

Assertion: the responsibility to protect (R2P) gives states a “right to intervene” to prevent atrocities.

Response: The World Summit Outcome Document (WSOD) plainly asserts that when a state is “manifestly failing” to protect its own citizens, the international community must act to halt or prevent atrocities. This is a collective obligation, not an individual right. And that obligation is not to “intervene,” but rather to take whatever “timely and decisive” steps are deemed effective. These need not entail armed force, or indeed coercion. An actual intervention would have to be authorized by the Security Council, acting under its Chapter VII authority. Moreover, as the Secretary-General (SG) has noted, the question of intervention ceases to become relevant insofar as states satisfy their obligation to protect their own citizens.

Assertion: “Pillar Three” requires the coercive use of force.

Response: The pillared structure delineated in the Secretary-General’s report distinguishes between long-term responses to the prevention of atrocities—Pillars One and Two—and urgent measures taken in response to the imminent threat of atrocities—Pillar Three. Such immediate threats require “timely and decisive” actions by the international community, in the language of the summit outcome document. But many of these steps, including mediation, will be neither coercive nor military. Others, such as sanctions, may involve coercion, but not the use of force. Still others, such as preventive military deployment, involve the consensual use of force. Only when the Security Council judges that such measures would not succeed in saving lives at risk would it authorize the coercive use of force.

Assertion: R2P will be used by states to legitimize interventions undertaken for their own, non-humanitarian purposes.

Response: States have, indeed, invoked R2P, as well as other humanitarian principles, as a rationale for intervention. Such cynical misuse does not invalidate the principle itself, but rather shows the need to maintain a clear public consensus about the meaning and the limits of R2P. What is more, because R2P does not grant states a “right to intervene,” but rather stipulates a process of collective action, no state, acting alone or even in concert

with others, can claim that it has acted according to the dictates of the doctrine.

Assertion: Only the General Assembly has the political legitimacy to decide if coercive actions are warranted in any given setting.

Response: As the Secretary-General’s report makes clear, the UN Charter provides the guidance on the respective roles of the General Assembly (GA), the Security Council and other parts of the UN. The Charter explicitly confers on the Security Council primary responsibility over matters of international peace and security, and the WSOD plainly asserts that it is through the Council that collective action would be taken should a state manifestly fail to protect its citizens from mass atrocities. The GA has granted authority to itself to recommend collective measures for maintaining peace and security, under a doctrine known as “Uniting For Peace,” only when Security Council action has been blocked by a veto.

Assertion: While the responsibility to protect one’s own citizens and to assist other states to do so are non-controversial, the obligation to act when states are manifestly failing violates the principle of state sovereignty enshrined in the UN Charter.

Response: State sovereignty is not absolute, and has never been so understood. States have signed myriad human rights compacts that restrict their powers over their own citizens; tribunals like the International Criminal Court have established the principle that nationals can be tried in an international forum. The acceptance of a responsibility to protect is part of a larger and fundamental reformulation of sovereignty as a form of obligation rather than merely of power. If sovereignty is understood as responsibility, then R2P, which requires the international community to help states at risk of mass atrocities, bolsters sovereignty by bolstering state capacity. As the Secretary-General’s report notes, “It seeks to help States to succeed, not just to react when they fail.”

Assertion: R2P does not add anything new to the existing state of international human rights or humanitarian law.

Response: The core underlying idea that states have an obligation to protect men, women and children from the

worst atrocities is well established through international human rights and humanitarian law.

With the advent of R2P, the international community accepted for the first time the collective responsibility to act should states fail to protect civilians from genocide, ethnic cleansing, war crimes or crimes against humanity. R2P imposes two obligations – the first upon each state individually, the second on the international community of states collectively. With the embrace of the responsibility to protect, a long and unresolved debate over whether to act became, instead, a discussion about how and when to act.

Assertion: The World Summit document offers no clear guidance on who is to invoke R2P.

Response: R2P entails a wide array of obligations. When states adopt measures to protect people from mass atrocities, or to help others to do so, they are acting according to the dictates of the doctrine—that is, “invoking” R2P. This is also the case when neighbors or regional organizations seek to reduce tensions where people are at risk of mass atrocities. When states or regional bodies choose more coercive measures in the face of manifest failure, they are also acting in compliance with their responsibility to protect. And should the international community determine that Security Council action is required, whether under the terms of Chapters VI or VIII, or Chapter VII, then it falls to the Council to apply the responsibility to protect.

Assertion: There are no agreed-upon criteria for when R2P is to be applied.

Response: The language of the World Summit document is clear: R2P applies only to genocide, crimes against humanity, war crimes and ethnic cleansing. At the same time, R2P is an emerging norm, and many important questions about its application have not yet been fully resolved. These include what it means for such crimes to be “widespread and systematic,” how “imminent” such crimes must be in order to require preventive action and what underlying conditions significantly increase the likelihood of mass atrocities, and thus require heightened attention on the part of states and concerned actors. These uncertainties in no way undermine the norm itself, but rather remind us of the need for continued reflection and research.

Assertion: R2P will never be applied to powerful states.

Response: Highly organized states normally enjoy a sufficient monopoly over force that they can prevent mass crimes against citizens. However, as the SG’s report notes, “Even relatively stable, developed and progressive societies need to ask themselves whether they are vulnerable to such events” and they must take measures to prevent the possibility of atrocities. It is true that, should a permanent member of the Security Council be found to be manifestly failing its responsibility to protect its own citizens, such a state would be able to veto any resolution proposing coercive action against it. But the ability to apply coercive force in extreme cases is not and cannot be the yardstick by which success or failure of the R2P principle is measured.

Assertion: R2P will become illegitimate unless it is applied “non-selectively.”

Response: All principles lose force when they are applied in a partial or partisan manner. And yet no principle can withstand the test of perfectly consistent application. In the case of R2P, there will inevitably be differences of view about whether mass crimes in a given setting reach the threshold where, for example, the international community must take timely and decisive steps. Such disagreements have already occurred. But they cannot be permitted to discredit the norm itself. And the clarity and specificity with which the elements of R2P have been laid out in the World Summit Outcome Document permits us to judge whether calls to invoke the norm constitute special pleading rather than a sincere, if arguable, judgment about potential mass crimes.

Assertion: R2P should apply only in those regions where it already enjoys widespread acceptance.

Response: The World Summit Outcome Document was signed by 150 heads of state, and endorsed by all UN member states. The language of paragraphs 138 and 139 is universal, not parochial or culturally specific: All states have come to accept that sovereignty entails the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity; all states recognize that people have an absolute right to be free of mass atrocities. If, to date, some regions have embraced this principle more enthusiastically than others, this does not in any way permit individual states to opt out of obligations which they have accepted.

Assertion: The language of the World Summit Outcome Document may be carefully circumscribed, but since other sources offer a much more expansive version of R2P, there's no way of knowing where the boundaries of the principle lie.

Response: Since it was first formulated by the International Commission on Intervention and State Sovereignty in 2001, the responsibility to protect doctrine has been refined and re-articulated in a number of texts, including the report of the Secretary-General's High-Level Panel on Threats, Challenges and Change. But world leaders have only accepted the formulation contained in the WSOD; and R2P is thus confined to paragraphs 138, 139 and 140 of that document.

Assertion: R2P puts too much emphasis on the Security Council, which historically has proved unwilling or unable to act effectively to prevent and halt mass atrocities. R2P is meaningless if the Security Council fails to act.

Response: The SG's report is clear that the UN Security Council failed to respond to some of the worst atrocities of the twentieth century. The report also recognizes that the whole UN system and its member states remain "underprepared to meet their most fundamental and protection responsibilities." This is the challenge of putting words to deeds: to fill the gaps in capacity, will and imagination that will make mass atrocities a thing of the past. Fulfilling the responsibility to protect requires action by a wide range of actors. The onus is on them to make action by the Security Council unnecessary. Yet, in the case of a state's manifest failure to protect its populations, the World Summit outcome challenges the Security Council to take timely and decisive action. Upholding R2P requires the Security Council to work better.

Assertion: Action proposed by the Security Council is illegitimate unless its membership is reformed and the permanent members no longer retain the right of veto.

Response: The process of reforming the Security Council and implementing the responsibility to protect should not be intertwined. Notwithstanding concerns about the structure and functioning of the Security Council, making the implementation of R2P contingent on UN reform and amendment of the UN Charter would result in unconscionable delays to the UN's efforts to saving lives through the prevention of mass atrocities.

Assertion: Article 4(h) of the Constitutive Act of the African Union (AU) is cited as a precursor to R2P; but that charter's clause regarding non-indifference in the face of grave circumstances requires approval by the AU's Assembly of Heads of State and Government. The UN's procedures for deciding when coercive action to uphold R2P should be taken should mirror that of the AU, namely by a decision of the General Assembly.

Response: The WSOD specifies that enforcement action should be taken in accordance with the UN Charter. The UN Charter explicitly confers on the Security Council primary responsibility over matters of international peace and security, and plainly asserts that it is through the Council that collective action would be taken should a state manifestly fail to protect its citizens from mass atrocities. The GA has granted authority to itself to recommend collective measures for maintaining peace and security, under a doctrine known as "Uniting For Peace," only when Security Council action has been blocked by a veto.

Assertion: A debate on R2P in the General Assembly should be used to address the "implications" of R2P-- that is, to revisit and alter the 2005 agreement.

Response: The SG's report is clear – the 2005 World Summit agreement is a good one and neither reaffirmation nor renegotiation of a text agreed by world leaders is necessary or appropriate. As the SG says, "The task ahead is not to reinterpret or renegotiate the conclusions of the World Summit but to find ways of implementing its decisions in a fully faithful and consistent manner." What is now important is for the GA to consider the proposals of the SG and determine how best to ensure that the UN can fulfill the commitments world leaders made.

Assertion: The SG's report goes further than paragraph 139 of the World Summit Outcome Document, which stipulates only that states will *consider* coercive action by the Security Council on a case-by-case basis.

Response: In paragraph 139 heads of state were clear: that they were prepared to take collective action, according to Chapter VII of the Charter in those situations where a state is manifestly failing and peaceful means are inadequate. For any action to be effective, it is always necessary to consider the specific situation and tailor the response accordingly. This is why the SG refers to the need for a timely and flexible response to any situation.