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This brief summarizes the primary findings of the conference as interpreted by the rapporteur, Rei Tang, the roundtable organizers, Angela Bruce-Raeburn and Richard Stanley, and the chair, Ramesh Thakur.

Participants neither reviewed nor approved this brief. Therefore, it should not be assumed that every participant subscribes to all of its recommendations, observations, and conclusions.

## Strategies and Next Steps for the Responsibility to Protect: A Conversation with UN Member States

Since the global endorsement of the Responsibility to Protect (R2P) in the 2005 World Summit outcome document, work has gone forward to implement and advance R2P. The UN General Assembly has held five informal, interactive dialogues on it. Each has been preceded by a report from the UN secretary-general on specific themes of R2P. These reports and dialogues have played a significant role in both advancing greater international consensus on R2P and in describing concrete steps for implementation of all facets of R2P.

The forthcoming report from the secretary-general and the 2014 General Assembly's interactive dialogue will focus on the unique demands of R2P's second pillar. The report and dialogue are expected to address the concept of sovereign equality, the goal of partnerships in R2P implementation, and the ways and means of assistance on state measures intended to prevent genocide, mass atrocities, war crimes, and crimes against humanity.

The Stanley Foundation convened its 45th United Nations Issues conference to generate informal discussion intended to explore issues and stimulate thinking ahead of the General Assembly dialogue. Participants included representatives from governments, civil society, academia, and international institutions.

The Tarrytown discussions revealed substantial, although not unanimous, agreement on the following:

### Key Recommendations

- Action under R2P pillar two should use the language of atrocity prevention in order to defuse political sensitivity.
- Regional and subregional organizations should partner with member states to build atrocity prevention structures in their areas of operations.
- State capacity to prevent mass violence should be built and strengthened through structural mechanisms, including rule of law, legal accountability, and state-led initiatives to confront the past.

- The United Nations should promote the universalization of legally binding instruments to prevent genocide and mass atrocities:
  - Member states should enact laws for national implementation of these global norms.
  - Periodic review mechanisms should be adopted to monitor progress on both universalization and national implementation of international legal instruments.
- UN member states should create national focal points or ombudsmen with a mandate for atrocity prevention:
  - Member states with such institutions and offices should share best practices and experiences with others interested in creating such national instruments.
- Modules in international humanitarian law and international human rights law should be included as compulsory units in the training courses of the states' police and military officers.
- States under stress should be encouraged to seek regional and international assistance as a key part of timely atrocity prevention. They should be fully aware of previous successful examples of such calls for assistance.
- States should pool experiences on best practices with respect to inclusiveness, power sharing, early warning, crisis resolution and conciliation, rule of law and criminal justice institutions, and security sector reform:
  - International assistance to these ends will be more effective if efforts are consolidated and coordinated rather than fragmented and ad hoc.
  - International human rights and humanitarian actors have a special role to play in building national capacities in this regard.
  - Regional organizations have a role as well because of greater self-interest and because of lesser political sensitivity.
- Official development assistance should not be made conditional to R2P norm acceptance and capacity building, although development agencies and donors should enhance their own understanding of R2P.
- Civil society should be encouraged and supported as a valid mechanism for early warning.

Pillars one and two of R2P entail action and measures that require the consent and leadership of the state concerned. If the preventive approaches embodied in pillars one and two succeed, invocation of pillar three could become increasingly rare. Furthermore, pillar two recognizes the possibility that a mass atrocity crime threat in any given state may come from a nonstate actor, which puts the government itself under threat and raises the need for international assistance. The Tarrytown discussions sought to identify and strengthen pillar two measures of assistance to a state under stress that can be organized and conducted in the spirit of R2P to prevent atrocity crimes.

R2P's third pillar has been more controversial because it involves intrusive and coercive measures without state consent, or even against a state's will, in cases where a government has manifestly failed in

its responsibility to protect its people. The Tarrytown discussion agenda did not include pillar three.

The conference discussion revealed that general agreement on the principles of R2P appears to be on the rise and that general understanding of what preventing genocide and mass atrocities means seems to be increasingly concrete. On the other hand, vexing questions remain. How can the international community best engage specific countries? How can preventive measures be customized to meet the nuances of country-specific situations? How does the international community define a state "under stress"? What are the triggers for mass atrocity crimes? How can we prioritize the many demands of conflict management, peacebuilding, and general good governance to find the most important steps for mass atrocity and genocide prevention?

## Pillars of the Responsibility to Protect

Derived from the *Secretary-General's 2009 Report on Implementing the Responsibility to Protect*

### Pillar One

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.

### Pillar Two

The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability. We also commit ourselves, as necessary and appropriate, to helping States build their capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crisis and conflicts break out.

### Pillar Three

The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Answering these questions will reduce the level of abstraction in these debates so they are more viable for the political discussion best suited for the United Nations. Experiences from the field, shared with leaders in New York, will be vital.

## Enhancing State Capacity to Protect Populations Against Mass Violence

Participants voiced their support for the principles of R2P as the most acceptable framework for atrocity prevention, yet there were varied views about the implementation of the principles. It was noted that there were many instruments already in existence that could be useful for institutionalizing the concept of state prevention such as the Rights Up Front approach, horizon scanning in the UN Security Council, and more robust use of the Peacebuilding Commission (PBC). However, participants expressed skepticism about horizon scanning because of the enormous sensitivities surrounding its implementation. Some states reject the preemptive nature of horizon scanning because political factors may enter the decision-making process that determines which states are placed on the agenda.

Some states would view pillar two as a challenge to their sovereignty if the state was on the horizon-scanning agenda of the PBC. However, it was suggested that the PBC was a more interesting avenue to push the R2P agenda than the Security Council because it could be used in a softer, more diplomatic manner when dealing with at-risk countries.

Some suggested that use of R2P language can be problematic and polarizing. If the language were more about atrocity prevention, then more doors would be open to the discussion. Some argued that the objective is use of less force and, therefore, a reduced role for the Security Council.

Participants suggested member states consider partnering with regional intergovernmental organizations as a prevention mechanism because of their better local understanding and ability to react more quickly to dynamic circumstances on the ground. An example cited from Latin America on the role of regional intergovernmental organizations was the Union of South American Nations (UNASUR), which continues to play an important role in political crises like those in Bolivia and Ecuador. With a history of coups d'état in Latin America, the regional community has demonstrated its commitment to reject the overthrow of democratically elected governments. As one example, some participants cited the intervention of UNASUR in the Bolivian crisis that erupted in 2008. UNASUR was able to quickly convene member state presidents to discuss the situation and establish an action plan to deescalate the violence. In another

cited example, UNASUR and MERCOSUR, which is commonly referred to as the Common Market of the South, were able to firmly condemn the coup in Honduras in 2009, although Honduras is not a member of UNASUR. While participants agreed there was a significant role for the regional organizations as preventive institutions and early warning mechanisms, some noted that there are areas where regional organizations with a security mandate are almost nonexistent, such as South Asia.

### The Domestic Benefit of R2P

Many participants agreed that an important first step of R2P implementation is instituting structural mechanisms to improve legal and political institu-

**For many states, prevention begins with building good governance characteristics such as protection of minority rights, rule of law, accountability, peaceful dispute-resolution processes, and full citizenship of inhabitants.**

tions, sending the clear message that prevention of mass atrocity crimes is a state priority. These structural elements may well include rule of law, accountability through legal recourse, and state-led initiatives to confront the past. An example offered was that atrocities committed in Uruguay in the 1970s were not recognized for almost 30 years. Three years ago a national institution for human rights was created to address issues of accountability and impunity in Uruguay. Some participants insisted that there is an inherent imperative that the justice system must address complex criminal cases, including atrocity

crimes. Other elements could include inclusive dialogue, elections, dispute resolution processes, and economic and social development.

Some suggested focusing on the universalization of legally binding instruments to prevent genocide and mass atrocities with practical implementation at the national level and periodic review. This would encourage cooperation and exchange of lessons learned. The universalization of legally binding instruments on human rights and mass atrocities prevention would advance laws and structures and engender a learning effect, raising the consciousness of parliaments and citizens.

These instruments will not have validity unless they are accompanied by a real mandate for what they are tasked to do. Many legally binding instruments have been ratified by states with no implementation at the national level, resulting in a significant gap between the existence of the instruments and their impact on populations.

The newly emerging role of ombudsman in certain Latin American countries was cited as a unique way to monitor human rights abuses. Creation of an ombudsman's office demonstrates state commitment to local structures and provides a space for citizens to tell of abuses by police, the military, and the like. However, documentation of abuses is only the beginning, and states that have created these avenues must reliably act when reports of abuse arise in order to build legitimacy and trust in the institution.

States should include humanitarian law in the training of officials, police, military, and political institutions. Training should be country specific and include understanding of local traumatic history in order to get support from local institutions. Most importantly, states must include younger generations and grassroots activists as well as military, police, and judicial officers in the understanding of humanitarian law.

### Defining and Assisting States Under Stress

Pillar two of R2P establishes the responsibility of member states to assist states under stress to build their own national capacity to prevent mass atrocity crimes. But who determines if a state is under stress, and at what point is the international community responsible for identifying states under stress and instituting remedial measures? Recognizing that each case is different and that all criteria may not apply, participants developed the following list of indicators and risk factors that may denote stress in a state:

- Group-sensitive horizontal inequality and patterns of discrimination.
- Current or recent armed conflict. It was noted that although most armed conflicts do not lead to mass atrocities, most mass atrocities occur in the context of armed conflict.
- Weak political and economic institutions.

However, many intriguing questions and challenges also arose in the discussion. For example, clarification is needed on whether the international community's role is to assist states in overcoming stress factors or to manage "the drivers" of stress. Also, while some states have been quite transparent about internal issues that required external assistance, others could have been in denial about their situation and, therefore, unwilling to be assisted. Tanzania was suggested as a state willing to be transparent and invite the assistance of the United Nations to facilitate dialogues to defuse ethnic tensions in the eastern part of the country. Participants viewed this interaction quite favorably and stressed the preventive aspects of this initiative. Some participants said similar opportunities for international cooperation and assistance should be replicated at the regional and subregional levels.

Although many participants agreed there should be some focus on countries at risk, questions remain on how the international community should engage. Some states remain suspicious of "humanitarian intervention" because they view it as regime change in disguise.

Some suggested that the international community already knows what must be done to assist states to build atrocity prevention capacity. Specifically, the international community must assist states to build capacities toward inclusiveness and power sharing; reduction of structural horizontal inequalities; early warning; conflict and intercommunity crisis resolution; and regular peer-reviewed assessments of internal capacities. However, participants cited a lack of consistency and coherence in how assistance is delivered to various states and solicited ideas to reconcile this difficulty. Is it more reasonable to develop an internationally shared vision of measures to assist states under stress, such as security sector reform, rule of law, institutions, civil society, transparency, and freedom of speech? Participants noted that difficulties and challenges often lie at the operational level. International partners often act bilaterally, with at-risk states utilizing myriad templates for provision of assistance. Perhaps assistance would be more effective if delivered by one UN task force. Consolidation and coordination of efforts by the international community can lead to more effectiveness and efficiency and can better serve the needs on the ground.

The international community should encourage states through persuasion and positive incentives to build capacity through institutions and processes and, when states consent to protection, should help them through engagement with multilateral institutions such as the Commissioner for Humanitarian Affairs, the High Commissioner for Refugees, and other UN institutions.

The question of which state or states are charged with the assistance responsibility was discussed. While there is a sense of collective responsibility to assist, it can't realistically mean all states. Participants reiterated the crucial role of regional organizations and neighbors. Neighbors have a real obligation to assist because of the obvious impact instability could have regionally, especially on states with their own internal problems. It was suggested that states should look beyond geographically proximate organizations and include the involvement of regional and subregional organizations and civil society.

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**The risk of violence is less when civil society is present and strong.**

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A few participants, however, rejected the need to define and classify what is a state under stress, fearing an inherent bias toward looking at a certain grouping of states. They stressed that accountability and impunity are more important than classification and asked whether and how assistance and capacity building can fight impunity.

### **Development Assistance, States Under Stress, and the International Community**

Development assistance and human rights mechanisms can contribute significantly to mass atrocities prevention. Some governments are already engaged in thinking about the linkages between development assistance and R2P. However, many participants challenged this concept and urged that development assistance be distinguished from capacity-building assistance to mitigate atrocity crimes. There should be clarity of objectives for each kind and instance of assistance. Is it designed to enforce the rule of law? Is it designed to strengthen the security sector? While donor states and institutions generally participate in articulation of the vision of the aid that is provided, it is more important for recipient countries to be centrally involved in prioritizing and directing aid and



assistance. This poses questions about aid effectiveness when recipient countries have little ability to direct or prioritize aid. This reality can exacerbate problems in already fragile states.

Some participants opposed tying aid to R2P norm acceptance and implementation. They argued that conditionality should not be introduced, because the subject is highly politicized at the United Nations and its introduction to the discourse would complicate already dysfunctional aid-delivery models. Instead, participants suggested that an R2P lens should be a component of procedure and the development conversations in various aid agencies and donor countries. Development agencies and donors should increase their

**The broader the shared understanding about the pillars—both conceptually and operationally—the more successful we will be in defusing the controversies, and, more importantly, in their implementation.**

—Ramesh Thakur's UN Issues Opening Remarks

capacity and understanding of R2P. While there is no interest in adding new layers of thinking to already stretched institutions, participants agreed that an R2P lens is necessary and could be included in the process to reform the security sector, for example.

Some distinction is needed between the various stages of development coordination in different recipient countries. For example, Tanzania has been receiving aid since the 1960s and has a well-coordinated national development plan. However, in some other countries—those in conflict and post-conflict especially—development aid is not well coordinated and often occurs ad hoc. It is difficult to add R2P as another condition and layer to an

already dysfunctional process. As a result, participants suggested tapping into existing structures: security sector reform, legal sector reform, and governance in broader terms. Aid should be specifically targeted through an R2P lens to strengthen protection and prevention capabilities.

### Civil Society Engagement

Participants noted that the role of civil society has not received enough attention and that its inclusion

has often been an afterthought in the prevention discussion. Several participants observed that too often, civil society has been increasingly marginalized and its engagement suppressed. However, there are many examples where the involvement of civil society was key in preventing violence, such as Kenya in 2012. There was a concerted engagement of both Kenyan civil society and international pressure to ensure that the recent elections did not lead to the political violence that took place following the 2007 elections. The risk of violence is less when civil society is present and strong.

### Conclusion

Participants agreed that prevention is more effective and efficient than military intervention in assisting states under stress. States can establish conditions that reduce risk of mass atrocity crimes. The international community has a wide range of instruments from which to support at-risk states. Through a range of measures—including states taking action to address their own challenges and having supportive neighbors and regional groups, and other international actors facilitating and providing assistance—an effective toolkit for prevention exists, but it has not been sufficiently utilized.

For many states, prevention begins with building good governance characteristics such as protection of minority rights, rule of law, accountability, peaceful dispute-resolution processes, and full citizenship of inhabitants. These can exist in state legal systems and can be adapted to the informal political characteristics of different societies. Strong civil society, shared values, management of diversity, fair distribution of resources, and clear information channels can ensure societies avoid taking actions that lead to mass atrocity crimes. The challenge of building resilient, inclusive, transparent societies requires training and education throughout those societies to include the public, the government, the military, and non-state institutions, and the activities must be multi-generational in order to sustain them.

## Participants

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Affiliations are listed for identification purposes only. Participants attended as individuals rather than as representatives of their governments or organizations.

## The Stanley Foundation

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