



Report on Wilton Park Conference 922

IMPLEMENTING THE RESPONSIBILITY TO PROTECT: THE ROLE OF REGIONAL AND SUB-REGIONAL PARTNERS

Friday 11 – Sunday 13 July 2008

with support from the Global Conflict Prevention Pool of the UK Foreign and Commonwealth Office, Ministry of Defence and Department for International Development, and Sweden's Ministry of Foreign Affairs

Summary

1. The concept of responsibility to protect (RtoP) rests on three pillars: first, the obligation of states to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from their incitement; second, a commitment to assist states to meet these obligations; and third, a responsibility to protect populations from these four crimes and violations.
2. In 2007, United Nations (UN) Secretary-General Ban Ki-moon sought to move the concept of the 'Responsibility to Protect' forward by 'operationalising' it and turning the Member States' "words into deeds." He appointed Professor Edward Luck to the post of Special Adviser to the Secretary-General, working primarily on RtoP. The SASG has identified four key programmatic dimensions of RtoP: (i) capacity building and rebuilding; (ii) early warning and assessment; (iii) timely and decisive response; and (iv) collaboration with regional and sub-regional arrangements. For the UN, each dimension involves building on current prevention and protection efforts and on existing mechanisms and capacities.
3. The fourth dimension is crucial, because building a global/regional/sub-regional partnership could help advance each of the other dimensions of this vital work. Hence, this conference explored the key activities and capacities of the major regional and sub-regional mechanisms, existing patterns of collaboration with the

UN, the comparative advantages of both parties, and shared fields of activity/goals that have the potential for enhanced cooperation in relation to the operationalisation of the RtoP concept. The conference engaged a number of Member States in this discussion, as well as representatives of the UN (including Professor Luck), regional mechanisms, academia and civil society more broadly.

4. The main findings of the conference were:

- As a general rule, the operationalisation of RtoP will rely on how successfully political will is mobilised;
- Although the third pillar (response) should not be neglected, it is important to achieve the right balance between the three pillars (response, protect and assistance);
- Maybe there is an over-emphasis on the state-centric approach - civil society organisations and the private sector may become more important actors;
- Involvement, coherence and identity: it is important to mainstream RtoP within international and regional organisations so it becomes part of standard operating procedures;
- There is a need to work on defining and expanding preventive activities;
- There is some general 'discomfort' with the concept within the humanitarian community and how it may impinge or impact on humanitarian work;
- Political leadership that mobilises action, allied to civil society organisations to generate interest and create pressure, collectively serves to energise capabilities and capacity;
- There is a need to find better ways of coping with inconsistent application of the principle of RtoP taking into account what is politically feasible and materially achievable in any given situation;
- The international community should retain the present three-pillar definition used in paragraphs 138/139 of the World Summit Outcome Document (and then elaborated by UN Secretary-General Ban Ki-moon in a speech in Berlin on 15 July 2008, following the Wilton Park meeting).

Background

5. As included in the World Summit Outcome Document and subsequent resolutions of the United Nations General Assembly and Security Council, the concept of the 'responsibility to protect' (RtoP) rests on three pillars: first, an affirmation of the primary and continuing obligations of states to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity, and from their incitement; second, a commitment by the international community to assist states to meet these obligations; and third, an acceptance by Member States of their responsibility to respond in a timely and decisive manner, in accordance with the UN Charter, to help protect populations from these four crimes and violations.

6. Last year, UN Secretary-General (UNSG) Ban Ki-moon sought to move the agenda forward by 'operationalising' RtoP and turning member states' "words into deeds". He appointed Professor Edward Luck to the post of Special Adviser to the Secretary-General (SASG), working primarily on RtoP. The SASG has identified four key programmatic dimensions of RtoP: (i) capacity building and rebuilding; (ii) early warning and assessment; (iii) timely and decisive response; and (iv) collaboration with regional and sub-regional arrangements. For the UN, each dimension involves building on current prevention and protection efforts and on existing mechanisms and capacities.

7. The fourth dimension is crucial, as building a global-regional and sub-regional partnership could help advance each of the other dimensions of this work. The Outcome Document, therefore, underscores the importance of the UN engaging with regional and sub-regional partners in developing RtoP strategies and tactics.

8. Seeking to advance the implementation of RtoP, the conference aimed to:

- look at key activities and capacities of some of the major regional and sub-regional bodies, existing patterns of collaboration with the UN, the comparative advantages of both parties and shared fields of activity or goals that have the potential for enhanced cooperation;

- explore key areas for building capacity by the UN and member states in these regional and sub-regional bodies, as well as ways in which the UN itself can improve its capacity to engage with such organisations.

9. These discussions will feed into the preparation of recommendations by the SASG in a draft report to the UNSG by the autumn.

The Global Challenges

10. The conceptual work behind RtoP is now well advanced even though it is still evolving and has yet to assume any binding power,. It is widely accepted that the scope of RtoP's application should remain restricted to the prevention of genocide, war crimes, ethnic cleansing, and crimes against humanity. It should not be extended, for example, to include the protection of people in the wake of natural disasters.

11. In definitional terms, it remains important to stress the distinction between RtoP and humanitarian intervention; RtoP is not just about military intervention; nor is it a concept being imposed on the 'South' by the 'North'. The international community should actively help states to meet their responsibilities, not just respond when they fail, and pursue a range of other steps before considering direct intervention. It may be that more interventions are justified under Chapter VI, rather than just under Chapter VII.¹

12. Much more needs to be done to inform governments, regional and sub-regional organisations and civil society about what RtoP encompasses. Too often it is primarily seen as a justification for military intervention or coercive policies. Instead, it covers a range of measures, such as the familiar ones of promoting good governance and security sector reform, the application of which needs to be customised for the particular regional circumstances. What is new about the concept is the melding of peace and security or conflict prevention approaches with those of international human rights protection.

¹ <http://www.un.org/aboutun/charter/>

13. It is not easy to achieve a consensus view on RtoP among states and thence to mobilise the requisite political will and financial backing to act. Nevertheless, it would be harder to ignore a repeat of the Rwanda genocide of 1994 if something similar happened today, and there are political costs for states that exercise a veto in the UN Security Council (UNSC) which resist action being taken to prevent genocide. There is evidence that the incidence of genocide is already falling.

14. There is no enthusiasm for creating a new RtoP bureaucracy: it is more a case of adding an RtoP perspective to actions *already* underway in the regions. Similarly, although the UN itself has very little capacity in this area, numerous UN agencies could play a crucial role in alerting and reporting on possible RtoP situations. Civil society and the media also have key roles to play in the latter respect. Eventually, the aim is for RtoP to become mainstreamed within the UN's operating procedures, in much the same way as human rights (although this took many years to achieve).

15. There is a danger that responsibility for implementing RtoP will be left to regional organisations, thereby removing any sense of urgency to act on behalf of the UN itself. This fear is exacerbated by the fact that, to date, there has been very little discussion of RtoP within regional organisations.

16. The UNSG is strongly committed to advancing RtoP.

UN Collaboration with regional and sub-regional mechanisms

17. The role of regional and sub-regional partners is critical. It is important to discern where such partnerships are working, what the problems are and where the gaps are. One major problem centres on an overall lack of institutional capacity at UN, regional and sub-regional levels, resulting in an inability to collect and analyse the information necessary to provide effective early warning of impending RtoP situations.

Asia

18. There is growing intra-state conflict, trans-border threats and disparities in levels of wealth, democracy and human rights between and within countries. As a result, the political, economic and security architecture in East and South East Asia has mushroomed in recent years.

19. The strength of the Association of South East Asian Nations (ASEAN) rests on three factors: its ability to shift regional dynamics in a peaceful direction; its willingness to adapt to new challenges; and its continued efforts to project peace and prosperity beyond its borders. ASEAN seeks to prevent conflict by political means, institution building and through multilateral dialogue. Its record to date is mixed, with some successes and some 'no results'.

20. Co-operation between ASEAN and the UN is not as strong or advanced as that between the UN and some other regional organisations, but there is a willingness to strengthen it as the respective interests of each converge.

Latin America

21. Little attention is paid to RtoP in the Organisation of American States (OAS). Although the region has not experienced mass killings of the same magnitude as other regions, there are numerous examples of human rights abuses. This has led to the development of a range of judicial instruments, including a strong array of human rights conventions, to protect the citizen, enabling him or her to issue injunctions against the state in order to uphold those rights.

22. The principles of non-interference and state sovereignty are still very much respected within the organisation, while it also places a strong emphasis on prevention and rebuilding, and developing regional norms through peer review.

23. The OAS has adopted a broader concept of security than traditionally accepted by many states to embrace issues such as crime and violence. One area where it has focused particular effort is in addressing official corruption, on the basis that poor governance practice often contributes to wider instability. A number of

participants, however, felt this broader definition went beyond the bounds of what should be covered by RtoP.

24. In Colombia/Ecuador, the OAS used its diplomatic skills to promote political dialogue as a confidence-building measure; and in Haiti, the OAS co-operated with the UN in coordinating a response to that country's political and humanitarian crisis.

Europe

25. The Organisation for Security and Cooperation in Europe (OSCE) is built upon value-based security. The human dimension included within the 1975 Helsinki Final Act subsequently became its most significant element as Human Rights became a legitimate concern of the international community. In this area the OSCE established the Office for Democratic Institutions and Human Rights (ODIHR) and the High Commissioner on National Minorities to identify and seek early resolution of ethnic tensions. Both have conducted much successful discreet diplomacy.

26. The OSCE operates through a consensus decision-making process. It has conducted 19 field operations, deploying a diverse 'toolbox' of policy instruments, sometimes working alongside the UN or following on after a UN deployment is completed. For example, it worked side-by-side with the UN in Georgia and in Kosovo (where it fielded 2,000 observers prior to the NATO bombing).

27. The effectiveness of the OSCE is hampered somewhat because the national bureaucracies of member states, unlike in the EU, do not tend to co-ordinate OSCE activities across different departments.

28. Current and future difficulties include: overcoming resistance to the OSCE's election monitoring processes, which some see as overly intrusive; and trying to counter new criminal activities, such as drug and human trafficking. There also appears to be a growing tendency for consideration of the human dimension of security to be pushed aside by harder security concerns. Whereas states used to see the advantage in becoming members of the OSCE and, therefore, improving their human rights and democratic credentials, some are now less concerned. In

some cases this is because they have acquired political and economic strength from the exploitation of their natural resources.

29. The present situation in Kosovo is confused, with divergence in views among EU member states and, for the first time, no agreement among international organisations about the legal basis for their presence there.

30. The OSCE has enjoyed some successes, mainly thanks to continuous peer pressure from its member states, its widespread field-oriented presence, and the support of civil society. Nevertheless, the concept of RtoP *per se* has not been raised by any member state within the OSCE in the past three years.

Africa

31. The African Union (AU) makes an exception to the principle of non-interference in the affairs of sovereign states in 'grave circumstances'. Although these circumstances are itemised as involving war crimes, genocide, and crimes against humanity, these terms are not defined further. As unanimity amongst member states is required before action can be taken, the AU has yet to sanction intervention against a member state, such as Zimbabwe or Sudan, for instance.

32. The AU now has what is known as the African Peace and Security Architecture (APSA), comprising a political control element (Peace and Security Council), an intelligence gathering and analysis centre (the Continental Early Warning System - CEWS), a military element (the African Standby Force and Military Staff Committee), an external mediation and advisory body (the Panel of the Wise or POW) and a special fund to cover costs (the Peace Fund).

33. If the AU wanted to conduct an enforcement operation in the region, this would require the approval of the United Nations Security Council (UNSC). Yet the trigger mechanisms for justifying an intervention are different between the AU and UN. More to the point, any intervention would need the popular support of Africans.

34. The AU faces numerous challenges: structural (there is a lack of leadership within the organisation); operational (severe lack of resources); organisational (clash of cultures); the operationally and conceptually under-developed African Standby Force; the poorly defined nature of co-operation; a lack of harmonisation of approaches; the AU's poor adherence to its own policy 'roadmap'; and poor financial management.

35. At a fundamental level, it is not clear if Africa fully comprehends the RtoP concept. The oft-cited mantra of 'African solutions for African problems' is inadequate for the scale of the problems facing the continent, and at a practical level Africa always appears to be reinventing the wheel i.e. not learning lessons. There has been too much emphasis on crisis management rather than conflict prevention. Civil society and parliaments need to become more involved in the process.

36. The POW, comprising five eminent persons representing Africa's five regions on conflict prevention issues, is in the frontline for enhancing capacity. It performed well in relation to the recent crisis in Kenya following the elections, but urgently needs a small secretariat to work more efficiently. Another drawback is that the chair of the AU often assumes office with a national, rather than an AU brief - something not helped by the lack of institutional memory within the AU. Incoming chairs would benefit from inheriting a dossier of the most important conflict situations confronting him or her. At present, the POW is deeply anti-intellectual. It might be better to place it outside the formal structure of the AU to provide a 'think tank' role.

37. There are allegations that certain funds channelled through the African Peace Facility, supposedly to support a peacekeeping mission, have been embezzled. Part of the fault here lies with donors for not insisting on proper financial accountability. On the other hand, there is too little money in the Peace Fund.

38. In terms of the AU/UN relationship, the co-ordination and sharing of information between the AU and the UN's Department of Political Affairs (DPA) needs to improve, and not much has happened in relation to the AU/UN ten-year

capacity-building plan. The UN liaison office needs to strengthen and to formalise AU/UN meetings. Often New York waits for the AU to take the first steps. Inadequate staffing levels, and the fact that the AU's Peace and Security Council does not conduct any analytical work, also hampers progress. Early warning is only useful if accompanied by political will. The promised roster of skilled mediators has yet to materialise and the DPA mediation unit is still taking shape.

39. A role for civil society is provided for in AU texts, and it does make inputs to the Peace and Security Council. The Pan-Africa Parliament did a good job in the first round of Zimbabwe's recent general election and has potential, but is handicapped by weak leadership.

Prevention: the case of IGAD

40. The Inter-Governmental Authority on Drought and Desertification (IGADD) was originally established 22 years ago to tackle the problems brought about by water shortages in the area; an issue upon which regional powers could agree. After 10 years, the organisation's mandate was extended to cover issues of peace and security as well as development, and it became the Inter-Governmental Authority on Development (IGAD).

41. Although some fundamental disagreements between certain member states persist, for example, between Ethiopia and Eritrea, there is enough 'glue' to bind IGAD. Member states have been galvanised into enhanced co-operation partly by the increase in international economic support that has been forthcoming.

42. Generally, it is those states in IGAD closest to a conflict that are best placed to frame a political process and make proposals to resolve it. In the past, the AU might then pick up that process, perhaps also with the support of the UN, and receive political and financial backing from key partners. This rough division of labour worked in the 1990s but has now broken down since the deterioration of relations between certain states.

43. IGAD should now develop a regional security strategy, including an upgrade of the conflict, early warning and response mechanism (CEWARN) to prevent conflicts from escalating (extending beyond pastoral areas); devising conflict resolution mechanisms; and monitoring disarmament, demobilisation and reintegration processes. IGAD is now also considering how best to take up the challenge of developing cross-border co-operation, for example, through trans-boundary water management and cooperation on counter terrorism.

Rebuilding

44. The definition of 'capacity building' is not always very clear. Often it is regarded simply as the capacity to co-ordinate and/or manage. This may mean there is no real transfer of knowledge. Implementing the principle of subsidiarity is crucial here, as this enables those located locally to identify what capacities are really required.

45. The establishment of the Peacebuilding Commission (PBC) in 2006 represents remarkably swift progress since the publication of the High Level Panel Report in 2004. The PBC is assisted by a Peacebuilding Support Office, and a Peacebuilding Fund of \$250m that is specifically earmarked for strategic interventions.

46. The purpose of the PBC is to support countries coming out of chaos/conflict that need to build capacity. As it is only capable of coping with a handful of states at any one time, the PBC has decided to focus on those smaller countries (Sierra Leone, Central Africa Republic (CAR), Guinea-Bissau, Burundi) that tend to be otherwise neglected. All have to apply for PBC support, and Côte d'Ivoire is set to become the fifth country enjoying PBC support. The use of country-specific meetings within the PBC serves to champion the cause of each 'client' state.

47. Looking forward, the PBC requires greater advocacy and outreach to promote better understanding and to encourage sustained support. Presently, it lacks co-ordination. Its main focus is prevention not intervention, and whereas RtoP is still a concept, peacebuilding has an institutional architecture. Nevertheless,

there is a need to bring greater definition to peacebuilding and how it relates to RtoP.

48. Expectations of the PBC are very high; the challenge now is how to harmonise and strengthen a general set of policy guidelines. On the positive side, the PBC does have access to heads of state and senior officials. The PBC's progress will be reviewed in 2010.

49. The UK's proposal to explore 'early recovery' has yet to be agreed. The concept was debated in the UN Security Council on 20 May 2008 but still requires leadership, a strategy for implementation, civilian capacity and sustainable/ flexible funding.

Response

50. There is a need to develop a RtoP protection doctrine to fill the gap between peacekeeping operations and full-scale war, but that is more than undertaking peace support operations. At present, there is no doctrine, even within NATO, explicitly covering the protection of civilians. Once devised, any doctrine would require troops to be trained for its application.

51. There is still a large gap between UNSC mandates relating to the protection of civilians (and not always consistency in including such references) and doing it well. Force commanders with experience of military interventions maintain they had not been properly equipped to perform the tasks assigned to them. RtoP-type activities might range from the defence of a static 'safe' area, through the establishment of weapon free zones, to coercive disarmament, to no fly zones (as established over the Kurdish areas in Iraq). A more pro-active/robust force deployment does not necessarily put itself in a more dangerous position than if deployed with a purely peacekeeping mandate.

52. Once there has been a belligerent intervention, there is an obligation on the occupying powers to provide humanitarian support to cope with the consequences

of their actions. But who protects the peacemakers and the human rights observers? Is there a possible role for private security actors in this respect?

Conclusion

53. RtoP is a sub-set of the conflict prevention, crisis management, peacebuilding continuum. It ranges from preventive measures in the early stages to military intervention at the end. Peacekeeping and peacemaking actions have already reduced deaths and mass slaughter. These successes should be highlighted. Although there is still a degree of scepticism about whether RtoP adds anything that is not covered elsewhere, the concept is now achieving a universal understanding, whereby the global reflex now would be to demand action to stop the next Rwanda or Srebrenica.

54. In terms of institutional capacity building the international community needs to understand what tools are already available. It is not realistic or desirable to try to create new capabilities and capacity in relation to RtoP. It is more a case of identifying and harnessing existing capabilities to a RtoP purpose. Mainstreaming is insufficient. Situations also require institutional focal points where people are responsible for implementing the policy: people with 'clout' who can organise training, mediation and assemble civilian stand-by capabilities.

55. Political leadership is crucial in order to mobilise action, and to energise capabilities and capacity to operationalise RtoP. Civil society involvement can then help to generate wider interest and create popular pressure.

Stephen Pullinger July 2008

Wilton Park Reports are brief summaries of the main points and conclusions of a conference. The reports reflect rapporteurs' personal interpretations of the proceedings - as such they do not constitute any institutional policy of Wilton Park nor do they necessarily represent the views of rapporteurs.