

Briefing Memo

The Responsibility to Protect: Ideals and Reality

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The International Commission on Intervention and State Sovereignty (ICISS) issued a report in 2001 entitled “The Responsibility to Protect.” In January of this year (2009), after some eight years, the Secretary-General of the United Nations (UN) submitted the first report concerning its implementation to the UN General Assembly. The idea of the responsibility to protect (R2P) had been incorporated into the outcome document of the UN Summit in September 2005, and this report was intended to present specific measures for turning R2P into reality. However, the 2005 summit also ushered in a process that has seen gradual transmutation of the R2P concept, a trend which became more pronounced in this recent report. Taking a cue from the Secretary-General report and debates around it, this briefing memo will seek to clarify the changes in R2P and their background.

Overview of R2P

One should start by outlining what R2P is about. As suggested by the name of the commission, the R2P concept addresses the relationship between interventions by the international community in conflicts and the norm of state sovereignty. The ICISS emphasizes that states as sovereign entities do not unconditionally possess domestic and international rights (like nonintervention in internal affairs), but rather that their status as the holder of such rights is conditional upon their undertaking a series of domestic and international responsibilities. The domestic responsibilities here mean the responsibilities of protecting their people and promoting their welfare, while the international responsibilities refer to behaving responsibly as a member of the international community. Important for the ICISS’s argument is the fact that the former (domestic responsibilities) simultaneously constitutes a core element within the latter (international responsibilities). In view of the development of the norm of human rights following World War II and the increasing acceptance of the notion of human security in recent years, the responsibility of a state to protect its people can now be understood as a responsibility towards the international community. The ICISS thus presents a vision of the international community in which each government assumes the responsibility to protect and promote the human rights of its people and *on that basis* recognizes one another as a sovereign state.

But states that are beset by conflicts, especially internal and regional ones, are often unable to carry out these responsibilities. Many governments in conflict settings cannot afford to develop such capacities—or conversely, some of them resort to banishing or even systematically killing members

of groups with suspected connection to insurgents (examples include the Rwandan genocide and Bosnian ethnic cleansing in the early 1990s). It is at this point that the logic of R2P serves to create space for international intervention: if the state in question is determined as not carrying out its proper responsibility to protect, then the international community must assume this “sovereignty as a responsibility.”

The ICISS lists three such responsibilities. These are the “responsibility to prevent” by tackling the root and direct causes of conflict; the “responsibility to react” to emergencies following the outbreak of conflict; and the “responsibility to rebuild” in order to support reconstruction after the conflict. Of these, the ICISS lays particular emphasis on the importance of the responsibility to prevent. Specifically, the report points out that international capabilities for the early analysis and warning of crises as well as the “preventive toolbox” for conflict management have not been adequately developed and organized, and calls for transition from a “culture of reaction” to a “culture of prevention.”

Humanitarian Military Intervention in the R2P Discourse

Nonetheless, in actuality the most prominent point of contention that emerged from the ICISS report concerned not the responsibility to prevent but the responsibility to react, particularly the parts related to military intervention. Considering the background to the report, however, this was a natural development. As the ICISS Co-Chairs Gareth Evans and Mohamed Sahnoun lay out in the Foreword, the impetus for launching the commission came from the humanitarian crises of the 1990s, particularly the intervention in Kosovo by NATO in the first half of 1999. As is commonly known, the UN Security Council did not give explicit authorization for NATO’s aerial bombing of Serbia, and in response leading NATO members tried to justify their operation by emphasizing that its purpose was a humanitarian one of halting the mass slaughter of Albanians by Serbian forces. There was widespread criticism of this intervention from a perspective that highlighted concern over the possibility of military intervention in one’s own country and the destabilization of the international order. As the rifts in world opinion over the NATO intervention intensified, Secretary-General Kofi Annan called for the formation of a consensus regarding humanitarian interventions. The ICISS, launched under the leadership of the Canadian government in September 2000, was designed to respond to this appeal.

As a result, the ICISS report discussed humanitarian military intervention more extensively than any other issue. It examined and proposed on everything from the criteria for justified intervention to various operational challenges. In what may be properly seen as an attempt to address the questions raised by the NATO intervention in Kosovo, it devoted an entire chapter to the question of sources of authority, i.e., who should hold the power to authorize military intervention. The report’s argument

thus gave an important reference point for the debates raised by this intervention.

Furthermore, debates on R2P-based military intervention have also been evoked through the humanitarian crises of recent years. Internal and regional conflicts with critical humanitarian dimensions have continued to occur since the release of the ICISS report. These include the regional conflict centered in the eastern part of the Democratic Republic of Congo that has persisted since the mid-1990s; the conflict in Darfur, Sudan which has lasted from 2003 to the present; and the civil war in Somalia which has grown increasingly severe in recent years with the involvement of neighboring countries and international terrorist organizations. As these conflicts have grown protracted and produced extensive human suffering, there were voices calling for humanitarian intervention, and R2P has almost invariably been invoked in support.

New Conception of R2P?

However, military interventions designed to address the humanitarian crises have not taken place in reality. There is widespread consensus that the greatest challenge for R2P is how to ensure its implementation through military as well as other means. The recent report by the UN Secretary-General was an attempt to consider this very point.

What sorts of proposals are being made? The report is interesting on two points. Firstly, greater emphasis is placed on the responsibility of the state in question. The report defines R2P as consisting of three pillars of action: the responsibility of the state, international assistance to and capacity building of the state, and a “timely and decisive response,” arguing that it is essential to develop these pillars in a balanced manner. As is hinted at by this three-pillared structure itself, the Secretary-General report is predicated on the need to tackle the question of how to strengthen the state’s capacity to implement its R2P. For the first pillar, for instance, it recommends that states should actively cooperate with regard to international humanitarian law, human rights law, and their related institutions (the International Criminal Court, etc.), and calls for the dissemination of the R2P principle through domestic dialogue and international exchange. The focus in the second pillar is also on strengthening state capacity, pointing out that the development of the following five capacities within the state and society is of crucial importance: (1) planning of development projects conducive to conflict prevention, (2) mediation and reconciliation of differences within the society, (3) consensus building through dialogue, (4) resolution and management of disputes that may arise at various levels within the society, and (5) development of the indigenous capacity to cultivate these capabilities.

Secondly, when it comes to the role of the international community, emphasis is placed on non-military measures, particularly conflict prevention. This may be already clear from the second

pillar just mentioned, but it has also been clearly in evidence in the section describing the third pillar. The report thus stresses that an international system which would automatically shift from peaceful means to military means is not being contemplated, and that the UN strongly favors dialogue and peaceful persuasion. Fact finding, diplomatic efforts, and sanctions are cited as primal measures in this pillar, with an annex on strengthening early warning systems. In contrast, with regard to military intervention it stops at calling for further debate on its principles as well as the enhancement of early response capabilities.

In sum, in this report the R2P implementation strategies revolve around efforts to strengthen states' R2P capacity and to enhance the conflict prevention capabilities of the international community. It is clear that this represents a fairly radical change from the earlier debates over R2P that focused on issues of humanitarian military intervention.

Evaluating the Change

What are the implications of this shift? First, this can be seen as a return to origin of sorts. In view of the fact that the ICISS report did propose a vision of the international community centered around responsible sovereign states and that it also was clear in emphasizing the importance of the responsibility to prevent, the Secretary-General's argument may read as an attempt to bring back the R2P debate in this direction.

And yet, one can also read into this redirection a reality of international politics. By and large, states are extremely circumspect about taking part in humanitarian interventions on account of risks to their national interests and their own people, as well as their fears over destabilizing the international order. The lack of any intervention in recent conflicts such as Darfur throws this into sharp relief. In light of this state of affairs, it makes sense to surmise that the Secretary-General's report, which was written for and presented to UN member states, took a pragmatic approach by focusing debate on areas which these member states found relatively easy to accept.

Nevertheless, during the debate at the UN General Assembly held in July, 2009, this pragmatic report was subjected to harsh criticism from some commentators and state representatives. Most of this criticism interpreted R2P as a doctrine for military intervention and went on to point out the dangers that this doctrine would be abused for political purposes. Moreover, even though, as in the 2005 UN Summit, many governments declared their support for the idea of R2P, a wide range of views have been presented regarding what sort of implementation measures should receive priority (capacity building versus early warnings, for example). Possibly as a reflection of this sequence of events, the UN General Assembly stopped at adopting a brief resolution to the effect that it would keep the Secretary-General's report in mind and continue deliberations over it.

Conclusion

Concrete policy debates concerning R2P have only just gotten under way. But the ideal of R2P — states should take responsibility for the security of their own people and their dignity as human beings, and the international community should mobilize resources to provide extensive support and responses to situations that put them in danger — is basically a valid one. Moreover, there are a number of mechanisms that exist, such as the International Criminal Court and the UN Peacebuilding Commission, which would lend substance to the realization of R2P (in this context, the Secretary-General’s recommendation for enhancing relatively undeveloped early warning capabilities is appropriate). What is important is to link these mechanisms to the principle of R2P as well as to give the latter a role of reinvigorating the former. Future debates are expected to make R2P a more grounded concept.

[References]

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The purpose of this column is to respond to readers’ interests in security issues and at the same time to promote a greater understanding of NIDS. A “briefing” provides, among other things, background information. We hope these columns will help everyone to better understand the complex issues involved in security affairs.

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