Mass violence in Kenya after the disputed elections of 2007 was the first crisis viewed both by the UN and regional actors, in part, from the perspective of the Responsibility to Protect. One speaker lauded the coordinated efforts of the African Union and the United Nations. This participant pointed out that the regional organization acted to resolve the crisis before the United Nations did.

Another speaker held that the international community could learn from the African context. One participant pointed out that the adoption of the principle of nonindifference in the Constitutive Act of the African Union preceded the endorsement of the Responsibility to Protect by the United Nations. Another participant explained that the African Union and its subregional partners had also taken concrete steps to put structures in place for the implementation of the principle of nonindifference. According to this speaker, African states opened their societies to external scrutiny through the African Peer Review Mechanism (APRM). This tool for mutual assessment was created as a result of the lessons learned from past failures to prevent mass atrocities in Africa. To enable African regional and subregional actors to respond to possible future failures in prevention of mass violence, African states were working toward establishment of the African Standby Force.

One participant noted that the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights could play a particularly valuable role for the prevention of mass atrocities in the region. In Europe, the European Union, the Organization for Security and Co-operation in Europe (OSCE) and the Council of Europe are pursuing work related to the Responsibility to Protect. While the Council of Europe has established the European Court of Human Rights, the OSCE has appointed a High Commissioner on National Minorities. The European Union recently transformed its Monitoring Centre on Racism and Xenophobia into an Agency for Fundamental Rights. The joint office should reach out to each of these institutions to ensure that they fully consider the Responsibility to Protect in their work.

Ongoing Needs for the Full Implementation of the Responsibility to Protect

Turning the Responsibility to Protect from promise into practice requires more than the establishment of an early warning capability at the United Nations, improvements in the emergency response capabilities of the United Nations and its partners, the operationalization of a joint office combining the work of the Organization on Genocide Prevention and the Responsibility to Protect, the incorporation of the Responsibility to Protect into standard operating procedures across the United Nations, and strong cooperation between global and regional organizations working on this concept. As one speaker noted, the concept is ultimately tied to one question—which minimal expectations do populations and the international community have of each state? Fully implementing the Responsibility to Protect is a long-term community endeavor involving local, national, transnational, and regional communities, as well as the United Nations.

Encouraging States to “Own” Their Responsibility to Protect Populations and to Build the Capacity for Effectively Doing So

The Responsibility to Protect conceptualizes the safety of populations from mass atrocities, first and foremost, as a task of each state. Since the second and third pillars of the concept are subsidiary to the first, ownership of the Responsibility to Protect primarily resides with each government. Two participants emphasized that international actors should choose *a priori* a nonconfrontational approach to engaging governments that face protection deficits. Only when cooperation proves ineffective, or when it would be inadequate, should the international community consider a confrontational strategy for addressing the threat of mass atrocities.

One participant claimed that the way states discharge their responsibility to protect affects their ownership of the steps needed to avert mass atrocities. A speaker pointed out that all states knew that they had a responsibility to protect their populations from the most severe forms of mass violence. Whether they lived up to this obligation or not depended on the degree to which they are well governed. In this respect, other speakers drew an important distinction between governments that were unable to protect their populations from mass atrocities and those governments that were

unwilling to do so. One participant explained that when a state was unable but willing to meet the standard of sovereign responsibility, the international community had the responsibility to offer encouragement and assistance in a cooperative manner. However, if a state was genuinely unwilling to protect its population, it may well refuse to engage constructively with regional and international organizations seeking the safety of its population. In such circumstances, and particularly if the state's government was itself the perpetrator of mass atrocities, the international community might have to adopt robust and confrontational strategies to pursue the objective of protecting populations threatened by mass atrocities. A speaker emphasized that it was important to ask what situation or actions preceded unwillingness or inability to meet the standards of sovereign responsibility. Another participant observed that both unwillingness and inability of a government to protect its populations were rooted in a lack of good governance. This speaker urged the United Nations and its regional partners to help states improve their governance to prevent situations where they prove unwilling or unable to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.

One participant explained that mass atrocity situations often originated from an acute crisis of state identity that expressed itself in the marginalization or exclusion of a part of the population from the local or national community. The best way for states to prevent rebellions that could trigger genocide would be to manage diversity constructively. States could learn from each other by emulating good practices and by avoiding bad ones. The special adviser on the Prevention of Genocide is working with a number of experts on the development of best practices, which will be shared with member states to help empower them to “own” their responsibility to protect. Sadly, some governments may not be willing to learn these lessons. Indeed, one state representative posited that a few societies were so deeply divided that the government even refused to recognize that certain populations living in the state comprise part of its people. Thus, large parts of the population might be completely estranged from the government of certain states. Such deeply divided societies might often look to outside actors to show them a way out of their precarious situation. In this case, the United Nations and regional arrangements should carefully consider meaningful ways to apply the concept of national ownership. In such situations, the international community also needs to fulfill its own responsibility to afford protection to populations suffering from genocide, war crimes, ethnic cleansing, or crimes against humanity.

Several participants noted that regional organizations can play an important role in encouraging states to “own” their responsibility to protect. One of them explained that the European Union made respect for human rights and accountability for past mass atrocities a condition for accession to the organization. Moreover, the new Treaty of Lisbon created the possibility to suspend membership or to exclude a state from the organization if it commits a serious breach of human rights or democratic governance.²⁷

In all corners of the world, civil society is also making extremely valuable contributions toward strengthening the capacity of states to protect their citizens from genocide, war crimes, ethnic cleansing, and crimes against humanity. One speaker noted that, in this context, capacity building should be understood in broad terms. Another speaker explained that civil society had deepened the knowledge of national policymakers in Africa about the Responsibility to Protect and about ways for states to implement it successfully. According to two participants, nongovernmental groups had played a critical role in encouraging states around the world to internalize the Responsibility to Protect. In countless seminars and through numerous publications, they sensitized government officials, politicians, traditional authorities, and other stakeholders to the risks of being blind to potential precursors of mass atrocities in their society and to the need to address them in a timely manner.

Peacebuilding efforts by the international community can also help societies emerging from mass atrocities to “own” their responsibility to protect. As noted above, the most egregious forms of mass violence are frequently rooted in identity-based disputes over discrimination and horizontal inequality. One speaker noted that peacebuilding could support reforms of the justice sector, of national security institutions, and other critical national authorities. Thereby, peacebuilding helps improve the prospect for protecting populations from relapses into mass atrocities.

Two speakers concurred that development assistance can strengthen the capacity of low-income countries to fulfill their responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. One of them suggested that development assistance should establish a stress test that could analyze the existence of potential precursors of mass atrocities that needed to be taken into account by donors and aid recipients. The objective would be to engage in a low-key, routine-like, and nonconfrontational dialogue and to support governments in addressing these root causes of potential mass violence. The participant added that integrating the Responsibility to Protect into the routine of development assistance could also have a positive side effect on early warning. It would provide early insight to the international community into the question of whether a state was willing and able to address precursors of potential future mass atrocities, or whether the government was in denial over these problems.

The conference featured an extensive discussion on the relationship between the Responsibility to Protect and the International Criminal Court. This debate also touched on the question of ownership in the pursuit of justice during and after mass atrocities. There was general agreement that the International Criminal Court was seeking to work consistently with the Responsibility to Protect, and that the pursuit of justice in societies afflicted by mass atrocities often raised delicate questions. One speaker praised the establishment of international criminal tribunals, hybrid courts, and of the International Criminal Court in the 1990s, noting that it reestablished accountability for mass atrocities, which had been lost after the tribunals of Nuremberg and Tokyo. The overall goal of accountability for genocide, war crimes, ethnic cleansing, and crimes against humanity was consistent with, and would reinforce, the Responsibility to Protect.

One participant noted that the primary objective of the Responsibility to Protect was to anticipate and prevent mass atrocities. According to the speaker, international criminal justice served a different purpose insofar as it only dealt with crimes *ex post facto*. The participant reasoned that the only contribution of international criminal tribunals to the Responsibility to Protect consisted in their jurisprudence which clarified the definitions of the crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity. Another speaker disagreed, arguing that international criminal justice also had a deterrent effect on governments and nonstate armed groups which considered the perpetration of mass atrocities. Another agreed that such a deterrent effect might indeed have developed over time. The participant pointed out that warning parties concerned that the international community would not afford immunity to perpetrators of mass atrocities benefited preventive diplomacy by former UN Secretary-General Kofi Annan in Kenya and by the former Special Adviser on the Prevention of Genocide Juan Méndez in Côte d’Ivoire. Another speaker agreed with the view that the International Criminal Court did not *only* play a role in responding to mass atrocities. The complementarity of its jurisdiction to national criminal proceedings would lead states affected by conflict and mass atrocity to strengthen their own judiciary in order to conduct investigations and prosecutions in their own country.²⁸ This participant added that Brazil and numerous other states used the ratification of the Rome Statute of the International Criminal Court as an opportunity to revisit the way international humanitarian law was incorporated into their domestic legal system. This step strengthened national judiciaries, thereby improving their effectiveness in preventing mass atrocities.

Participants agreed that criminal proceedings in the International Criminal Court dealing with ongoing mass atrocities could not substitute for a political (and possibly military) strategy by the international community to end them. As one speaker put it, prosecution could not “fill a political vacuum.” Two participants explained that bad timing of high-level prosecutions or a lack of communication between the court’s prosecutor and the UN secretary-general could jeopardize the protection of populations victimized by genocide, war crimes, ethnic cleansing, or crimes against humanity. In this context, one speaker noted that issuing an arrest warrant against the Sudanese president had made the pursuit of peace and the protection of civilians in the region more difficult. Another participant warned that sequencing the pursuit of peace and justice could make it more difficult to attain either of these two objectives. The speaker reasoned that a government leadership which knew that it would face prosecution after the restoration of peace would have a strong incentive to perpetuate a conflict or mass atrocity situation.

Ongoing Consideration of the Responsibility to Protect by the General Assembly

There was broad support among conference participants for the notion that the normative aspects of the development of the Responsibility to Protect could only be addressed by the General Assembly. Several speakers described the assembly as the appropriate forum for the intergovernmental dialogue on this concept. One speaker suggested that the General Assembly should regularly and episodically consider the Responsibility to Protect in accordance with paragraph 139 of the 2005 World Summit Outcome Document. According to this participant, the plenary organ of the United Nations should turn the concept into a normal part of its work, devoting regular discussions and a regular budget to it. A second speaker pointed out that the secretary-general submitted his report on the implementation of the Responsibility to Protect only to the General Assembly, thereby reaffirming his desire to involve the entire UN membership into the debate on this concept.

Conference participants broadly agreed that the General Assembly’s ongoing consideration of the Responsibility to Protect should address legitimate questions and concerns about the implementation of this concept.²⁹ In this process, all states should have the opportunity to make contributions to the steps ahead. One speaker proposed that the General Assembly could establish a mechanism to follow up with considering the implementation of the 2005 World Summit Outcome alongside the proposed joint office combining the work of the secretary-general’s special advisers on Genocide Prevention and the Responsibility to Protect.

In addition, it was suggested that the secretary-general could submit periodic reports on the implementation of the Responsibility to Protect to the General Assembly. A number of participants agreed this proposal had strong merits.

Next Steps

In the concluding session of the conference, one participant shared his impression that the discussion among UN member states was at a very different place from 2008 when the Stanley Foundation organized a similar conference in Évora, Portugal.³⁰ The speaker concluded that the debates at all sessions of the 2010 conference focused on pragmatic steps to move the implementation of the concept forward rather than revisiting the broad contours of this concept.

Conference participants recommended the following next steps in the implementation of the Responsibility to Protect:

- The Secretary-General’s Policy Committee is considering the Responsibility to Protect at its meeting at the end of March. At that point, the special adviser on the Responsibility to Protect will present options on the substance and timing of the next steps toward fully implementing the Responsibility to Protect.

- After the meeting of the policy committee, the secretary-general will make his decisions on the proposals presented by his special adviser, which might involve seeking funding from the General Assembly for the operationalization of a joint office for the special advisers on Genocide Prevention and the Responsibility to Protect.
- Even prior to the policy committee meeting, the Secretariat will continue to engage member states in informal conversations. The president of the General Assembly should play an important role in these dialogues. He could appoint one or two facilitators to conduct consultations among member states similar to those in the context of this conference.
- The Friends of the Responsibility to Protect could organize a meeting that would offer a platform for discussion during the months ahead. For this meeting, they should consider following the example of the Friends of Human Security, whose meetings are open to nonmembers. In addition, they should consider inviting experts from IGAD and other regional and subregional organizations confronted with the challenge of preventing mass atrocities to share their experiences. For instance, the meeting could feature expert statements on each of the four crimes that the Responsibility to Protect seeks to avert. The meeting could be hosted by the Group of Friends or a different actor.
- By September 2010, the secretary-general should prepare a concept note that would provide more detail on his intentions regarding the next steps in the implementation of the Responsibility to Protect. The concept note should specify the institutional set-up desired by the secretary-general. If the secretary-general decided to move ahead with the operationalization of a joint office of his special advisers on Genocide Prevention and the Responsibility to Protect, he should outline the contours of this office in the concept note. The paper could describe how this office would work, and how it would relate to the UN system and to regional and subregional organizations. It could also give some thought to the need for impartiality and objectivity in the early warning work performed by the office. The concept note should seek to inform ongoing conversations among member states while avoiding prejudicing their deliberations. It should be seen as an opportunity for the secretary-general to obtain further feedback on his plans. The secretary-general should hold consultations with UN member states to ensure that the proposals outlined in the concept paper would find broad support.
- To implement the Responsibility to Protect at the United Nations, the president of the General Assembly should host an informal session later in the summer. At this session, the secretary-general should explain to the UN membership which future steps he intends to take to move ahead with the implementation of the Responsibility to Protect. This General Assembly meeting should be interactive and informal. Rather than featuring a broad review of the Responsibility to Protect, which was conducted last July, the session should focus on specific implementing actions such as early warning and assessment capability. All stakeholders should be flexible in light of the outcome of this informal and interactive meeting.
- Depending on the outcome of further consultations and of the General Assembly meeting, the secretary-general should consider seeking approval by the UN General Assembly's Fifth Committee for a regular budget for a joint office of the secretary-general's special advisers on Genocide Prevention and the Responsibility to Protect.

The secretary-general should remain strongly committed to moving forward with the implementation of the Responsibility to Protect while inviting suggestions from all member states on the best way for the United Nations to turn the promise of protection from mass atrocities into action.



The Secretary-General

Remarks At Stanley Foundation Conference On "Implementing The Responsibility To Protect" Tarrytown, 15 January 2010

President Stanley,
Excellencies,
Ladies and Gentlemen,

Thank you, Dick, for those kind words.

You and the Stanley Foundation are good friends of the United Nations. Over the years, you have made invaluable contributions on many of the main issues on the UN agenda. Now, you are helping to improve international understanding on the responsibility to protect. Once again, you have convened the right group to talk about the right issue at the right time.

For the responsibility to protect, 2009 was a watershed year. Together, we – the Member States, civil society, and the Secretariat – worked to transform the responsibility to protect from a noble aspiration to a plan of action to prevent genocide, war crimes, ethnic cleansing, and crimes against humanity.

This year, we have both an opportunity and an obligation to take further critical steps towards implementation. In doing so, we can send a clear signal that the United Nations is determined to turn words into deeds when it comes to protecting people from mass atrocities and other grave violations of human rights.

As you know, in July the General Assembly held a thoughtful debate on the ideas presented in my report on Implementing the Responsibility to Protect. Important questions were raised about how some parts of the strategy should be operationalized. But the points of agreement far outnumber the differences. The subsequent adoption of resolution 63/308 by consensus reflects the Assembly's determination to move forward.

Ladies and Gentlemen,

There is still much we do not know about how to prevent atrocity crimes. To help fill the knowledge gap, my two Special Advisers, Professors Luck and Deng, are commissioning case studies of good and best practices from around the world.

We should also be modest about the capacity of international institutions to substitute for domestic ones. Our goal is not to undermine the sovereignty of the state but to help it meet its core protection responsibilities to its people. No government has renounced those responsibilities. Indeed, speaker after speaker at the Assembly debate reaffirmed the full range of commitments made at the highest level at the 2005 World Summit.

That said, we do know three things.

First, societies and economies take many years to recover from mass violence. The scars do not heal easily. Too often, they define the fault lines for future cycles of retribution. They can foster both domestic and transnational conflict.

The prevention of mass atrocities demands a system-wide UN effort. Goals related to the responsibility to protect should also inform our development and peacebuilding work, not just our efforts in the areas of human rights, humanitarian affairs, peacekeeping and political affairs.

This means we are in the market for good ideas on how to mainstream the responsibility to protect in the UN system's work. Member States should likewise focus on how to accomplish this in their national assistance policies.

Second, we know that regional and sub-regional arrangements have critical roles to play in both prevention and protection.

Earlier this week, I hosted a retreat with the heads of regional and other organizations. I was impressed by the prospects for strengthening such collaboration. In Africa and Europe, the possibilities for joint efforts to implement the responsibility to protect are well advanced, in other regions less so. I have asked my two Special Advisers to explore what more we can do.

Third, we know that while prevention must be our first and foremost objective, we need to be prepared to act "in a timely and decisive manner" should prevention fail.

As the 2005 Outcome Document and my report underscore, we should look to the full range of tools that are available under Chapters VI, VII, and VIII of the United Nations Charter. The key is an early and flexible response tailored to the specific circumstances of each case.

The outcome document also focused on another crucial element – early warning. The assembled leaders called on the international community to "support the United Nations in establishing an early warning capability."

The Annex to my report outlines how we might begin to go about this.

After all, the UN system does not lack information. The problem is assembling the relevant information in one place and assessing it from a responsibility to protect perspective.

In addition, the Office of the Special Adviser for the Prevention of Genocide already does this through the lens of one of the four atrocity crimes.

It would thus make sense to have a joint office on genocide prevention and the responsibility to protect, whose functions would include early warning and assessment and which would have direct access to me.

Moreover, an inter-agency mechanism will consider policy options to be presented to me and, through me, to relevant intergovernmental bodies in emergency situations.

My two Special Advisers have been consulting widely with relevant departments and agencies on how to go about this. Professor Luck will report on their conclusions and recommendations to the Policy Committee at the end of March.

Before closing, let me mention two issues that are before us in 2010.

The first relates to collaboration between Member States and the Secretariat.

In the conceptual development of the responsibility to protect, our ongoing conversation has proven remarkably productive. We have listened to and learned from you. As we move towards creating the joint office of the Special Advisers, however, we will also need some modest financial and human resources. We hope to have as constructive a dialogue with the Fifth Committee as we have had with the Plenary.

The second issue relates to the very credibility of the United Nations.

As you know, there are many critics who doubt that the world body can be a reliable protector of populations from atrocity crimes. And indeed, they have lots of history and several recent debacles with which to make their case.

Still, I remain convinced that the only way to endow the responsibility to protect with legal authority, moral weight and the promise of effective action is to keep it under the provisions of the UN Charter. This was made explicit in the Summit Outcome document.

Civil society – including some of you in this room – can keep pressing capitals and international institutions to act.

The Secretariat can help make prevention work, undertake Chapter VI measures, and ring the alarm bells when timely and decisive action is needed.

But in the toughest and most visible cases, when prevention fails and peaceful means are inadequate, it will be up to the Member States to prove their mettle as well as the value of the world body.

In this new decade, let us prove the doubters wrong and the believers in our collective institutions right. That is a New Year's resolution well worth keeping.

Many thanks and best wishes for the success of your deliberations.

Thank you.

Endnotes

- ¹ The full text of this speech appears in this publication, p. 28.
- ² UN General Assembly Resolution 60/1 of October 24, 2005, UN Document A/RES/60/1.
- ³ UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009; United Nations, *Secretary-General defends, clarifies 'Responsibility to Protect' at Berlin event on 'Responsible Sovereignty: International Cooperation for a Changed World,'* UN Document SG/SM/11701, 15 July 2008.
- ⁴ UN Security Council Resolution 1674 (2006) of 28 April 2006, UN Document S/RES/1674 (2006); UN Security Council Resolution 1706 (2006) of 31 August 2006, UN Document S/RES/1706 (2006).
- ⁵ United Nations, *Secretary-General defends, clarifies 'Responsibility to Protect' at Berlin event on 'Responsible Sovereignty: International Cooperation for a Changed World,'* UN Document SG/SM/11701, 15 July 2008.
- ⁶ UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009.
- ⁷ UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009; United Nations, *Delegates Weigh Legal Merits of Responsibility to Protect Concept as General Assembly Concludes Debate*, UN Document GA/10850, July 28, 2009; United Nations, *More than 40 Delegates Express Strong Skepticism, Full Support as General Assembly Continues Debate on Responsibility to Protect*, UN Document GA/10849, July 24, 2009; United Nations, *Delegates Seek to End Global Paralysis in Face of Atrocities as General Assembly Holds Interactive Dialogue on Responsibility to Protect*, UN Document GA/10847, July 23, 2009; United Nations, *Never Forget Victims of Atrocities, Urges Secretary-General as He Opens Special General Assembly Session on Implementing Responsibility to Protect*, UN Document GA/10845, July 21, 2009.
- ⁸ UN General Assembly Resolution 63/308 of 14 September 2009, UN Document A/RES/63/308.
- ⁹ See, Mona Rishmawi, "The Responsibility to Protect and Protection of Civilians: The Human Rights Story," in *The UN Security Council and the Responsibility to Protect: Policy, Process, and Practice*, special issue of *Favorita Papers* (forthcoming in 2010).
- ¹⁰ UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009.
- ¹¹ For a review of the debate from a think tank's perspective see, Global Centre for the Responsibility to Protect, *Implementing the Responsibility to Protect: The 2009 General Assembly Debate: An Assessment*, available at http://globalr2p.org/media/pdf/GCR2P_General_Assembly_Debate_Assessment.pdf (accessed on February 8, 2010).
- ¹² African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), adopted on October 22, 2009.
- ¹³ African Union, *Darfur: The Quest for Peace, Justice and Reconciliation. Report of the African Union High-Level Panel on Darfur (AUPD)*, October 2009, AU Document PSC/AHG/2(CCVII).
- ¹⁴ See also UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at paras. 49-66; Christoph Mikulaschek, "Report from the 39th International Peace Institute Vienna Seminar on Peacemaking and Peacekeeping," in *The UN Security Council and the Responsibility to Protect: Policy, Process, and Practice*, special issue of *Favorita Papers* (forthcoming in 2010).
- ¹⁵ See also Max van der Stoep, "The Role of the OSCE High Commissioner in Conflict Prevention," in Chester A. Crocker, Fen Osler Hampson and Pamela Aall (eds.), *Herding Cats: Multiparty Mediation in a Complex World* (Washington, DC: United States Institute of Peace Press, 1999).
- ¹⁶ See also Manuel Fröhlich, "Responsibility to Protect—Zur Herausbildung einer neuen Norm der Friedenssicherung," in Johannes Varwick and Andreas Zimmermann (eds.), *Die Reform der Vereinten Nationen: Bilanz und Perspektiven* (Berlin: Duncker & Humblot, 2006): 167-186.

- ¹⁷ UN Secretary-General, *Early Warning and Assessment*, annex to *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at 4.
- ¹⁸ For two ways to understand the concept of impartiality see Hitoshi Nasu, “Operationalizing the ‘Responsibility to Protect’ and Conflict Prevention: Dilemmas of Civilian Protection in Armed Conflict,” *Journal of Conflict & Security Law* Volume 14, Number 2 (2009): at 23.
- ¹⁹ On the joint office see UN Secretary-General, *Early Warning and Assessment*, annex to *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at 7.
- ²⁰ Please refer to p. 18 for a more detailed summary of the discussions among conference participants on the future work of the joint office.
- ²¹ See also UN General Assembly Resolution 60/1 of 24 October 2005, UN Document A/RES/60/1: at op. para. 139.
- ²² UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at para. 11c.
- ²³ See also UN Secretary-General, *Early Warning and Assessment*, annex to *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at para. 7.
- ²⁴ See UN Secretary-General, *Support to African Union peacekeeping operations authorized by the United Nations*, UN Document A/64/359-S/2009/470, 18 September 2009.
- ²⁵ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001): at paras. 6.31-6.35.
- ²⁶ UN Secretary-General, *Implementing the Responsibility to Protect*, UN Document A/63/677, January 12, 2009: at para. 56.
- ²⁷ Article 7, Consolidated Version of the Treaty on European Union, signed on 13 December 2007, Official Journal of the European Union nr. C 115/13.
- ²⁸ See, Article 17, Rome Statute of the International Criminal Court, 17 July 1998, UN Document A/CONF.183/9*.
- ²⁹ Please refer to p. 10 for a discussion of three specific concerns of some member states about the full implementation of the third pillar of the Responsibility to Protect.
- ³⁰ See The Stanley Foundation, *Actualizing the Responsibility to Protect* (Muscatine, IA: The Stanley Foundation, 2008).

Participant List

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Gérard Araud, Permanent Representative of France to the United Nations

Frederick Barton, US Representative to the Economic and Social Council of the United Nations, United States Mission to the United Nations

Mourad Benmehidi, Permanent Representative of Algeria to the United Nations

Marcelo Böhlke, First Secretary/Legal Adviser, Permanent Mission of Brazil to the United Nations

Francis M. Deng, Special Advisor to the Secretary-General on Prevention of Genocide, United Nations

Barbara Hendrie, Counselor, Development and Human Rights, Permanent Mission of the United Kingdom of Great Britain and Northern Ireland to the United Nations

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