

Ten Years of the Responsibility to Protect: Strengthening South-South Cooperation to Prevent Mass Atrocities

INTRODUCTION

The Department of International Relations and Cooperation of the Republic of South Africa and the Ministry of Foreign Affairs of Sweden, in partnership with the Global Centre for the Responsibility to Protect, convened a workshop on *Strengthening South-South Cooperation to Prevent Mass Atrocities* on 14 to 16 December 2015 in Johannesburg, South Africa.

The interactive workshop brought together practitioners from the Global South - including from the emerging powers of India, South Africa and Brazil - to address the ongoing gaps between early warning and timely action to respond to mass atrocity crimes. The workshop highlighted mechanisms for enhancing South-South cooperation in implementing the Responsibility to Protect (R2P), emphasizing three broad areas for improving the quality of implementation: prevention, protection and rebuilding.

One of the primary aims of the workshop was to reflect upon the operationalization of R2P in the ten years since its adoption. The discussion focused, in part, on critiques of R2P and its relationship to the vexed issues of sovereignty, use of force, “regime change” and accountability. It was clear throughout the discussion that participants agreed with the emphasis that R2P places on prevention, but that more clarity and practice around Pillars I and II of R2P is required to show that states are not being “targeted with R2P” as a form of regime change by stealth.

To understand the gaps between early warning and timely response, participants discussed issues within two working groups – one focused on national and regional elements and a second on regional and multilateral elements. The following outcome document highlights challenges in implementation identified by participants

and provides recommendations for strengthening South-South cooperation on mass atrocity prevention.

NATIONAL LEVEL

At the national level the workshop highlighted the need to build better peer-to-peer networks for sharing information on how to institutionalize mechanisms for conflict resolution and accountability. The conversation also addressed the role regional and sub-regional organizations can play in facilitating peer-to-peer linkages and support their members as they institutionalize prevention, strengthen human rights protection, and develop mechanisms for accountability and reconciliation.

Participants focused on solutions for countries with the largest gaps in institutional capacity for atrocity prevention, particularly those with a recent history of conflict and where efforts to prevent recurrence are especially needed. The workshop also addressed cases where the state itself is actively perpetrating atrocities, such as Syria, or where a leader’s actions compromise the stability of the country, such as Burundi.

Institutional Capacity

Within many countries with a risk of mass atrocities, R2P has been operationalized but not institutionalized, with temporary measures put in place to address imminent threats. The tools created to prevent mass atrocities and protect civilians in these scenarios have sometimes been implemented in an ad-hoc manner, focusing on a specific threat, such as the prevention of electoral violence. This approach fails to address the root causes of conflict as ad-hoc mechanisms often lack the longevity needed for institutionalizing response.

By institutionalizing mechanisms that mitigate risks, states can ensure that their investment in prevention and non-recurrence extends beyond the immediate conflict. One such model is Ghana's National Peace Council. The National Peace Council was initially created to address gaps in the government and civil society's ability to mediate conflict and prevent election-related violence within Ghana, but the institution has transformed into a broader conflict prevention tool that continues to mitigate risk factors arising from inter-communal tensions and issues related to land rights.

States need to invest in building conflict prevention mechanisms within society – including national human rights institutions, justice mechanisms, and venues for inter-communal dialogue – while strengthening existing national tools that complement good governance, such as electoral commissions and legislation ensuring minority rights. These mechanisms take time to develop, often requiring years of investment in institution building in order to repair earlier failures to address protection needs, so it is imperative that the government and donors remain committed to prevention as part of a long-term process. Civil society can also play an important role in institutionalizing prevention by serving as educators on human rights as well as on the responsibilities of the government towards vulnerable populations.

The discussion also focused upon accountability and reconciliation. Discussants remarked that within the broader international community there has been a perception that the Global South is resistant to accountability. Proponents of this position have used recent arguments by African Union (AU) member states regarding withdrawing from the International Criminal Court as evidence of resistance to ending impunity. However, participants emphasized how important strong accountability mechanisms are to states in the Global South. During the workshop, participants discussed how to improve weak and biased accountability mechanisms, particularly in countries where the government has been party to a conflict or associated with “victors’ justice.”

Transitional justice mechanisms are important to the reconciliation and accountability process, but this process must coincide with the improvement of national justice institutions as part of a long-term judicial reform process. Local and national ownership of justice mechanisms is crucial for non-recurrence, highlighting the need for a hybrid approach, mixing international and national mechanisms, when state institutions do not yet have the capacity to address atrocity crimes. In order for this process to be effective, it must include measures to reestablish trust between state and society, including

facilitating linkages between formal institutions and informal community-based justice systems.

Another important step in addressing peace and reconciliation gaps is the creation of a National Action Plan for dealing with the past. For states with a recent history of atrocities, this plan should include tools for inter-group dialogue, reconciliation, investigation and judicial accountability, while longer-term strategies may focus on memorialization and education for non-recurrence. The discussion particularly highlighted the significance of the transitional justice and truth-seeking process in Argentina following the 1976 to 1983 military junta as an important model for consideration. Although justice for many of the victims was delayed by more than twenty years, the government has prosecuted hundreds of perpetrators for crimes against humanity, consolidated the rule of law and instituted mechanisms for memorializing the victims.

South-South Coordination

States in the Global South can develop stronger country-to-country mechanisms for information sharing, capacity building and institutional support. Often states coordinate during a crisis, working together to address a threat with potential spillover risks, but without follow-up. For example, the Multi-National Joint Task Force in the Lake Chad region was not mandated to combat Boko Haram until 2015, only after the group launched cross-border attacks and despite the fact that Boko Haram had already been perpetrating atrocities in Nigeria for almost five years prior.

There are, however, strong examples of best practices being shared with regard to transitional justice. Many states in Africa, for example, have sought advice and strategic input from Rwanda and South Africa with regard to their own truth and reconciliation processes. Participants also noted the extensive cooperation between African countries and Latin American countries, particularly Argentina and Guatemala, on sharing experience regarding forensic investigation and memorialization years after atrocities have occurred.

Since civil society can have a significant impact on building resilience to mass atrocities, participants also noted that cross-regional peer-to-peer networks for civil society organizations should be strengthened.

Regional organizations within the South can also share technical expertise for national human rights institutions and justice mechanisms, providing a local source of support. This aids in alleviating the perception of being

“targeted” by the international community and ensures complementarity of national institutions within a region.

REGIONAL LEVEL

Regional and sub-regional institutions have a critical role to play in responding to local crises and in improving South-South cooperation on mass atrocity prevention and response. The workshop highlighted challenges of responding to emerging threats within regions, including gaps in warning capacity and regional and multilateral response capacity. As the nexus between states and multilateral organizations, regional institutions are well positioned to enhance coordination among its member states, between members and the region, among different regional institutions, and between the region and multilateral institutions. Regional institutions in the Global South thus have a responsibility to promote greater complementarity among institutions at all levels.

Institutional Capacity

Regional responses require better collaboration. In regions with more than one regional institution, responses to emerging threats have often been disjointed with organizations pursuing different, and sometimes contradictory, policies. This allows parties to a conflict to exploit inconsistencies and “forum shop” for the option that brings them closest to their most desired outcome. During the 2010-2011 post-electoral conflict in Côte d’Ivoire, for example, the AU and Economic Community of West African States (ECOWAS) sent separate mediators, who pursued different political solutions, delaying the end of the crisis. By contrast, the coordinated response of the AU, ECOWAS and United Nations (UN) to the September 2015 coup in Burkina Faso was hailed as an effective contribution towards preventing further violence.

Citing recent failures in identifying impartial interlocutors to mediate in South Sudan and Burundi, participants also urged regional institutions to invest in enhancing the credibility of diplomacy and mediation by ensuring that those deployed to a particular crisis are trusted. Regardless of whether the mediator is appointed by a multilateral or regional institution, it is extremely important that the representative of the international community be seen as credible.

Participants also emphasized the importance of investing in operationalizing regional “stand-by” forces and increasing the willingness to activate such forces when

necessary. Despite more than a dozen mass atrocity situations emerging in Africa since the 2000 AU Constitutive Act, member states have never formally implemented Article 4(h), which notes the right of the AU to intervene if genocide, war crimes or crimes against humanity are occurring in one of its member states. While some regions have strong early-warning mechanisms, most lack the systematic capacity for rapid reaction. In recent conflicts in Mali and Central African Republic, for example, the lack of standby forces resulted in delayed reactions, with regional organizations waiting for financial and logistical support from multilateral actors before deploying.

South-South Coordination

Participants discussed challenges in broadening acceptance of R2P within the Global South and continuing to ensure that states avoid conflation between R2P and “regime change.” In particular, several participants from Asia and from the Middle East and North Africa region noted that there is not enough operational clarity around “how to do” Pillar I and Pillar II and, as a result, states struggle to translate international discussions into actionable national policy.

Regional institutions can play an important role in clarifying Pillar I as well as in providing Pillar II assistance. As regional institutions assist in fostering national ownership of the institutionalization process, they also facilitate the development of regional champions for R2P. As these states become better advocates of R2P within the region, they can advocate for more complementarity around issues of mass atrocity prevention, sharing best practices and lessons learned from their own process and raising the cost of inaction by their neighbors.

Finally, participants discussed the means of encouraging more networking among multilateral, regional and sub-regional organizations from different areas of the globe. There are currently very few institutional meetings between diverse regional organizations. While some region-to-region networks for trade and investment are in the process of being formalized, greater emphasis can be placed upon similar networks for cross-regional dialogue on conflict prevention, human rights protection and mass atrocity warning and response. Such region-to-region meetings could also create stronger linkages between regions and multilateral institutions.

MULTILATERAL INSTITUTIONS

At the multilateral level, discussions addressed how to make UN institutions more effective at civilian protection and the unique role that states from the Global South can play in influencing change. Questions were raised regarding coordination between regional and multilateral institutions, as well as challenges related to the use of force to prevent mass atrocities and addressing the multilateral response to atrocities by a divided UN Security Council.

Institutional Capacity

Despite early warning, multilateral actors are still often slow to respond, failing to adequately activate mechanisms for early action. The UN needs to make better use of the reporting mechanisms established by the Human Rights Council and the Office of the High Commissioner for Human Rights, including commissions of inquiry and special procedures, as well as long-term institutional risk assessments such as the Universal Periodic Review. The UN Secretariat can also do more to encourage mainstreaming of atrocity prevention tools and integration of work across its various agencies. One such tool is the *Framework of Analysis for Atrocity Crimes*, developed by the Office on Genocide Prevention and the Responsibility to Protect, which should be included in pre-deployment packages for all UN field staff.

Participants suggested wider use of inter-agency task forces - bringing together practitioners from UN departments and offices for peacekeeping operations, political affairs, human rights, development, coordination of humanitarian affairs and others. Since offices mandated to provide early warning of atrocity crimes often lack capacity to rapidly report on human rights violations, such task forces could ensure that all UN staff within a country can contribute to the assessment of warning signs. Inter-agency cooperation could also aid in strengthening the nexus between security and development in the UN's work within countries and can help in fostering national ownership of necessary reforms and institutions for prevention, such as the creation of national peace councils and training for security and judicial reform.

The reform of UN peacekeeping operations was of particular importance to many of the participants as troop contributing countries (TCCs) in the Global South provide the largest human component of peacekeeping missions and also participate widely in state-supported

peacekeeping training. The UN Security Council and Department of Peacekeeping Operations need to institute more comprehensive TCC consultations, including on troop preparedness for mandates involving the protection of civilians.

UN Peacekeepers, regardless of their country of origin, need further training in "responsible protection." This includes pre-deployment training in human security and human rights as well as UN missions instituting measures for accountability for violations perpetrated by their own forces. One participant also recommended creating a mechanism similar to the Panel of Experts used in sanctions reporting for all UN Security Council-authorized peacekeeping missions. Such a panel would monitor benchmarks towards fulfilling peacekeeping mandates, collect early warning intelligence, and ensure accountability for the actions of peacekeeping troops.

The contribution made by the Brazilian concept of "responsibility while protecting" to the normative development of R2P was also noted. Several participants asserted that prior to deployment of peace operations or intervention forces, the UN Security Council needs to follow clear guidelines on authorizing the use of force. Participants called for greater transparency for Security Council decision-making and an overall improvement in its working methods, including through following a code of conduct for Council action in mass atrocity situations.

Consistent with the report of the UN High-Level Independent Panel on Peace Operations, which reviewed all UN peacekeeping operations in 2015, participants emphasized the primacy of politics in solving crises. The international response to all mass atrocity situations must include a political solution, even when peacekeeping troops are deployed, in order to ensure that root causes of the crisis are addressed even after immediate violence has ended.

Within this context participants also discussed mission leadership, particularly the role of the Special Representative of the Secretary-General (SRSG) to particular countries or regions. SRSGs sometimes lack the capacity or the will to raise the alarm in a timely way, sometimes sacrificing civilian protection concerns in order to maintain a cooperative relationship with the host country. By contrast, SRSGs that have been consistently critical of the host government have, at times, jeopardized progress towards fulfilling their mandate and the government has responded by impeding their access to vulnerable civilians.

Participants suggested one way to alleviate these tensions is for SRSG selection to be more reflective of the unique

context of the host state. SRSGs from the Global South are sometimes perceived as more credible, understanding the distinct needs of developing countries accepting external assistance. For example, the discussion highlighted the critical role played by José Ramos-Horta in stabilizing Guinea Bissau during his term as SRSG to the country. Because of his role in East Timor's struggle for independence, Ramos-Horta understood the particular context for addressing the country's needs and also spoke Portuguese, giving him the unique skills needed to address this particular conflict. Beyond SRSGs, UN agency leadership should also be more diverse and "democratic," reflecting the full UN membership, with more representation of Southern countries in these roles.

South-South Coordination

Experts suggested more frequent joint action by states from the Global South at the Human Rights Council and UN Security Council. Non-permanent members of the Security Council can play a stronger role in encouraging discussion of mass atrocity situations and empowering actors charged with implementing R2P within the UN, including through inviting briefings by the Office of the Special Advisers on the Prevention of Genocide and R2P and requesting more regular reporting by the OHCHR. Participants positively highlighted the historically significant contribution of India in bringing the issue of apartheid to the UN General Assembly as well as Brazil's support for ending institutionalized discrimination in South Africa. This was emphasized as an example of Global South leadership on a human rights issue of international significance.

CONCLUSIONS

At the end of a year in which states, civil society and the UN took stock of the progress made in implementing the Responsibility to Protect in its first decade, the workshop on *Strengthening South-South Cooperation to Prevent Mass Atrocities* took a critical look at where our collective responses to the risk of atrocity crimes remains weak. During the meeting, practitioners proposed concrete action for bridging some of these gaps, particularly in the area of encouraging deeper cooperation among states, but the exploration of how to collectively improve implementation must continue. While many of the challenges raised during the meeting were unique to the Global South, the suggested solutions should be heeded globally.

Widespread support for continued dialogue was expressed by all participants. As security challenges around the world evolve, policy makers and civil society need to continue discussing how to address these threats in innovative ways.

Recommendations

- States need to develop peer-to-peer mechanisms for information sharing and institutional capacity building. This is particularly important for building national institutions for conflict prevention, human rights protection and accountability for mass atrocity crimes.
- Regional institutions should develop inter-regional networks for atrocity prevention and response. Such networks can share best practices in mass atrocity prevention and strategies for influencing greater collaboration among their member states.
- On all levels, actors need to prioritize preventive tools, even during the process of addressing an active conflict. This includes prioritizing political solutions over military outcomes, and developing institutional mechanisms that address the root causes of conflict.
- Regional and sub-regional organizations need to ensure greater complementarity in their responses – and between regional and multilateral responses – to emerging risk situations.
- Actors on all levels need to make greater use of the full range of UN tools for preventing atrocities. States from the Global South should play a more constructive role within the Human Rights Council and UN Security Council by raising R2P, accountability for crimes, and responsibility while protecting during meetings on substantive issues and while bringing multilateral attention to risks within particular countries.
- States from the Global South need to push for greater representation within UN leadership, including in SRSG and Under-Secretary-General positions, in order to enhance the credibility and effectiveness of preventive diplomacy and multilateral responses to conflict situations where there is a risk of mass atrocities.