

R2P and Human Rights: The way forward for the United Nations

by UN Deputy Secretary-General Jan Eliasson

Thank you for the honour to be invited to deliver the Annual Gareth Evans Lecture on the Responsibility to Protect and Mass Atrocity Prevention. Thanks also to Dr. Adams and his Global Centre and to the Irish mission for hosting this event.

Gareth, you and I have been friends and colleagues on many international barricades over the years. And all of us in this room know you have been a champion of the crucial cause of preventing violent conflicts. By your pioneering work with the International Commission on Intervention and State Sovereignty in 2001, you and your colleagues built the foundation for the deliberations on this subject at the World Summit in 2005.

These deliberations, which I was proud to preside over, led to the landmark adoption of the principle and norm of Responsibility to Protect (R2P) with its three pillars (i) national responsibility to protect, (ii) international assistance to States to meet that responsibility, and (iii) international action.

It was not an easy and comfortable journey leading up to this, I dare say, historic decision. In the summer of 2005, I recall being in a basement room with the outgoing President of the General Assembly, Jean Ping, negotiating a 170-paragraph document with 400 proposed amendments. One of the outstanding issues in these discussions was R2P and its relationship to state sovereignty and non-interference on one hand, and, on the other, the universal nature of human rights and solidarity with people in desperate need. It was, I would say, an important conceptual discussion which took a lot of work before we could agree on the final text.

As we repeatedly witness atrocity crimes around the world, the question I often meet is whether R2P has failed. Given the life-and-death stakes for so many millions of people, it is deeply painful to hear this question, even if it is legitimately raised.

Let me at the outset state that I continue to strongly believe in the principle and norm of R2P and that I find it as alive, as needed and as relevant as ever. It is clear, however, that several States have not upheld their responsibility to the degree envisioned by world leaders in 2005. Why they have not done so, and how to ensure a better record for the future, is the subject of my remarks here today.

It is clear from our engagement with Member States that, despite the mixed record, there is consensus on several points.

There is agreement that prevention is fundamental and at the core. There is agreement that efforts to assist States to fulfill their protection responsibilities should respect national ownership. There is agreement that any collective international action should employ the full range of diplomatic, political and humanitarian tools. And there is agreement that military force should be considered a measure of last resort.

It is also worth noting that the key intergovernmental bodies of the United Nations have dealt with and referred to the Responsibility to Protect. In some cases they have passed both thematic and country-specific resolutions related to R2P.

The Security Council has referred to it in more than 50 resolutions and presidential statements. Since 2009 the

General Assembly holds an annual thematic debate on the issue. The Human Rights Council has made reference to R2P in a number of resolutions, most recently in the 23 September resolution on transitional justice. These examples confirm the relevance and utility of the R2P concept.

We should also be encouraged by the several regional and global networks set up on the responsibility to protect and also on the prevention of genocide and atrocity crimes. Here I want to commend the good work of Adama Dieng, Jennifer Walsh and her successor, Ivan Simonovic. These networks strengthen the national and regional prevention architecture as well as the sharing of good practices. Also, there are cross-regional Groups of Friends of R2P with more than 50 Member States at the UN in New York and Geneva.

There are also important initiatives under way in several national parliaments on the implementation of the Responsibility to Protect. This is crucial work that must be supported.

However, while there is progress in conceptual understanding of R2P, there are considerable gaps in implementation on the ground. This is also outlined in this year's R2P report by the Secretary-General.

In today's world, we see multiple severe and complex conflicts. We see dangerous instability. We see serious threats to international peace and security. Atrocity crimes are being committed around the world with hundreds of thousands of lives being lost. Let me just mention the conflicts in Syria, Yemen, South Sudan and the horrible plague of terrorism affecting so many nations and people.

There is in today's world also an alarming disregard for the fundamental tenets of international law. Deliberate targeting of civilians is taking place, as well as indiscriminate use of air power in densely populated areas, even targeting hospitals, schools and sites where civilians have sought refuge. We need much deeper knowledge and awareness of humanitarian law and human rights.

Violations of international humanitarian law have become a repugnant regular feature of armed conflict – and indeed often a deliberate strategy. The large number of child victims is especially shocking and alarming.

We all know that part of this tragic development is related to the emergence of brutal and ruthless non-State armed groups wanting to create fear. But it is equally of concern that many serious violations of

humanitarian law and human rights continue to be committed by armed forces and auxiliary militia of States.

Several governments are also failing to hold perpetrators of atrocity crimes accountable. Here, I am very concerned by recent announcements of withdrawals from the Rome Statute of the International Criminal Court (ICC).

It is also troubling that the Security Council is increasingly reluctant to refer serious situations to the ICC. Political divisions, notably within the Security Council, often obstruct efforts towards decisive action and effective prevention.

Undoubtedly, these actions and trends threaten the advances we have made in combatting impunity. They also deny the victims of atrocity crimes the right to justice. In addition, formal commitments to the prevention of atrocity crimes often do not translate into concrete preventive action, even when populations face imminent threats.

We must address these challenges head on. I see two priorities: first, understanding and responding to the obstacles to preventive action; and secondly, making prevention more substantive and effective. Let me say a few words about each.

As we consider the obstacles to prevention, a key area of concern is what impedes international action under the third pillar of R2P.

The most obvious problems are related to strong political interests of States in opposing early action addressing serious situations. This was the case in Syria during 2011 and 2012. These outside interests have continued to block decisive action even as the civil war there has led to ever more frequent atrocity crimes. The reality and prospect of "proxy wars" is a hugely dangerous threat and a hugely dangerous trend in today's world.

Another country which is often discussed in the context of R2P is Libya. As you all know, Libya was the subject of the first-ever unanimously adopted resolution referring to R2P – resolution 1970, in February 2011. A few weeks later, the Council adopted resolution 1973, which authorized Member States to take "all necessary measures ... to protect civilians and civilian populated areas under threat."

With the authorization of the Security Council, a coalition of states undertook military operations. These

ended on 24 October 2011, a few days after Muammar Gaddafi was killed.

As we all know, that intervention generated lively debates on when and how force should be used for the purposes of protection. It also raised serious politically-related questions about the application of the principle of R2P. It regrettably reinforced the false perception that responsibility to protect primarily involves the use of force.

Some Member States felt that non-coercive measures were not given sufficient time to demonstrate results in Libya. Others felt that those charged with implementing Council resolution 1973 exceeded their mandate.

Many still believe – and I am one – that the case of Libya shows how a timely and decisive response to atrocity crimes can help address immediate threats. At the same time, however, there is a clear need to learn lessons from this case. Brazil's 'responsibility while protecting' initiative, which stresses the need for responsible use of military force, has been a constructive and helpful concept in that regard.

I dwell on the case of Libya because I believe it was a key setback, in the sense that it reinforced caution, and indeed scepticism, about the use of and reference to R2P. As a result, Member States have shied away from invoking R2P in subsequent Security Council discussions in situations of grave concern.

Looking ahead, I do not believe that the challenges we have faced so far should undermine our faith in the Responsibility to Protect. It remains a widely accepted and embraced fundamental principle. At the same time it is important to learn from the past, and prepare for the future.

Four lessons stand out in particular.

First, we should consider ways to improve the Security Council's capacity to monitor the implementation of its mandates. These include protection activities carried out also by third parties. This would address many of the concerns expressed after the Libya intervention.

Second, we need to expand the political base within the Security Council for 'timely and decisive' collective action. Security Council members should demonstrate leadership by agreeing to exercise restraint in the use of the veto. I welcome and support the French proposal to limit the use of the veto through a voluntary commitment by the P5 to not use the veto where a mass atrocity has been ascertained.

A step in this direction is the Code of Conduct initiative led by the Accountability, Coherence and Transparency group (ACT). I strongly recommend current and prospective members of the Council to join the Code of Conduct as an act of ensuring a responsive Security Council in the face of atrocities.

Third, there is also space to improve Security Council deliberations. We know that the Council can strengthen its working practices to put a premium on comprehensive early warning. Also, nothing prevents deliberations in the Council from becoming more inclusive and more transparent. I encourage further expansion of ways and actors to bring critical developments to the attention of the Council. All this must aim to encourage earlier action to protect populations and deter atrocities.

Fourth, we must continue to ask the members of the Council to demonstrate leadership and courage. We are not naïve. We know that countries have their political interests. But ultimately the protection of people and stopping horrible escalation is in the national and regional interest of all.

The situation of Syria is a clear example where the tragic situation in one country has caused shockwaves around the world, not least through refugee flows, also resulting in political backlash in many countries. Leaders have a responsibility to see the bigger picture when pursuing their political agendas, particularly when the Security Council is dead-locked.

We know, for example, that Article 99 of the Charter permits the Secretary-General to bring to the attention of the Security Council "any matter which in his opinion may threaten the maintenance of international peace and security". This article has been very rarely applied because the chances of success are dim at best, in light of lack of unity in the Council.

These days – and I have Aleppo and Syria in mind – there are many who look at options for action in the absence of unity in the Council. As you all know, General Assembly resolution 377 of 1950 on "Uniting for Peace," states that when the Security Council fails to act as required to maintain international peace and security, the Assembly shall consider the matter immediately and may also issue recommendations to restore international peace and security. Also this resolution has been very rarely applied, obviously for the same reason as I mentioned for Article 99.

Another key element in doing better in the future is making prevention efforts more effective, and

committing to assist States in this area. For this we need to assess which prevention mechanisms and measures have been effective in averting atrocity crimes. Let me mention a few.

- a professional and accountable security sector;
- impartial institutions for overseeing political transitions;
- independent judicial and human rights institutions;
- capacity to assess risk and mobilize early response;
- local capacity to resolve conflicts;
- media role in counteracting prejudice and hate speech;
- and capacity for transitional justice.

These all imply the need for greater respect of international human rights law, which is the core of effective prevention and protection.

I believe the situation today is critical. We urgently need a renewed compact of respect for fundamental rights, human rights and international humanitarian law between international organizations, Governments and, indeed, populations.

We also need to stress the complementarity between atrocity prevention and other policy agendas. I think of:

- implementation of the Kigali Principles on the protection of civilians in peacekeeping operations;
- efforts to address the crisis of forced displacement;
- implementation of Security Council resolution 1325 on women, peace and security and also 2250 on youth peace and security. I was in the Central African Republic last month, discussing reconciliation with young people. One young man turned to me and said “I would really like to start implementing resolution 2250.” As I told the Security Council members when I got back – their resolutions create expectations of action!;
- achieving the goals set out in the 2030 Agenda for Sustainable Development; and
- implementation of the new concept of “sustaining peace” which was supported by both the Security

Council and the General Assembly in identical resolutions adopted in April this year.

I would say to you that these last two – the Strategic Development Goals (SDGs) and the two resolutions on sustaining peace – are tremendously important in underlining the importance of working horizontally, not vertically. The SDGs cover not only development but, for example, human rights and institution building. The sustaining peace resolutions are equivalent – they recognise that the life of a conflict is not just the duration of the armed conflict itself, but has political, social, and cultural dimensions.

It will be important for the international community to articulate a global and coordinated international agenda to assist States to better undertake, and live up to, their preventative responsibilities. This is also clearly in the interests of those who are reticent about the use of international action under R2P.

I have now outlined some of the lessons we have learned and the ways we can reinvigorate R2P. This is important for the credibility of the multilateral system and the United Nations at a crucial time.

Let me finally take a few moments to speak about the prevention and protection responsibilities of the United Nations system itself.

As you know, we conducted a review of the UN role in Sri Lanka in 2012. We found there had been a systemic failure of United Nations action. To address these failings, we designed the Human Rights up Front initiative.

Several elements of this initiative are particularly relevant for the responsibility to protect.

First, we decided to focus on early warning and preventive action, and on situations where there was a risk of serious human rights violations which could turn into mass atrocities.

Second, the heart of Human Rights up Front’s vision is that the United Nations must bring closer together its three pillars – peace and security, development and human rights.

Third, in order to improve early warning and prevention, Human Rights up Front includes actions under three main elements: cultural change, operational change and change to political engagement.

In cultural terms, the United Nations staff familiar with Human Rights up Front are increasingly able to look beyond their individual mandates to the role of the United Nations as a whole. I see also in the field that this holistic view is becoming increasingly accepted.

In operational terms, we have a mechanism that scans all world regions every three months and examines situations of concern from a political, development and human rights perspective.

And in political terms, we are developing a more effective early-warning dialogue with the Security Council through “situational awareness” briefings. These monthly briefings provide the Secretariat with greater opportunities to draw the attention of the Council to developing crises.

The United Nations now has potentially its best early warning system ever. We are in a far better position to react early, both operationally and politically. Of course, sometimes there is a distinction between early warning and early action, as we have seen.

Perhaps more than anything else, Human Rights up Front is created to bring courage and principled action into the everyday work of the United Nations, whether on the ground or in decision-making and political engagement at Headquarters. We must bring the United Nations Charter to the forefront of all UN action.

I am confident that the next Secretary-General, António Guterres, will continue and build upon the Human Rights up Front initiative – it is part of his vision statement. Our goal is that in the years to come, we will see a true culture of prevention prevail – both within the United Nations and in the broader international community.

Today’s world calls for restored trust in the power of multilateralism, of dialogue and of preventive diplomacy.

The United Nations stands at the helm of these ideals: cooperation to protect people – especially the vulnerable – and to build a more humane and prosperous world. Facing the challenges discussed today, we must work to ensure the full implementation of R2P and for States and the international community to fully meet their preventive responsibilities.

We know we have more work to do. We know that we have not been perfect. The UN is always a “work in progress.” But as John F Kennedy said in his 1962 State of the Union address – “*Our instrument and our hope is*

the United Nations, and I see little merit in the impatience of those who would abandon this imperfect world instrument because they dislike our imperfect world. For the troubles of a world organization merely reflect the troubles of the world itself. And if the organization is weakened, these troubles can only increase.” So I say, without hesitation, that R2P is a tool which can strengthen the United Nations.

I thank Gareth Evans and all of you for your commitment to placing people and prevention up front and by that realizing the great promise of the R2P principle.

The above speech was delivered by H.E. Mr. Jan Eliasson, UN Deputy Secretary-General, at the Sixth Annual Gareth Evans Lecture on 8 December 2016 in New York City.