



The Responsibility to Protect

Views from a panel debate

Can the responsibility to protect be protected? – An introduction

Henning Melber

On 24 September 2008 the Dag Hammarskjöld Foundation, in cooperation with the Uppsala Association of Foreign Affairs (UF), a students' organisation at Uppsala University, held a public seminar on the Responsibility to Protect (RtoP or R2P). Exploring the provocative guiding question, as to whether RtoP is 'a double edged sword', three committed speakers presented their views, as documented in the following pages, to around 100 attentively listening students. The exchange ended in a lively debate and the shared awareness that despite all concerns about the risks involved this new paradigm might provide a tool, which – if used carefully and responsibly – could at least reduce (if not prevent) more human disasters of the magnitude of the genocide in Rwanda or the appalling consequences of what is euphemistically termed 'collateral damage' caused among innocent civilians through one-sided wars imposed on regimes considered to be rogue states. But at the same time the speakers shared the concerns of many others with regard to the risks that such a far-reaching interventionist doctrine might imply. After all, the power of definition over the appliance of such a doctrine is a highly sensitive matter and not protected from abuse.

The following contributions open with a summary overview of the history of the RtoP doctrine as it emerged through the pioneering report of the International Commission on Intervention and State Sovereignty (ICISS) presented at the end of 2001. Supported by the strong views expressed by the United Nations Secretary-General Kofi Annan after the traumatic experiences of organised mass violence committed in cases such as Rwanda, Kosovo, Bosnia and Somalia, the report stressed the indivisibility of the concept of human secu-

riety, including human rights and human dignity as fundamental objectives of modern international institutions and defined sovereignty as responsibility (International Commission on Intervention and State Sovereignty 2001: 5, 6 and 8). As Kofi Annan emphasised at the Stockholm Forum on genocide prevention: ‘the issue is not one of a right to intervention, but rather of a responsibility – in the first instance, a responsibility of all States to protect their own populations, but ultimately a responsibility of the whole human race, to protect our fellow human beings from extreme abuse wherever and whenever it occurs’ (Annan 2004).

Longstanding observers of and actors inside the UN system described the ICISS report as ‘perhaps the most dramatic innovation of the UN in the last few years’ (Jolly/Emmerij/Weiss 2009: 174). After a cautious initial incubation period, which provoked controversy, suspicions and reservations (which are also reflected in some of the critical undertones of the following presentations) the notion of a Responsibility to Protect guiding the United Nations was finally accepted in principle at the World Summit in 2005 by the largest gathering of heads of state to date.

A supportive Southern perspective with a lasting impact on the subsequent debates has been provided as a result of the paradigm shift which has taken place on the African continent since the turn of the century – that is, the change from the holy principle of non-intervention into the internal affairs of member states of the Organisation of African Unity (OAU) to practically applied collective responsibility, including intervention in the internal affairs of member states, as defined in the constitution of the African Union (AU). The rather unexpected coalition of like-minded to emerge – in one of the rare instances when the North-South divide has been bridged – became visible at the United Nations General Assembly debates on 23, 24 and 28 July 2009, during discussions on the report of the UN Secretary-General Ban Ki-moon on ‘Implementing the responsibility to protect’ (presented on 21 July 2009).

As a follow-up to the World Summit Outcome 2005, the General Assembly – with only a few dissenting voices – endorsed and confirmed the principles adopted in the paragraphs of the 2005 document. During the debate, the pioneering role of African states in the norm-setting process was acknowledged, in particular their contribution to the evolution of the idea of ‘sovereignty as responsibility’ (cf. Deng 2009). The shift from non-interference to non-indifference was considered a relevant contribution to matters of global concern, touching upon fun-

damental principles of state sovereignty as entrenched since the establishment of the Westphalian order. In their willingness to confirm this shift the overwhelming majority of member states were responding to the appeal of Secretary-General Ban Ki-moon, who in his speech of 21 July had called upon states to ‘resist those who try to change the subject or turn our common effort to curb the worst atrocities in human history into a struggle over ideology, geography or economics’ (quoted in Global Centre for the Responsibility to Protect 2009: 3).

Indeed, the protagonists of the doctrine would agree that while ‘normative change does not necessarily mean action’, the notion of RtoP represents a ‘momentous normative change’, which accepts that ‘sovereignty does not imply a license to kill’ (Jolly/Emmerij/Weiss 2009: 176 and 177). The former Australian foreign minister Gareth Evans, president of the International Crisis Group and one of the co-chairs of the ICISS is among the most eloquent proponents of the RtoP concept. His appeal underlines the honest motives of a position which is in principle willing to accept the need for external intervention in extreme cases of human suffering.

But at the end of the day the case for R2P rests simply on our common humanity: the impossibility of ignoring the cries of pain and distress of our fellow human beings. For any of us in and around the international community – from individuals to NGOs to national governments to international organizations – to yet again ignore that distress and agony, and to once again make ‘never again’ a cry that rings totally empty, is to diminish that common humanity to the point of despair. We should be united in our determination to not let happen, and there is no greater or nobler cause on any of us could be embraced (Evans 2008).

Such a view, noble and honest as it is, nonetheless does not solve the core problem of such forms of solidarity, namely when and how empathy with the suffering of people justifies intervention free of (counter-)hegemonic interests. Unfortunately, all too often there remain doubts about the intentions of those arguing for or against specific cases of intervention (and their form it takes), as the example of Darfur prominently illustrates. Not surprisingly, the most common concern expressed by member states during the General Assembly debate at the end of July 2009 was the danger of double standards and selectivity. As some of the states pointed out, however, ‘it would be wrong to conclude that because the international community might not act everywhere, it should therefore act nowhere’ (Global Centre for the Responsibility to Protect 2009: 2).

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The Responsibility to Protect

Fiona Dove

While the 20th century was perhaps the most violent in history, it also left us with a valuable legacy: the concept of universal human rights. Universal human rights were first codified at the end of the Second World War with the defeat of fascism – the adoption of the UN Charter, the Universal Declaration of Human Rights, the Nuremberg Tribunal Charter and the signing of the Genocide Convention. Around the same time, we witnessed decolonisation and with it the enshrinement of the principal of national sovereignty – fiercely defended by newly decolonised nations.

Towards the end of the century, there was a marked momentum towards establishing an international moral imperative for these newly won human rights to be upheld by everyone everywhere. We saw the nascent advent of the norm of the ‘responsibility to prosecute’ with the arrest of General Pinochet in Spain, and the establishment of an International Criminal Court. The principle was that if countries did not bring to trial those responsible for crimes against humanity then the international community should.

Around the same time, we saw the beginnings of the advent of the norm of the Responsibility to Protect rooted in a divisive debate between defenders of national sovereignty and promoters of ‘humanitarian intervention’.

Humanitarian intervention vs national sovereignty

The discourse of humanitarian intervention first emerged following the end of the Cold War and the push, mainly by the US, to establish its global dominion – particularly over the territories of the former USSR.

It centred on the horror at the ethnic cleansing taking place in Yugoslavia at the time, coming to a head around Kosovo. The concept of humanitarian intervention was widely regarded with great suspicion – particularly by Southern countries, who noted that Rwanda had happened without any active concern on the part of the international community until millions had died, while Kosovo was clearly of geostrategic interest to the big powers. Many less powerful countries saw ‘humanitarian intervention’ as selectively applied, as little more

than a new cover for unilateral interventions in the internal politics of their countries by those seeking to dominate them and access their resources.

The debate was very divisive for progressives. While there was shared moral outrage at the crimes against humanity, one side ended up supporting military intervention by NATO for humanitarian ends – even though they understood the bigger geopolitical interests at play. The other side argued that ‘humanitarian intervention’ was little more than a cover for military intervention by the powerful (notably NATO member states) to invade wherever they had the strategic opportunity to extend their influence or defend their material interests. They argued in favour of respecting national sovereignty, and of employing international diplomacy and other pacific means of ensuring atrocities were not committed. In many ways, it was a replay of the slightly older debate on the 1991 Gulf War.

An attempt at a compromise emerged with the concept of the Responsibility to Protect – or R2P as it came to be known as. It draws on much of the work done on conflict prevention, conflict resolution and post-conflict peace-building and reconstruction.

R2P as international law

Impetus for the formal establishment of the responsibility to protect as an international norm originally came from a 2001 International Commission initiated by Canada and chaired by Australia’s former Foreign Minister Gareth Evans and Algerian diplomat Mohamed Sahnoun. They defended national sovereignty but argued that it comes with responsibilities. A state has a responsibility to protect its own citizens from avoidable catastrophes – mass murder and rape, ethnic cleansing by forcible expulsion and terror, deliberate starvation and exposure to disease. If a state fails in its responsibilities, then it cedes its right to sovereignty to the international community, which then has a responsibility to intervene. The primary focus of the R2P concept was conflict prevention and resolution of conflict. It was stressed that military intervention should only be considered as a last resort, and should require UN Security Council authorisation. And that even hereafter, R2P would still require a commitment to post-conflict reconstruction and efforts to secure a sustained peace.

From the outset, however, the R2P concept acknowledged that the permanent five members of the Security Council would be exempt *de facto* from military intervention, as they would have veto powers.

The 2004 report of the United Nations High Level Panel on Threats, Challenges and Change subsequently picked up on R2P, recommending acceptance of R2P as an ‘emerging norm’ in light of the atrocities that had taken place in the former Yugoslavia, Somalia, Rwanda and, at the time, Darfur. A year later, the 2005 Report of the UN Secretary General submitted to the World Summit session of the UN General Assembly recommended endorsement of the R2P principle as put forward by the UN High Level Panel. The Summit subsequently endorsed the R2P concept – notably dropping the references to failure to protect citizens from avoidable catastrophes such as deliberate starvation and exposure to disease.

In April 2006, R2P acquired the status of international law when the UN Security Council reaffirmed the references in the 2005 World Summit Outcome document (resolution 1674). In August 2006, the Security Council applied R2P for the first time in calling for the deployment of UN peacekeepers to Darfur (resolution 1706).

R2P has since been invoked in relation to Uganda, Kenya, Zimbabwe and Burma – with civil society, neighbouring countries, regional bodies and the UN being involved in bringing pressure to bear on the governments held responsible, and efforts at containing violence through conflict prevention and resolution measures. Somewhat controversially, Russia has justified its military actions in South Ossetia and Abkhazia in terms of R2P.

R2P is an attempt to codify as international law what have long been the basic principles guiding any mediation of conflict. The successful recent example of Burundi pre-dated R2P. It has involved the whole gamut of interventions envisaged, from civil society pressure to regional diplomatic efforts, to the deployment of regional peace-keeping forces (from South Africa) and, once peace had been restored and elections held, investment in post-conflict reconstruction.

Designed for the weak not the powerful

The difference is that R2P as international law allows for UN Security Council-endorsed military intervention. It is the permanent five (P-5) members of the Security Council who get to decide where military intervention takes place in the name of R2P. The P-5 are explicitly excluded from having R2P apply to them, or areas in which they have interests in the status quo, on the assumption that they would veto any decision seen to be against their own interests.

All the P-5 member states, we should remember, have a long and continuing history of supporting dictatorships which abuse their own citizens. P-5 member states are also the foremost suppliers of arms to conflict zones all across the world. And P-5 member states are often directly involved in stirring up conflicts. Take the most recent US attempts to destabilise popular governments in Latin America that the US sees as being hostile to its interests. The current diplomatic crisis between the US and Bolivia stands as a case in point.

R2P, therefore, is not designed for those with the power to wreak most havoc in the world. R2P will never be applied to the P-5 states themselves nor to any territories in which the perpetrators of atrocities are their allies. As such, the military dimension of R2P will be selectively rather than universally applied. This is why we won't hear about R2P in relation to Colombia, Israel or Saudi Arabia.

'War on Terror' as obstacle to peace

It is notable that the most powerful of the P-5 states, particularly the US and to a lesser degree Britain, have been at the forefront of the so-called 'War on Terror', which poses a major obstacle to the implementation of R2P principles. R2P presupposes the possibility of political mediation in armed conflicts. This requires all sides in the conflict being brought into negotiations. The so-called contemporary 'War on Terror' serves to undermine implementation of the pacific dimensions of R2P in that it recasts more and more parties to conflicts as criminals and terrorists. To engage them in dialogue is portrayed as tantamount to supporting terrorism.

Take Colombia, for example, where prior to 11 September 2001, the FARC was generally regarded as an armed political opposition group with a legitimate right to a place at the negotiation table in the interests of finding a political solution to the Colombian conflict. R2P-type principles were being applied through, for example, the European-initiated Friends of the Colombian Peace Process which involved a number of European governments. The process fell apart when the US, with Europe quickly following suit, listed FARC as a terrorist organisation, thereby declaring it criminal rather than political. The result is that anyone who proposes that political negotiations include the FARC is smeared as a supporter of terrorism. In this way, the space for finding a political solution to Colombia's longstanding conflict is closed. The war continues unabated, costing thousands of lives every year, displacing hundreds of thousands of people, fuelling

the arms and drugs trade, corrupting the state and destabilising the entire region.

Effective R2P application in resolving political conflicts will require a rethink of the crude and all-encompassing definition of 'terrorism' prevailing today.

What do do?

Notwithstanding the problematic military component and the broader global political context, there is much to be gained from normalising the concept that where a state fails to protect significant parts of its own citizenry, everyone everywhere has the responsibility to ensure their right to security of being and life. The Responsibility to Protect is a laudable concept and should inspire everyone everywhere. There is much that can and should be done at civil society, regional governmental and international levels without resorting to military invasion.

Any workable formula, however, for ensuring that R2P's military component is not just another tool for domination by the most powerful (and potentially most dangerous) countries in the world will require a fundamental democratisation of the institutions of global governance and a system of international law under which all countries, *especially the powerful*, are equally subject.

Without this, R2P as international law will continue to be regarded with suspicion – and rightly so – by the less powerful. It will continue to be seen as an excuse for selective military intervention where the P-5 and their allies might see strategic opportunities to extend their interests and for inaction where they might have vested interests.

References and further reading

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Responsibility to Protect – Why not?

Denis Halliday

In a perfect world, the concept of a shared Responsibility to Protect those in danger, faced with natural or manmade catastrophe, or possibly some form of aggression, warfare or genocide, is a must! Of course, we would all endorse the best means to do that. Using the resources of the United Nations, its member states, international law, the provisions of the Charter and the Declaration of Human Rights to provide such protection would be a human instinct institutionalised. The exercise of the Responsibility to Protect (R2P) would appear to be a perfect role for the United Nations.

However, sad to relate, the world is not perfect. Let me give you a few examples:

I am tempted to go as far back as the Roman occupation of Britain when they built Hadrian's Wall, but perhaps that was intended to protect their conquest and not the Brits from the practice of aggression by the Scots to the North. Or we can perhaps consider the European Crusaders of the 12th century as these self-promoting saviours set out to 'protect' those harassed Christians in and around Jerusalem. Did we really care about Christian residents and pilgrims in the holy land, or did we simply grab an opportunity to employ aggression, to rape and pillage, and murder countless numbers of Jews and Moslems. And then occupy the area, build our military bases and enshrine our presence as we looted the impressive wealth of the neighbourhood over many years. I think we all know the answer. The Crusades were military interventionist R2P in action – reminds me of Kosovo – of the very worst kind: that is, questionable motives combined with appalling brutality and destruction.

Or we can consider the advent of colonialism when Britain, France, Belgium, Netherlands, Spain, Portugal and other Europeans set forth to bring Christian values, 'freedom' and 'civilisation' to the those in the South who sat on extensive real estate, vast natural resources and wealth. In our joint eagerness to 'protect', we destroyed their various civilisations, often crushed their natural habitat and removed what wealth we could find, be it in the ground or above. We made the arrogant judgment that we had something they needed...to protect them from the barrenness of their pagan lives, perhaps their feudal and tribal ways, their poverty – or was it to exploit their cheap labour? Any

threatening sophistication, or history, or signs of learning and culture, we destroyed. In short, we committed genocide many times over in such regions as Australia, Asia, North and South America and Africa.

Learning from the value-added of aggression, occupation and exploitation, and as the colonial period imploded in the mid 20th century, we employed neo-colonial, neo-imperial devices to 'protect'. One thinks of the Vietnam war when America determined it was obliged to prop up the dominoes of feudal capitalism and protect it from the dangers of socialism before it undermined the returns on 'Western' capitalistic greed. Before total and humiliating defeat, the US destroyed millions of lives and several neighbouring sovereign states, including Cambodia and Laos where cluster munitions and chemical warfare residue continue to kill innocent civilians to this day – the very people we went in to protect and save!

There are more recent examples of 'responsibility' taken and not taken, often with equally tragic results – Somalia, Rwanda, the Congo, Central America. Our aggressive intervention in the Middle East has so humiliated and enraged local leaders and communities that, unsurprisingly, we have witnessed defensive measures taken not only in situ, but exported – such as the attack on New York City in 2001. While we pursue and use terror, such as 'Shock and Awe', as a methodology for aggression on civilians, we classify the defensive response to our military intervention as terrorism! The hypocrisy of the Crusades is alive and well. We appear to learn nothing from numerous and repeated historical errors.

The common thread from the past through today is the readiness of the North – the 'West' – to second-guess, to judge the values, the religious beliefs, the systems of governance, the differences found in the South. Paternalism and hypocrisy wrapped up in 'caring' and 'humanitarian' intervention have been used to hide greed for natural resources, imperial ambition, strategic military presence and advantage.

Indeed the world is not a perfect place for the implementation of R2P. Today the imperfection is compounded by a UN Security Council which has become corrupted by the furtherance of the self-vested interests of the five permanent members. As Clinton and Albright infamously stated repeatedly, the UN is to be used to pursue US foreign policy and interests. That approach is of course incompatible with the word and spirit of the UN Charter to which the most powerful states, the 'victors' of the Second World War committed themselves upon membership.

I refer to the so called P-5 – the five permanent and veto-holding powers of the Security Council. Have we forgotten the colonial war of atrocities in Algeria; the absorption of Tibet; the smashing of Chechnya; the removal of the people of Diego Garcia; the brutal invasion and occupation of Iraq?

Are these the permanent members that we can trust to implement any kind of R2P? I do not think so. Something has to change. Reform has to be implemented. North-South balance has to be achieved in the Security Council. Then, let us discuss the beginning of trust, and an end to second-guessing, vested interests, double standards and hypocrisy.

In addition, we have a Charter document that suffers from internal incompatibilities, as when, for example, Chapter 7 Article 41 is used to justify UN-imposed sanctions on a relatively weak member state and results in the collective punishment of civilians. Sanctions that destroy the economic, social and cultural human rights of the people on which they are imposed by the UN are not just unacceptable, but in violation of the Preamble and Article 1. Sanctions such as those imposed on Iraq violate the very human rights of the targeted civilian population.

Furthermore, our trust is diminished by Secretaries-General that on the one hand fail to use the legitimate power of ‘attention’ provided them in Article 99, and on the other, become part of the problem by intimate association in the political games and decision-making of member states, such as is the case with the current ‘Quartet’.

I served the Security Council in Iraq when Head of the UN Humanitarian Programme in 1997-98. When living and working there I found evidence on the ground – in Baghdad, in Basra, in the Kurdish northern areas – that UN sanctions were intended, designed and sustained to kill civilians, particularly children. Despite abundant evidence and reports to the Secretary-General, and to the Council itself from several sources, over 1 million people were allowed to die directly due to the impact of UN sanctions on a country and a society heavily damaged by the war crimes of the US-led and UN-authorised Gulf War of 1991. Given the full knowledge of the deadly consequences within the Security Council, UN sanctions imposed on the people of Iraq for some 12 years satisfy the definition of genocide as per the Convention. The Secretaries-General did not adequately speak up. Only civil society spoke up, individuals spoke up, but the UN as an institution remained silent.

Thus, I believe the Security Council member states cannot be trusted. And when one finds that pro-intervention ‘experts’ like Gareth Evans in the context of R2P thinking justifies the exclusion of any R2P involvement or intervention in P-5 backyards, that is an outrage. I understand the thinking, the justification for this exclusion: that faced with so much military power, UN R2P intervention might be counterproductive, to be arrogance of huge proportions. Are the permanent members not committed to the principles of the UN Charter, the Declaration of Human Rights – to the very spirit of the world organisation? It would seem not. And yet each one has presented domestic opportunities for R2P action in recent years.

The US/UK invasion and occupation of Iraq in stunning violation of the Charter and international law underlines the dangerous outcome that R2P military intervention can produce. Protecting the people from Saddam Hussein? Or was it invading to possess and control the third-largest oil supply in the world? Or something more subtle?

For me, R2P can only be considered when the decision to intervene is made via a General Assembly (GA) enjoying North-South balance and representative participation. Further, intervention can only be non-violent dialogue, assistance, perhaps investment in the people in need. An invitation to support from a sovereign member state must be apparent. Circumstances can vary widely, but one can imagine natural and man-made catastrophe, civil war, ethnic cleansing or the deadly consequences of sanctions, including UN sanctions – justifying GA consideration.

To protect weakness, cultural, social and economic sovereignty, human rights and other aspects of international law, I would strongly recommend the exclusion of the permanent member states of the Security Council from any decision-making or participatory role in R2P. They should by all means be assessed part of the cost of R2P by the General Assembly. Further, I would exclude all those states that manufacture and sell weapons – the arms traders – for they may have vested interests. And assistance, intervention in whatever form, cannot be allowed to be billed to oil or other resource theft, or result in the construction of foreign military bases.

I believe that any form of violent military intervention or aggression is incompatible with the commitment of all Member States to the Charter. I suggest that only non-violent dialogue, understanding, respect and assistance to a weak state or one in difficulties is viable for R2P consideration by the General Assembly. Any action taken must

be compatible with the word and spirit of the Charter and all aspects of international law. Foremost must be held the wellbeing of the people concerned. And that wellbeing must be judged cautiously, in consultation with those perceived to be suffering.

The UN Charter and international law must be applied equally to great and small member states alike. There are no chosen people. We are all equally important. This in my view will only begin to happen when we have reform of the Security Council, full representation of the South, added power in a representative General Assembly, and when the UN represents peace, rights, justice and life itself...for all human beings equally.

The Responsibility to Protect

– Who gets protection?

How can it happen?

Phyllis Bennis

The principles and goals, as stated, of the international community's Responsibility to Protect are laudable and important, moving significantly towards solving the longstanding contradiction between the UN Charter's privileging of national sovereignty, and the Universal Declaration of Human Rights' prioritising of human lives and dignity.

The problem, of course, is that the principles and goals exist only on paper – implementation of the Responsibility to Protect, or R2P, lies with its implementation in the real world. Given the years of post-Cold War unilateral domination by the United States, and the decades of undemocratic power granted to the five veto-wielding permanent members of the UN Security Council, it is hardly a surprise that R2P is grounded in a profound double standard. Others have documented that reality thoroughly and I do not intend to reargue that issue here.

Rather, I argue for reversing the usual response to the reality of power-driven double standards and hypocrisy in the applicability of R2P, which is to call for abandoning the principle altogether. Instead, I propose an alternative approach, which is to demand full applicability of the R2P principles in *all* circumstances in which it might be merited. If, at this early stage of R2P's legal and official history, we can demand its use in areas assumed to be off-limits because of particular interest and involvement of one of the permanent five, it might be possible to reclaim a future definition of R2P that would not be flawed by hypocrisy and double standards.

The case at hand is that of the 1967 Israeli occupation of Palestinian land. With more than 40 years of UN General Assembly resolutions, International Court of Justice opinions, binding Security Council decisions and more, there is no question that Israel, as the occupying power, remains in violation of the Geneva Conventions and a host of other international laws. The Palestinians living under occupation are a 'protected population' who are being denied all rights granted to them under Geneva, as well as internationally recognised human

rights applying to refugees and more. The reports of sequential UN-appointed Special Rapporteurs on Human Rights in the Occupied Territories, including Archbishop Desmond Tutu, other UN human rights, children's rights, and other officials, as well as virtually every international human rights organisation, have documented the escalating human rights violation inherent in the military occupation under which several million Palestinians in the occupied West Bank, Gaza Strip and East Jerusalem live.

So there is little question that this longstanding humanitarian crisis – a crisis which in Gaza especially is already at the catastrophic level in terms of human lives – fulfils all requirements of R2P. The occupying power has clear obligations to provide for the basic needs and human rights of what is assumed to be a temporary condition of occupation. The occupying power refuses to provide for those basic needs or to protect those human rights. The occupation itself continues for more than 40 years, including what UN Special Rapporteur Richard Falk and his predecessor John Dugard, identify as 'characteristics of apartheid and colonialism'. The occupying power, Israel, is unwilling to meet its obligations to the occupied population, thus bringing to the international community the Responsibility to Protect that vulnerable and unprotected population.

Certainly 'conflict-resolution' efforts have been made – but the vast disparity of power between the two sides has shown Oslo, the 'road-map', Annapolis, as nothing but public relation ploys to disguise the continuing deterioration of the situation on the ground. Diplomatic efforts, under US control, forced the United Nations itself into a secondary, powerless role in the so-called 'Quartet', and accomplished nothing. Multilateral attempts, including convening the state parties signatory to the Geneva Convention, were not allowed to go forward. Economic pressure, while currently on the rise through the global civil society initiative known as 'boycott, divestment and sanctions', has been rejected by governments under US and Israeli pressure.

So virtually all the non-coercive steps outlined in the R2P approach have been tried or rejected by relevant actors; all have failed. It is time to consider once again the Israeli occupation as an appropriate target for the 'if all else fails' approach of R2P: sending an armed protection force to provide international protection for the Palestinian people living under occupation, as well as for others, Israelis, suffering from the consequences of occupation (that is, those acts of armed Palestinian resistance that may violate international prohibitions on attacks on civilians).

A situation calling for R2P, and particularly for the deployment of military force as part of that Responsibility to Protect, must include evidence of war crimes and/or crimes against humanity. War crimes are defined as ‘grave breaches’ of the 1949 Geneva Conventions or of the 1977 supplement to the Conventions.

Those grave breaches that apply to the case of Israel’s occupation of the West Bank, Gaza and East Jerusalem, include:

- ‘willfully causing great suffering or serious injury to body or health’, such as the situation of 68 West Bank women so far forced to give birth on the ground at checkpoints because a young Israeli soldier did not think they were far enough advanced in labour to require medical assistance on the other side of the checkpoint.
- ‘extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly’, which would include the vast destruction of hundreds of thousands of Palestinian olive trees, as well as hundreds of Palestinian homes to provide land for building Israeli settlements and the separation Wall.
- ‘willfully depriving a prisoner of war or protected civilian of the rights of a fair and regular trial’, which would include the 10,000 or more Palestinian prisoners languishing in Israeli jails either without any trial, or with a military tribunal completely separate (thus not ‘fair and regular’) from the civilian court system that applies to Israelis in the same territory.
- ‘unlawful deportation or transfer of a protected civilian’, which would, of course, apply to many of the refugees of both the 1948 and 1967 wars which saw huge Israeli ‘transfer’ campaigns to force Palestinians out of their historic lands and homes – but which would also, more narrowly, apply to the 400 Islamist Palestinians forcibly expelled from Gaza and the West Bank in 1994, when they were taken by military helicopter and dropped on to a barren mountainside in Lebanon, forbidden to return to their homes.
- ‘transfer of an occupying power of parts of its population to occupied territory’, which would certainly speak to the 450,000 or so Israeli Jewish settlers now living on expropriated Palestinian land in occupied Arab East Jerusalem and the West Bank.
- ‘apartheid’, which according to the 1973 UN International Covenant on Suppression of the Crime of Apartheid, includes institutionalised discrimination of any group based on criteria such as race, religion or nationality.

Crimes against humanity include many of the same categories, including such acts as deportation, 'persecutions on political, racial or religious grounds in execution of or in connection with any crime', or 'other inhumane acts committed against civilian populations'.

So, what would international protection actually look like, and how would the United Nations make it happen, given the reality that the occupying power, Israel, remains the closest ally and regional partner of the United States, the most powerful veto-wielding member of the Security Council? The following is a step-by-step progression towards international protection – all predicated on the political will of at least one country prepared to take the lead, and a small amount of courage from a much larger group of countries prepared to follow, and to say 'no' to inevitable US/Israeli pressure.

Step 1: Political agreement by a group of countries in the Security Council (most likely a combination of G-77 and some European members) on the necessity of a new UN-centred diplomatic framework for resolving the Israeli-Palestinian conflict and ending Israel's occupation.

Step 2: That group of like-minded states in the Security Council introduces a resolution calling for international protection, resulting in US veto or threat to veto. This process should be as public and highly visible as possible.

Step 3: The lead country proposes that in response a General Assembly (GA) resolution should be passed, identifying the Security Council as deadlocked because of the US veto or veto threat, and calling for the UN's Uniting for Peace precedent to be applied. The goal is to assert GA control over an issue that would, under ordinary circumstances, belong solely to the Security Council because it involves peace and security issues. Negotiations would be difficult, but the goal would be to convince powerful Assembly members to join the lead country in challenging the Council's control of the issue.

Grounds for applying the Uniting for Peace precedent, bringing the issue to the Assembly, include:

- (a) the urgency of situation on the ground;
- (b) the deterioration of diplomatic options;
- (c) the need to broaden multilateral decision-making as part of the democratisation of the UN.

Step 4: Once political support in the form of a wide majority is assured, the lead country brings to the General Assembly a resolution calling for an international protection force to be sent to the Occupied Palestinian Territory, to protect civilians living under occupation as per the Fourth Geneva Convention, as well as to protect civilians affected by the consequences of the occupation (referring to Israeli civilians).

Unresolved questions remain for the details of the resolution: UN police force or military force? Armed or unarmed, or light arms for self-protection only? What is the scope of the mandate (geographical, time limits)? Accountability/command structures?

Step 5: Negotiations begin to identify potential donor countries willing to commit police and/or troops as well as funds for the protection mission, from UN general funds as well as special national contributions.

Step 6: The US and Israel oppose the resolution, campaigning actively to put pressure on all countries to take the resolution off the table altogether, or at least to vote against it. The US campaign fails because of the wide support for the plan, and the resolution is passed with a large majority.

Step 7: Israel announces it rejects General Assembly authority, even decisions taken under the Uniting for Peace precedent, and does not recognise the legitimacy of the resolution. Israel claims the resolution does not have the force of law, and states that it will refuse to allow a General Assembly protection team to enter the Occupied Palestinian Territory.

Step 8: The General Assembly president announces that the GA understands the Israeli position, but that the international community under R2P has an obligation to protect civilians living under occupation who are being denied the protection due them under the Fourth Geneva Convention, as well as civilians placed in danger by the consequences of that occupation. The GA president reiterates longstanding Assembly and Security Council positions calling for an end to the Israeli occupation, and identifies the provision of international protection as an interim step, pending the end of occupation. It regrets Israel's refusal to acknowledge either its own or the international community's responsibility under R2P.

Step 9: The GA announces its plan to deploy the protection force, despite Israeli opposition, basing its decision on the empowering legitimacy of the Uniting for Peace precedent and the necessity of the international community's obligations under the Responsibility to Protect.

Step 10: Accompanied by journalists and camera crews from around the world, the UN protection force heads for Israel and Palestine, in four separate contingents. One group flies into Amman and travels to the Allenby Bridge; one group flies to Cyprus and sails to the edge of Israeli territorial waters; one group flies to Cairo and travels to the Rafah crossing in Gaza; one group flies to Beirut and travels to the border of northern Israel. They are denied entry by the Israeli military; they announce they have no intention of fighting their way in, but they have an international mandate to protect vulnerable civilians and they intend to wait on the borders until Israel agrees to cooperate with the United Nations.

Follow-on steps would depend on Israeli actions, but primarily on likely shifts in international public opinion and resulting changes in governmental positions. Following this process, the goal would be to launch a new UN-based diplomatic process which would bring together all parties to the conflict, with the United Nations itself as both venue and participant leading the process. The new diplomacy would be based on existing international law – including *all* relevant UN resolutions, the Geneva Convention, human rights covenants, and more.

If, on the other hand, US/Israeli pressure succeeded in preventing such implementation of R2P, it would provide a vivid demonstration of the need to combine the goal of protecting human rights with the goal of democratising the United Nations to ensure that the Responsibility to Protect applies to *all* victims of human rights violations, not only those oppressed by governments already in the cross-hairs of the UN's most powerful members.

