

**UN Reform and the *Responsibility to Protect*
2005: The Year of Reform**

Nicole Deller

Programme Advisor, World Federalist Movement¹

This comment was prepared for the roundtable discussion on UN reform "[Building a New Role for the United Nations: the Responsibility to Protect](#)" held on 3 June 2005 in Madrid. The event was organised by the Fundación para las Relaciones Internacionales y el Diálogo Exterior (www.fride.org).

This comment articulates the position of the World Federalist Movement-Institute for Global Policy on the High-level Panel and the Secretary-General's recommendations on the use of force, peacebuilding, peacekeeping and reform of the Security Council. It considers the full embracement of the responsibility to protect and the extensive involvement of civil society organizations as hallmarks for a successful reform of the UN in these areas.

Throughout the year 2005, civil society has real opportunities to influence the way governments and the United Nations address security threats of all types. This September, heads of state will assemble in New York for a summit where they will be asked to commit to strengthening international institutions, especially the UN, so that global security challenges are indeed met with global responses. "Security" in this context means security for *all* people, including protection from genocide and terrorism and freedom from poverty and disease.

The agenda for the UN reform process was set out by the UN Secretary-General in his report *In Larger Freedom: towards development, security and human rights for all*. The Secretary-General challenged governments to address the triangle of development, freedom and peace from a human perspective, fully embracing human security as a guiding principle. Many proposals within this agenda are aimed at changing the way the international community responds to massive crimes against the world's populations with the goal of preventing a future Rwanda or Darfur. Yet vocal opponents resist these initiatives, claiming that they codify a system of coercion and intervention. The World Federalist Movement-Institute for Global Policy (WFM-IGP) believes, to the contrary, that the proposed reforms have great potential as a system of *protection* rather than *intervention*. If governments commit themselves to addressing the interconnectedness of threats by agreeing upon and implementing this package of reforms, there will be far greater likelihood that states can and will act collectively *before* thousands of lives are lost. An effective preventive system could, in most cases, eliminate the need to consider military intervention. WFM-IGP is working with its partners and networks, including its *Responsibility to Protect-Civil Society* network, to call on governments to commit to a more secure international system, especially for the world's most vulnerable populations.

I. *The Responsibility to Protect*

The "emerging norm" of the **responsibility to protect** is a featured issue in UN reform negotiations. States have been asked to endorse the responsibility to protect (R2P) as a basis for collective action to rescue populations in grave danger when their governments are unable or unwilling to act.

¹ This comment was written by Nicole Deller, Programme Advisor, World Federalist Movement. Lene Schumacher used it as a basis for her presentation at the International Seminar on UN Reform organised by FRIDE, in collaboration with CEPC (Centro de Estudios Políticos y Constitucionales), on June 3, 2005 in Madrid.

Introduction of the Responsibility to Protect Norm

The term “Responsibility to Protect” was introduced by the report of the International Commission on Intervention and State Sovereignty (ICISS), which released *its Responsibility to Protect* report in December 2001. ICISS had been tasked with making recommendations to resolve the sometimes conflicting imperatives of state sovereignty and the protection of human rights. The UN Charter affirms a principle of non-interference in the domestic affairs of a sovereign state but also sets forth as one of its main purposes the achievement of international cooperation in promoting human rights. The Charter is silent as to when sovereignty – a fundamental principle of international law – must yield to the protection against some of the most egregious violations against humanity and international law – genocide, ethnic cleansing and massive human rights abuses.

The ICISS members proposed that the question should not be whether a state has the authority to intervene in another state’s affairs, which was the paradigm in discussions of so-called “humanitarian interventions”. Rather, the question is whether a state is fulfilling its “responsibility to protect” its population. The phrase “responsibility to protect” is intended to expand the definition of state sovereignty to include the state’s responsibility to safeguard its population from large scale loss of life. When a state fails its responsibility by permitting or conducting widespread killing of its own population, it becomes the responsibility of the international community to protect these individuals. The responsibility to protect (R2P) is a commitment to a continuum of actions from **prevention to reaction and rebuilding**, when necessary, with an emphasis on prevention. This is a rules-based approach that moves forward those outdated notions of sovereignty that have long been used to justify international inaction in the face of genocide and gross crimes against humanity.

At the same time, the R2P concept places limitations on when the international community can and should act. This is to avoid states from characterizing as “human protection” measures that they are taking in pursuance of their own national interests. Specifically, the ICISS report proposed precautionary principles that would need to be considered if preventive efforts failed and military force was needed to halt or avert the large scale loss of life or large scale ethnic cleansing. The recommended precautionary principles are: right intention, last resort, proportional means and reasonable prospects of success.

Early reactions to the Responsibility to Protect

The timing of the report’s release was devastating to its initial reception. After 9/11, the international community shifted away from consideration of measures to prevent another Rwanda or Srebrenica and toward measures for prevention and preemption of terrorist activities and the proliferation of weapons of mass destruction. The invasion of Iraq, premised in part on an argument of human protection, was even more destructive to the R2P agenda. The Iraqi invasion increased concern that R2P would be used to further erode the sovereignty of smaller developing countries. These circumstances could have precluded a serious debate on the responsibility to protect for years to come.

In this political climate, WFM-IGP began consultations on the Responsibility to Protect report beginning in fall 2002. After initial discussions with governments and colleagues in human rights, humanitarian and faith-based organization, it was clear that there was little support for principles *exclusively* dedicated to the question of when to use force. However, WFM-IGP noted increasing support for a broader framework addressing the normative shift from sovereignty to protection and also to a continuum of actions with an emphasis on prevention.

Meanwhile, the crisis in the Darfur region of Sudan again highlighted the need to improve the international community's response to emerging humanitarian crises. The fact that crimes against humanity, if not genocide, have been occurring for well over a year without a comprehensive effort by the international community to bring them to an end prompted calls for strengthened norms and capacity. Many advocates turned to the responsibility to protect framework as a basis to call for further international action on Darfur. The UN Secretary-General is one of many public figures who have embraced the responsibility to protect as a way forward for the international community to respond to a future Darfur.

The growing support for R2P led to its consideration with the context of the Secretary-General's agenda for reforming the UN so that it may better advance development, security and protection of human rights.

Responsibility to Protect in the UN Reform Agenda

Recommendations in the report of the High-level Panel

In the fall 2003, the Secretary-General formed the High-level Panel on Threats, Challenges and Change to assess the most urgent global security threats and issue recommendations on the changes needed to ensure effective collective responses. In December 2004, the High-level Panel released its report *A more secure world: Our shared responsibility*. Included in the report's 101 recommendations on strengthening the international security framework was an endorsement of an international "responsibility to protect" populations from grave threats.

The report:

- Affirms that with state sovereignty comes the responsibility to protect the welfare of its own peoples;
- Declares that the international community has a responsibility to protect peoples when states are unable or unwilling to do so;
- Defines responsibility as "spanning a continuum involving prevention, response to violence, if necessary, and rebuilding shattered societies"
- Affirms that the responsibility is "exercisable by the security council authorizing military intervention as a last resort, in the event of genocide or other large scale killing, ethnic cleansing or serious violations of humanitarian law which sovereign Governments have proved powerless or unwilling to prevent.

Recommendations in the Report of the Secretary-General

The High-level Panel report informed the report of the Secretary-General, *In Larger Freedom*, which is the document that set the agenda for the UN reform process. The Secretary-General builds on the recommendations of the High-level Panel report and proposes the following:

- A call to governments to "embrace the 'responsibility to protect' as a basis for collective action against genocide, ethnic cleansing and crimes against humanity";
- An assertion that the responsibility to protect lies first and foremost with each individual state;
- A recognition that if the individual state is unable or unwilling to protect its citizens, the responsibility to protect shifts to the international community;
- A description of the international community's responsibility to protect that includes the use of "diplomatic, humanitarian and other methods to help protect civilian populations";
- A recognition that if these measures are insufficient, the Security Council has the right to "take action under the Charter, including enforcement action, if so required,"

Where R2P currently stands in negotiations on UN reform

While the *In Larger Freedom* language is similar to that of the High-level panel report, the Secretary-General made *an important departure* from the recommendations of the High-level Panel. The High-level Panel considered the responsibility to protect as a subset of its discussion of "Collective security and the Use of Force," describing the subject as "Using force: rules and guidelines." The Secretary-General, on the other hand, *separated* the normative aspects of the responsibility (the assertion of "responsibility to protect" as a basis for collective action spanning a range of measures) from the use of force discussion.

Specifically, *In Larger Freedom* addresses the responsibility to protect norm in a chapter on "Freedom to Live in Dignity" under the heading "Rule of Law," whereas the use of force principles are discussed under a separate chapter entirely, the "Freedom from Fear" and the subheading "Use of Force." This distinction, which may seem to be only a matter of organization, has had significant implications for how the responsibility to protect has been considered in states' negotiations. As diplomats have explained to us, it was a mistake of the High-level Panel to discuss R2P under the Use of Force chapter because it gave the impression that force would always be used to enforce the responsibility to protect. Thus this new concept was viewed as only a recharacterization of humanitarian interventions, which many governments forcefully oppose. The Secretary-General's report, on the other hand, helped advance R2P by making clear that the issue was not merely about the use of force but an assertion that the state must protect its own civilians, and that if it fails to do so, the international community must explore a range non-military measures.

Even with these significant modifications, R2P remains very controversial within the reform process. Some of the non-aligned governments oppose any assertion of an international responsibility that could be construed as codifying interference in the internal affairs of another state, regardless of the circumstances. We have also heard that some of the more powerful governments are opposed to referring to a responsibility to protect of the international community because it would impose further obligations on them to act in protection of other states' populations.

The criteria for interventions for human protection purposes

If exhaustive preventive and diplomatic efforts fail to avert a humanitarian crisis, the responsibility to protect may compel the Security Council to react, including authorizing enforcement measures as a last resort. All three of the reports described propose criteria to determine when such force would be appropriate.

The Secretary-General and the High-Level Panel propose the following criteria:

- the seriousness of the threat;
- the proper purpose of the proposed military action;
- whether means short of the use of force might reasonably succeed in stopping the threat;
- whether the military option is proportional to the threat at hand;
- whether there is a reasonable chance of success.

Because of the controversy surrounding the issues of using force, negotiations regarding these criteria have not advanced very far and are not expected to be recommended in the outcome document of the September Summit. The criteria nevertheless remain very relevant. If widespread acceptance of the "emerging norm" of R2P is achieved, the question will then turn to implementation. The thresholds for military action and other

precautionary principles will be critical elements for implementing the responsibility to protect.

WFM-IGP supports these criteria as possible indicators for when the Security Council *should* intervene, as well as to determine when R2P justifications are disguising other motives. The criteria could set standard by which Security Council actions and inactions could be judged, thus improving accountability and deterring unilateral and illegitimate preemptive wars. In partnership with an affirmation of the responsibility to protect, these criteria would also serve to encourage political will. They would promote more effective responses by the Security Council and make it far more difficult for one country to block action based on its own national economic or strategic interests.

Governments' defense of the traditional view of sovereignty only partly explains past failures by the international community to act in the face of grave atrocities. The lack of political will is at least equally to blame, as is the absence of global institutional authority and mechanisms to preserve and enforce peace. The responsibility to protect and many of the other recommendations described below are aimed at achieving a collective commitment to human protection.

II. *Peacebuilding Commission*

Relating to the UN's role in assisting countries that are emerging from conflict, UN member states will be asked to create an inter-governmental **Peacebuilding Commission** to address the "gaping hole" in the UN system that leaves the UN without the institutional machinery to properly assist countries transitioning from war to lasting peace. The Secretary-General also asked for a peacebuilding support office to be created within the UN Secretariat to support the work of the Commission.

The Peacebuilding Commission is proposed to include members of the Security Council and the Economic and Social Council (ECOSOC), national or transitional authorities from the subject country, donor governments and troop contributors. This body would have a monitoring and coordinating role for the various stakeholders during post-conflict recovery. It could devise plans for transition, attend to countries in need through the many stages of recovery and marshal the necessary resources for sustained peace. We strongly support efforts to address the gap in international capacity to prevent the reemergence of conflict and are hopeful that this commission will be given the mandate and resources to meet this challenge. Please see the Annex below for further details on the language that we seek to include in the outcome document.

III. *Peacekeeping*

Due to the increased number of peacekeeping missions that have been deployed in recent years, the demand for peacekeepers is "severely stretched". Member states have been asked to create **strategic reserves** that can be deployed rapidly and to establish a **UN civilian police standby capacity**. Regional organizations also have an increasingly important role in peacekeeping; governments have been asked to support a stronger relationship between the UN and regional organizations and to consider linking regional peacekeeping capacities to the UN peacekeeping system. We support strengthening effective rapidly deployable forces and mechanisms at all levels. Far greater capacity is needed for the international community to fulfill the responsibility to protect.

IV. Improving Security Council Practices to

Advance the Responsibility to Protect

Much of the attention on the UN reform process is focused on the subject of Security Council reform, or more specifically, whether the Council will be expanded to include additional permanent seats. We ask civil society to consider several *procedural* recommendations that should be included in this process.

The Security Council should adopt a code of conduct whereby permanent members of the Security Council pledge themselves to **refrain from the use of veto** in cases of genocide and large-scale human rights abuses. This recommendation could curtail improper uses of the veto and advance the responsibility to protect. It is a misuse of the UN charter for permanent members to exercise the veto to advance extraneous national political interests.

The Security Council should adopt a system of **indicative voting** to increase transparency and accountability of the Security Council. This is a procedure whereby Security Council members could call for public indication of member's positions on proposed Council actions. Council members should also consider a system of **paragraph by paragraph** voting on resolutions. Because measures set out in Security Council resolutions can range from toothless statements of condemnation to strict punitive measures, this mechanism would increase transparency and accountability among Member States by making clear their support for particular measures proposed in a draft resolution.

Conclusion

This package of reforms – endorsing the responsibility to protect, installing a stronger human rights system, creating a Peacebuilding Commission, establishing standby reserves of peacekeepers and police– can bring major improvements to the international system for protecting vulnerable populations. WFM-IGP has been actively engaged in New York to monitor negotiations and advocate for a stronger role for civil society. We are now calling for NGOs to work in their local communities, in capitals, and at regional and international organizations to ensure support for these proposals. Civil society involvement must continue beyond the September Summit. Many of the agreements that will be reached by that time will only cover basic elements of these proposals, and negotiations on the details will continue throughout the 60th session of the General Assembly and beyond. Moreover, once these norms are accepted by the intergovernmental process, the next phase will turn to how governments, regional organizations and the UN are implementing these principles within their work.

ANNEX

Proposed WFM-IGP Language for the September Outcome Document

I. The Responsibility to Protect

- Embrace the “emerging norm” of responsibility to protect as a basis for collective action to rescue populations in grave danger.
- Affirm that sovereignty should be defined to include the state’s responsibility to protect its population.
- Affirm that when the state is unable or unwilling to protect its population, the responsibility shifts to the international community to act using diplomatic, humanitarian and other methods to help protect civilian populations.
- Affirm that the responsibility to protect is a responsibility to prevent, react and rebuild, with a priority on prevention.
- Reaffirm the Security Council’s right to take action under the Charter, including enforcement action, if so required as a last resort.

II. Peacebuilding Commission

- Decides to establish a Peacebuilding Commission to mobilize resources, enable coherent and sustained peacebuilding through information-sharing, planning and monitoring, and review and evaluate peacebuilding activities to develop best practices;
- Welcomes Member States and others to voluntarily request the Peacebuilding Commission’s advice and assistance at any stage, including before violence has emerged, to reduce risks by strengthening national capacities for peace;
- Decides that the Peacebuilding Commission should have mechanisms to fully and systematically consult with relevant civil society organizations – especially grassroots, including women’s, organizations from the affected communities – to ensure that strategies are responsive to the long-term needs of the society, in fulfillment of international norms;
- Reaffirms Security Council Resolution 1325 (2000) on Women, Peace and Security and the commitments of the Beijing Declaration and Platform for Action (A/52/231), resolving that the coordinated approach to peacebuilding facilitated by the Peacebuilding Commission should take into account women’s unique development, economic, and peace and security needs in a post-conflict environment, recognizing that communities are best served when women are full and equal partners in all areas and at all levels of peacebuilding activities;
- Decides that the peacebuilding support office should have a dedicated staff of highly qualified men and women with extensive practical experience in working with conflict, including on women, children and minorities, recalling the gender mainstreaming commitments contained in ECOSOC Agreed Conclusions 1997/2;
- Agrees that the peacebuilding support office should have close cooperation with the operational agencies of the UN, including the specialized agencies on women and children, and regional organizations;
- Agrees that the peacebuilding support office should engage proactively with civil society organizations, especially those from the affected communities, including grass-roots and women’s organizations, and develop partnership agreements where relevant.

Las ideas expresadas por los autores en los documentos difundidos en la página web no reflejan necesariamente las opiniones de FRIDE. Si tiene algún comentario sobre el artículo o alguna sugerencia, puede ponerse en contacto con nosotros en comments@fride.org / The views expressed by the authors of the documents published on this website do not necessarily reflect the opinion of FRIDE. If you have any comments on the articles or any other suggestions, please email us at comments@fride.org .