

IPI Blue Papers

Conflict Prevention and the Responsibility to Protect

Task Forces on
Strengthening Multilateral
Security Capacity

No. 7

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Foreword

We live in difficult times. Rapid socioeconomic changes, demographic bulges, and intertwined security crises are affecting us all, and most especially the poor. Criminal and violent organizations are gaining control over territory, markets, and populations around the world, complicating peacemaking and generating insecurity. States with ineffective and corrupt institutions prove too weak to deal with interlinked threats ranging from transnational organized crime to infectious disease. Meanwhile, the number of actual and aspirant nuclear-armed countries is growing, as is the likelihood that nonstate actors will acquire weapons of mass destruction through illicit global trade.

Global warming and environmental degradation particularly distress already impoverished regions. Rising food and energy prices put people and governments to the test, while the demand for resources—notably water and energy—increases due to unprecedented development and population growth.

To this already gloomy picture, the year 2008 added tectonic shifts in the economic landscape. A devastating financial crisis is producing dramatic consequences with likely long-term impacts on economic development, aid, and emerging markets alike.

Yet, at a time when common efforts are needed more than ever, division and discord can be spotted in many multilateral institutions, from the United Nations to NATO and the European Union. Peace operations are under serious stress, while political disunity undermines the authority and effectiveness of the Security Council. The optimistic embrace of a “flat” world of responsible sovereign states is challenged by those who push for a return to exclusive state sovereignty and jealously guarded territorial integrity.

However, crises provide unparalleled opportunities for change. These moments are transitory, but they need to be seized upon to

put ideas into action, to strengthen the capacity to meet the challenges we face, which in today's globalizing world means more responsive, effective, and efficient multilateral mechanisms and policies.

In response to these challenges, IPI launched the **Task Forces on Strengthening Multilateral Security Capacity** in 2008. The purpose of these Task Forces was to suggest ideas for action to strengthen the capacity of the United Nations (UN) and its partners to deal effectively with emerging, multifaceted, and global challenges to peace and security. The Task Forces addressed not only the policy steps that are needed, but also the political and institutional strategies required to implement them. This strategic perspective has too often been the missing link in efforts to strengthen the UN system.

Given the links among security, development, and environmental challenges, the initiative opened with a symposium on Development, Resources, and Environment. The symposium provided a larger context for the work of the subsequent Task Forces, which focused on two core dimensions of the security concerns facing the UN and its partners: (1) Transnational Security Challenges and (2) Inter- and Intra-state Armed Conflict (see Annex 3 for details of the process).

The **IPI Blue Papers** are the product of this intense process of consultation, which engaged more than sixty UN member states, half of them at ambassadorial level, and seventy experts in a variety of thematic areas. It included the preparation of more than twenty-five background papers and fourteen multiday meetings. Each Blue Paper includes a section on why action to strengthen capacity in a particular area is needed and a section with ideas for action. The content is based on the Task Force discussions, but does not necessarily represent all the views articulated during the entire process. Although the institutional focus of the Task Forces was primarily the UN, this report aims to assist key stakeholders to prioritize and leverage the comparative advantages of the UN

and other multilateral institutions, including their ability to forge productive and sustainable partnerships with other groups and organizations.

While policy discussions on related topics are taking place in other fora, IPI brings to this initiative nearly forty years of constructive collaboration with the United Nations and its membership, as well as a more long-term strategic perspective than in-house and intergovernmental processes can offer. With these Blue Papers, IPI hopes to continue a process that will produce concrete steps toward stronger multilateral capacity in peace and security.

Despite the difficulties ahead, we believe that tomorrow's world needs more multilateral capacity, not less. It needs a stronger UN, capable of adapting and strengthening its capacity to address the realities of the twenty-first century. It needs a UN able to work with its partners and in particular with member states, which remain the first line of response to many of the threats discussed here.

This is the purpose of the IPI Blue Papers, and I am very pleased to introduce them to you.

Finally, I would like to thank most warmly the co-chairs of the Task Forces, the member-state participants, the experts, and IPI staff, without whose hard work and intellectual contributions the IPI Blue Papers would not have seen the light of day.

Terje Rød-Larsen

President, *International Peace Institute*

January 2009

Acronyms

AU	African Union
CWC	Coping with Crisis, Conflict, and Change (IPI program)
DPA/UNDPA	United Nations Department of Political Affairs
DPKO/UNDPKO	United Nations Department of Peacekeeping Operations
DSRSG	Deputy Special Representative of the Secretary-General
ECOWAS	Economic Community of West African States
G77	Group of 77
GA	United Nations General Assembly
IPI	International Peace Institute
NAM	nonaligned movement
NATO	North Atlantic Treaty Organization
OCHA	United Nations Office for the Coordination of Humanitarian Affairs
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner on Human Rights
P5	Permanent 5 members of the Security Council
PBC	Peacebuilding Commission
PBF	Peacebuilding Fund

PBSO	Peacebuilding Support Office
RtoP	Responsibility to protect
SRSO	Special Representative of the Secretary-General
UN	United Nations
UNDG	United Nations Development Group
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNITAR	United Nations Institute for Training and Research
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution

Executive Summary

The multilateral system has struggled to respond to the changing nature of conflict and its increasingly brutal effects on civilians. Countless eloquent speeches have been made and ink spilled on the urgent need to prevent conflict and protect civilians. Yet the gulf between rhetoric and reality is still unacceptably wide.

Conflict prevention and the responsibility to protect (RtoP) are related but distinct concepts. While conflict prevention is a broad concept, RtoP offers a narrower and more focused framework for protecting populations from mass atrocities, specifically from four crimes and violations—genocide, war crimes, ethnic cleansing, and crimes against humanity. Action on either form of prevention faces similar obstacles, namely: mistrust and suspicion about states' motives in applying these two concepts and a lack of political will and resources to move from words to deeds. Conflict prevention and RtoP, however, are not synonymous and may not merit the same approach in all instances. Nevertheless, this report addresses both issues in the expectation that exploring the challenges and opportunities facing each may help to clarify how to move in a mutually reinforcing manner from rhetoric to action on both fronts.

Elaborating and agreeing on a framework for collective action among member states can pave the way by rebuilding trust, while helping to forestall the manipulation of preventive or protection activities. UN member states should invest—politically and materially—in global and regional mechanisms for prevention and protection.

IDEAS FOR ACTION

- I. **Establish early-warning capability:** Member states should fulfill their commitment to establish an early-warning capability in the UN, as expressed in paragraph 138 of the Outcome Document from the 2005 World Summit.

They should give careful consideration to the proposals being developed by the Secretary-General to improve the organization's capacity for early warning and assessment of RtoP crimes and violations.

- II. **Enhance multilateral capacity to respond:** Member states should enhance the resources available to the UN to respond to early-warning information by creating a joint UN office for the prevention of genocide and RtoP, strengthening the UN's political and mediation capacity, and bolstering UN conflict-prevention funding.
- III. **Reinforce member-state oversight and input:** In order to rebuild trust and to ensure sufficient oversight, member states should use the General Assembly as an inclusive forum for ongoing consideration of RtoP and make Security Council working methods more inclusive and transparent.
- IV. **Enhance strategic partnerships:** To improve the strength of their partnerships, the UN and regional arrangements should enhance their respective capacities for prevention and protection, and with the support of interested member states they should make their communication and engagement more regular, frequent, and substantive.
- V. **Conduct ongoing studies of RtoP:** Independent researchers and relevant UN entities should undertake further study of the specific causes, triggers, and indicators of RtoP crimes and violations. Detailed case studies would be particularly useful in this regard.

WHY ACTION IS NEEDED

Prevention and Protection: The Challenge of Turning Words into Deeds

1. Conflict prevention is one of the founding purposes of the United Nations, as reflected in Article I(1) of the Charter. However, since 1945 the nature of conflict has changed considerably. Conflict between states has largely given way to conflict within states. Civilians are regularly caught in the crossfire or, worse, become the primary targets of violence.¹ The multilateral system has struggled to respond to the changing nature of conflict and its increasingly brutal effects on civilians. Countless eloquent speeches have been made and ink spilled on the urgent need to prevent conflict and protect civilians. Yet, the gulf between rhetoric and reality is still unacceptably wide.
2. Much of the machinery for conflict prevention is now in place at the global, regional, and/or subregional levels, including mediation capacity; human-rights architecture; conflict-sensitive development efforts; and noncoercive and coercive measures that can be activated by the appropriate entity (the Secretary-General, the Security Council, and/or regional actors). But, the will and resources to turn principles into action are still too often lacking.
3. Related to conflict prevention, but distinct from it, is the specific set of prevention and protection challenges encompassed by the responsibility to protect (RtoP). RtoP evolved out of a history of attempts by (and failures of) the international community to prevent, deter, and punish mass atrocities. As adopted in the 2005 World Summit Outcome Document, RtoP is focused on four specific crimes and violations:
 - genocide,
 - war crimes,

- ethnic cleansing, and
 - crimes against humanity.
4. According to the report of the Secretary-General on *Implementing the Responsibility to Protect*,² the concept rests on three actionable pillars:
- first, the existing responsibilities of individual states to protect their populations from the four crimes and violations and from their incitement;
 - second, a commitment by the international community to assist states in meeting these obligations; and
 - third, the responsibility of the international community to respond in a timely and decisive manner to help protect populations where and when states are manifestly failing to do so.
5. The core challenge for conflict prevention and RtoP is to turn words into deeds. In order to do so, it is important to explore the relationship between the two concepts (conflict prevention and RtoP). In many ways, they are products of the same history and collective lessons, and have much to offer one another as they evolve conceptually and operationally. But conflict prevention and RtoP are not synonymous and may not merit the same approach in all instances. This is not just a matter of theoretical distinctions: at the time of the Rwandan genocide, some argued for giving the conflict-resolution efforts priority over focusing on signs of the impending genocide. Effective action depends on a clear understanding of objectives and expectations, and on getting the right answers by asking the right questions. Exploring the challenges and opportunities that each approach—conflict prevention and RtoP—offers for the other may help to clarify how to move in a mutually reinforcing manner from rhetoric to action on both fronts.

THE RISE OF CONFLICT PREVENTION ON THE INTERNATIONAL AGENDA

6. Conflict prevention gained new momentum in the early 1990s through Secretary-General Boutros Boutros-Ghali's *An Agenda for Peace*. At that time the emphasis was on preventive diplomacy, defined as "action to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occur."³
7. As the events of the 1990s unfolded and conflict prevention grew as a field of study and practice in international affairs, the scope of the concept expanded dramatically. In 1997, the Carnegie Commission on Preventing Deadly Conflict made a useful distinction between operational prevention and structural prevention to help clarify work in this field. Operational prevention refers to specific actions taken to confront an imminent crisis. Structural prevention includes all efforts aimed at combating the root causes of conflict including, inter alia, weapons proliferation, poverty, and injustice.⁴
8. While operational prevention has remained relatively focused, structural prevention has expanded to include almost every form of diplomatic, development, and humanitarian intervention. Seen in the context of the evolving understanding of multifaceted and interconnected security threats, and the diverse and complex causes of conflict, it is not surprising that the conception of structural prevention would broaden considerably. Then Secretary-General Kofi Annan reflected this view when he argued that virtually all the work of the United Nations contributes to conflict prevention.⁵
9. The challenge posed by such an expansive view of prevention is that it does not offer clear policy guidance on the most appropriate mix of tools for specific situations or on how to

make the hard choices that inevitably arise in responding to each individual conflict.

10. Operational prevention—also known as direct prevention—offers a more clear-cut set of measures, including a range of noncoercive and coercive tools. And yet, despite increasing rhetorical enthusiasm, the international community has repeatedly failed to invest in early action. As a result, peaceful measures, such as preventive diplomacy, have been underused by the Security Council, leaving situations that could have been de-escalated to fester until the only option is to impose coercive measures under Chapter VII of the Charter.
11. On the UN secretariat side, the Secretary-General's good-offices function has not been used as assertively as it could be. While there have been modest enhancements of the Department of Political Affairs' (DPA) prevention capacity (such as the creation of the Mediation Support Unit in 2006 and a Standby Panel of Mediation Experts in 2008), broader efforts to expand the prevention capacity of the Secretariat have been resisted by a number of member states.

OBSTACLES TO EFFECTIVE PREVENTION

12. The obstacles to effective prevention derive from a combination of mistrust and lack of will. While success is never guaranteed, because conflict situations are very fluid and complex, political will is a critical ingredient. And the willingness of conflict parties to reach a negotiated settlement is the most fundamental element. Without it, there may not be any amount of external leverage that can be brought to bear to forestall conflict. However, the interests and objectives of conflict parties are often malleable, making them susceptible to pressure from regional and other international actors. But, the engagement of external actors can raise serious concerns. On the one hand, many smaller and less powerful countries are wary, fearing that preventive action may prove to be

a new form of colonial intervention. On the other hand, powerful countries are reluctant to commit the necessary resources because it is extremely challenging to prove to their populations that the outlay will yield the desired results. Conflict prevention is more of an art than a science, with the results hard to measure at any particular point in time. Moreover, powerful countries have been reluctant or unable to mobilize domestic support for early preventive action in faraway lands, despite the increasing awareness of the interconnectedness of security threats and the spillover effects of internal conflicts.⁶

13. Another concern is the perception that, as the Security Council has become more active since the end of the Cold War, issues of security have eclipsed issues of development, eroding the role of the General Assembly and marginalizing the voices of certain groups of countries. This sense of marginalization also goes some way to explaining the expanding interest in structural prevention. This perception is exacerbated by ongoing frustration over efforts to reform the Security Council to make it more transparent and representative.
14. These obstacles present equally large challenges for RtoP as they do for conflict prevention because they reduce the financial resources and political leverage available to turn rhetoric into action.

TAILORING ACTION FOR RtoP

15. Like conflict prevention, the emergence of the responsibility to protect was influenced by the major civil conflicts of the 1990s, but it evolved in parallel to the conflict-prevention agenda. The references to genocide, war crimes, ethnic cleansing, and crimes against humanity in paragraphs 138 and 139 of the World Summit Outcome Document give RtoP a distinctive focus and imperative. Further, these paragraphs

provide the conceptual architecture for RtoP by laying out the elements of the three actionable pillars on which it rests (detailed above). Among the most immediate challenges for advancing RtoP is keeping it focused on these four crimes and violations and on the three pillars—often referred to as the “4+3 strategy.” Losing the clarity provided by the 4+3 framework would do a disservice to the 2005 consensus.

16. Turning the rhetoric of RtoP into action presents serious challenges. While the three-pillar strategy of the Secretary-General offers important doctrinal guidance, a number of policy issues will have to be decided through further deliberations by the member states and elaboration by the relevant intergovernmental bodies. Moreover, there is a tendency to draw on the conflict-prevention toolbox when describing what efforts under the first two pillars might look like. This should not be surprising as the responsibility to *prevent* mass atrocities is central to the RtoP concept. But the lack of clarity as to what makes RtoP prevention distinct from conflict prevention is troubling. Going forward, the challenge will be to draw out the distinctions between the two as regards the key elements of putting RtoP into action, including how to support states in fulfilling their protection responsibilities; developing an early-warning and assessment capability; and agreeing to the parameters for preventive action.
17. As a start, it should be recognized that, although many of the past incidences of RtoP crimes and violations have occurred in the context of conflict, several have not. For instance, the mass crimes in Cambodia in the 1970s, followed the conclusion of the armed conflict there and were part of the effort of the Khmer Rouge to consolidate power. The prevailing approach, however, is to suggest that since most mass atrocities occur in the shadow of war, attention to conflict causes will be the best starting point for early

warning and for crafting an appropriate response.⁷ Little attention has been given to the particular causes or triggers of RtoP crimes and violations, leading to a lack of clarity about what specific action should be taken in cases at risk of mass atrocities and how this might vary from case to case. Work undertaken in the field of genocide prevention has made important strides and will provide valuable perspectives. But further analysis is required to understand whether situations at risk of mass atrocities—including those that may occur amid armed conflict and those that may not—will require a distinct approach in terms of international assistance and preventive efforts.

18. Thus far, little attention has been paid to what specific activities would constitute appropriate ways to help states fulfill their sovereign responsibilities by developing their own capacity to prevent RtoP crimes and violations. Suggestions for these “pillar two” efforts range from legislative and constitutional reform, to judicial and security sector reform, to peer review, mediation, and internal early-warning mechanisms, to education and media that promote intergroup tolerance and understanding. Many of these activities are already undertaken in the course of programs implemented by the UN’s departments, agencies, funds, and programs, as well as by other multilateral and bilateral actors, including civil society and the private sector in some cases. As Secretary-General Ban Ki-moon notes in his recent report on RtoP, there is also great value in state-to-state learning processes and sharing of good practices. However, while such efforts may generally contribute to putting pillar two of RtoP into action, much more detailed analysis and discussion on the specific needs of RtoP situations is required. Are we applying the right tools to these situations? Is it a question of the targets? For instance, is there a greater need to target political elites or particular institutions in situations at risk of RtoP crimes or violations? Should we be considering

differences in the timing and manner of the delivery of such assistance for potential RtoP situations?⁸

19. Paragraph 138 of the Outcome Document clearly commits member states to support the UN in establishing an early-warning capability. Experience suggests that much of the necessary information is available, but that it must be systematically compiled, analyzed, and channeled to those with the capacity to act.
20. Monitoring trends, assessing potential triggers or accelerators, and understanding the local context and culture are critical filters for making the available information meaningful in policy terms. In considering what indicators to monitor and assess, the literature on the structural and immediate causes of conflict offers a rich reservoir from which to draw. Among the first steps toward designing an effective RtoP prevention system would be digesting this literature and learning from past efforts to prevent specific cases of conflict or genocide. RtoP prevention, however, needs to be more carefully targeted than general conflict prevention, because it entails identifying situations at risk of the four specific crimes and violations. What particular triggers, accelerators, or patterns indicate a risk of mass atrocities? Are they different from conflict indicators, or perhaps a subset of those indicators?
21. Too often, the connection between analysis and action is lacking. For RtoP this poses a challenge, as there are still many outstanding questions. What is the threshold for invoking RtoP and how might this alter the response? Does it vary from pillar to pillar? How should the range of noncoercive and coercive measures be applied to RtoP situations? What are the institutional and operational connections to existing prevention capacity within the UN system, most notably in the Department of Political Affairs? How can it be ensured that the right mix of responses is marshaled and targeted

appropriately to the twin but distinct objectives of preventing conflict and preventing mass atrocities?

22. It is not always the case that being aware of the risk leads to an appropriate or effective response. For example, in the lead-up to the Rwandan genocide, the Security Council called for a ceasefire between warring factions. This response was not sufficiently tailored to, and therefore had no effect on, the preparations by the then government and associated armed groups to carry out genocide.

FROM RHETORIC TO REALITY: ACTIVATING UN ORGANS

23. Security Council responses under Chapter VII of the Charter occupy the lion's share of attention in discussing direct responses to conflict and RtoP situations. This reinforces the deep-seated mistrust and lack of will that often stymie preventive action because the Security Council is widely seen as unrepresentative, opaque, and overly focused on military measures. The range of peaceful options under Chapters VI and VIII of the Charter remains underexplored and underused.⁹
24. In a uniquely successful exception, the early 2008 international response to the postelection violence in Kenya—viewed by Secretary-General Ban Ki-moon and former Secretary-General Kofi Annan as the first RtoP situation since the World Summit's approval of that term—was a combination of regionally backed mediation with UN support deployed from DPA's newly established Mediation Support Unit. Further analysis is required on how such collaborative responses could best be organized and institutionalized, while tailoring responses to each situation with a distinct mix of regional and global prevention tools. At present, there is no clear leadership or framework for weighing the myriad factors that go into organizing a well-tailored prevention strategy.

25. The role of the General Assembly has also received little attention. Given the call in paragraph 139 of the Outcome Document for the Assembly “to continue consideration” of RtoP, as well as the prevailing mistrust of the Security Council among many member states, the General Assembly will be an important forum for building consensus on how to implement the conceptual and operational parameters of RtoP. In fact, by working through the General Assembly in the first instance, the process of developing consensus on how to implement RtoP may help generate a broad-based coalition for preventive action.
26. The General Assembly could play two generic and two case-specific roles in advancing the responsibility to protect. Generically, it is likely to have a central place in the further normative development of the concept, as well as in elaborating prevention, assistance, and capacity-building measures under pillars one and two. In specific cases, it might act when the Security Council is deeply divided and unable to act or when the Council has not placed the issue on its agenda.
27. It is worth exploring the possibilities for General Assembly action on specific cases when the Security Council is paralyzed by political divisions, since these could well include serious cases of mass violence against civilian populations. There are precedents for Assembly action in major crises under the *Uniting for Peace* resolution, which indicates that, in certain situations when the Security Council fails to exercise its primary responsibility for maintaining international peace and security, the General Assembly may make recommendations to member states for collective action.¹⁰
28. There is also a possible role for the General Assembly in responding to RtoP risks that arise in situations that are not on the Security Council’s agenda. In those cases, it remains open to member states to place the issue on the

Council's agenda. But in situations where there are political or other barriers to doing so, action by the General Assembly could be an alternative. For example, the Human Rights Verification Mission in Guatemala was mandated by the General Assembly in 1994 following a brutal civil war and devastating mass atrocities.¹¹ The mission helped to lay the groundwork for a peaceful resolution of the conflict and prevented mass crimes from recurring.

WHAT SHOULD BE DONE

Ideas for Action

29. The fear that powerful countries will use conflict prevention or RtoP as a veil for meddling in the affairs of the weak breeds mistrust and suspicion both among governments and between governments and international organizations. As the Secretary-General's recent report on RtoP suggests, elaborating and agreeing on a framework for collective action among member states can rebuild trust, while helping to forestall the manipulation of preventive or protection activities. In general terms, UN member states should invest—politically and materially—in global and regional mechanisms for prevention and protection. The recommendations that follow suggest concrete ideas on where to invest.

I. ESTABLISH AN EARLY-WARNING CAPABILITY

30. **Member states should fulfill the commitment made at the 2005 World Summit:** Paragraph 138 of the World Summit Outcome Document clearly states that member states should support the UN in establishing an early-warning capability. This commitment acknowledges that the UN should be the focal point for compiling and assessing information on situations at risk. During past crises, the problem was rarely a deficit of information. Rather, it was a lack of authority and capacity for compiling and assessing the relevant information from across UN field presences and partners. In the annex to his report on RtoP, the Secretary-General begins to lay out his conception of how to improve the UN's early-warning and assessment capacities concerning RtoP crimes and violations. He indicates, as well, his intention to provide more specific proposals in a request to the General Assembly later in 2009. These should receive careful consideration by the member states, given how central effective early warning and assessment are to the Secretary-General's strategy of early

and flexible response, tailored to the circumstances of each case.

31. **Link early warning to ongoing political analysis:** An early-warning model that scans the horizon for trends, behaviors, and events would be limited because it would rely on generalized variables rather than situation-specific indicators. Each country is unique, possessing its own culture, history, and politics. Similar warning signs in two countries may presage very different outcomes because of the unique context within which they occur. For example, the 1994 assassination of the presidents of Rwanda and Burundi triggered quite different chains of events in the two countries. Therefore, early warning will be most effective when coupled with a fine-grained and ongoing country-specific assessment. The Secretary-General should ensure that the early-warning capability is established in close coordination with the UN's country-specific political-analysis functions in the Department of Political Affairs, as well as with the assessment units of other key departments, programs, and agencies. It is worth noting the important steps taken by the General Assembly in December 2008 to strengthen DPA's capacity substantially.¹² This will be an integral part of any future early-warning capability within the UN system.
32. **Enhance UN staff training:** The UN has many potential sources for up-to-date and in-depth information on events in the field. Its widespread field presences, including peace operations, humanitarian affairs and human rights officers, and the UN Country Team of development agencies, employ many national and international staff in countries at risk of mass atrocities. The UN secretariat and the agencies, funds, and programs should consider a new approach to civilian training that addresses awareness of early-warning signs of conflict and RtoP situations. Such training would need to

emphasize the political, economic, social, and psychological indicators that staff in the field should be able to recognize. Independent research institutes, diplomatic academies, peacekeeping training centers, the UN System Staff College, and the UN Institute for Training and Research (UNITAR) would all be potential resources to draw on.

II. ENHANCE MULTILATERAL CAPACITY TO RESPOND

33. Early warning is not particularly useful if it is not linked to the capacity to craft and implement a response. The UN is characterized by organizational silos and poor coordination. And yet, experience over the last two decades suggests that complex crises require a carefully integrated mix of political, humanitarian, human rights, economic, and security responses. Effective prevention requires robust connections among the relevant entities and a clear focal point that can formulate a carefully calibrated response that draws on a mix of carrots and sticks. While member states will discuss, shape, and ultimately authorize a response, they rely on the UN's many entities to put forward a credible set of policy options.
34. **Enhance the UN office for the prevention of genocide to include RtoP:** Member states should empower the Secretary-General to slightly enlarge the existing office for the prevention of genocide, so that it can address RtoP as well. As explained in the annex to the Secretary-General's report on RtoP, this joint office could bring together early-warning information that already exists around the UN system and convene the relevant departments and agencies to fashion appropriate and early preventive and protective action in cases of the imminent risk of RtoP crimes. It could also encourage attention to RtoP perspectives in the ongoing work of the organization, particularly in relation to "pillar

two” of RtoP—supporting the state’s capacity to prevent mass crimes.

35. **Increase UN conflict-prevention funding:** Member states should agree to expand existing funding from assessed contributions for conflict prevention by allowing it to grow when the number or severity of cases increases. Peacekeeping operations have long benefited from a flexible budgetary arrangement whereby appropriations can grow for specific crisis situations. While the demand for preventive efforts has increased, the resources available have not kept pace. Ultimately, this puts a strain on the peacekeeping and humanitarian budgets, too, as they are forced to respond to crises that might have been prevented with sufficiently early and robust action.

III. REINFORCE MEMBER-STATE OVERSIGHT AND INPUT

36. Early action involving the UN—whether through the Secretary-General, the good-offices missions of his special envoys and special representatives, or the engagement of Secretariat entities—will sometimes be controversial and will require the appropriate degree of member-state oversight. These might include, depending on the particular circumstances, the General Assembly, the Human Rights Council, or the Security Council. The role of different UN organs is likely to depend on the specific factors of each situation, but specific steps, such as those described below, can be taken to improve oversight by the General Assembly and the Security Council, in particular.
37. **Make use of the General Assembly’s role as a complement to the Security Council:** Member states agreed in the Outcome Document on the need for the General Assembly to “continue consideration” of RtoP. Indeed, the GA provides an inclusive forum in which to perform this task. Specifically,

the GA should have a central role in the further normative development of the concept. In addition, member states should use the GA as a platform for elaborating specific measures, in terms of prevention and assistance to states, which could be undertaken under pillars one and two of RtoP.

38. With respect to specific cases, the GA could play several possible roles. First, the GA could play a pivotal role by complementing ongoing deliberations in the Security Council. For example, in the mid-1990s, the situation in Bosnia benefited from being on the agenda of both bodies simultaneously. Second, in cases where action is blocked on major crises due to divisions in the Security Council, the *Uniting for Peace* resolution can be employed.¹³ This resolution stipulates that in situations where the Security Council fails to exercise its primary responsibility for the maintenance of international peace and security, the GA may make recommendations to members for collective measures. Third, the GA may have a role to play in response to RtoP risks that arise in situations that are not on the Security Council's agenda. While such issues could be placed on the Council's agenda, there may be political or other barriers to doing so and member states could consider a GA role as an alternative. Fourth, as the Secretary-General's recent report on RtoP suggests, the GA could consider developing some form of a peer-review mechanism to facilitate state-to-state learning processes about ways to strengthen their protection capacities and institutions.
39. **Improve Security Council working methods:** Among the reasons for mistrust among member states is the unrepresentative and nontransparent character of the Security Council. Its composition reflects the geopolitical realities of 1945, not of the twenty-first century. Recognizing that reforming the composition of the Security Council is a significant

challenge, working-methods reform to allow greater access and participation for nonmembers of the Council and to restrain the use of the veto in extreme cases would be a valuable step toward enhancing inclusion and transparency.

40. Security Council members could establish a series of informal groups to support the Secretary-General's good-offices missions. The groups could have participation and working methods modeled on the Peacebuilding Commission's country-specific configurations, which are relatively informal and flexible in their membership. This would enhance transparency by allowing for systematic involvement of the host country and other interested actors. The groups would also provide a platform for member-state oversight of the UN's activities in preventive diplomacy, while balancing this oversight with the necessary discretion and confidentiality. Security Council members could take the initiative to establish these groups, but they would be open to all interested member states and serve as a link to regional actors and organizations.
41. The P5 should be encouraged to limit use of the veto where there is an imminent threat of mass atrocities. This would amount to the P5 committing in principle to restrain the use of the veto in cases where there is an imminent threat of RtoP crimes and violations, as defined in the Outcome Document, and where there is an affirmative vote of nine members to adopt a response action by the UN.

IV. ENHANCE STRATEGIC PARTNERSHIPS

42. Partnerships or linkages among the UN, regional and subregional arrangements, the donor community, and interested states are likely to be important at all stages—from “pillar two” efforts to strengthen the capacity of states for prevention and protection, to “pillar three” efforts, which could include intervention in the worst-case scenario. Unless

actors with strong interests and influence in a given crisis can be brought on board, multilateral initiatives are likely to flounder. The UN and regional and subregional organizations should work together to enhance their respective operational capacities as a basis for meaningful cooperation. Doing so would require additional staff, training, and resources for UN, regional, and subregional entities.

43. Regional organizations, in particular, benefit from intimate knowledge of the political dynamics in their area and they are likely to be accorded more legitimacy than relative outsiders. However, their close connection to situations of concern may have as many drawbacks as benefits. In addition, regional organizations may face serious capacity and resource shortfalls. In many cases, there are advantages to combining the efforts of global, regional, and subregional actors. In order to maximize the collaboration, it is necessary to understand the strengths that each brings to bear and where there are gaps.
44. **Map the comparative advantages of the UN and regional organizations:** Independent researchers should map the comparative advantages and capacities of the UN, regional, and subregional organizations in the areas of (1) information gathering and assessment for early warning; (2) mediation; (3) building state capacity to prevent conflict and protect their populations from mass atrocities; (4) military assets for peace operations; and (5) civilian expertise for postconflict peacebuilding. This would provide a clearer basis for shaping a more strategic partnership between the UN and regional actors based on their comparative strengths.
45. Conducting such a mapping exercise would also identify gaps where additional investment or support is required. Capacity shortfalls exist both within the UN and within regional organizations. An effective partnership would depend on filling these gaps.

46. **Make communication more regular, frequent, and substantive:** The UN has tended to build its relationships with regional organizations through temporary responses to operational needs rather than through long-term strategic planning. As a result, the relationships and modes of collaboration are not well institutionalized. The relevant entities of the UN Secretariat, such as the Departments of Peacekeeping Operations and Political Affairs, should make information exchange and communication with their counterparts in regional organizations more regular, frequent, and substantive. This can be done through co-location, staff exchanges, regularized information-sharing sessions, and joint planning and analysis, where relevant. The UN-AU ten-year capacity-building program has begun to make progress in this regard (see below).
47. **Develop protocols that facilitate information sharing for early warning:** Information that identifies the likelihood of conflict or RtoP crimes and violations may be particularly sensitive and difficult to access. The proposed UN early-warning capability (see above) should develop clear protocols with regional and subregional organizations to facilitate information sharing, while respecting members' concerns both about state sovereignty and about the handling of sensitive information.
48. **Enhance African regional and subregional capacity for prevention and protection:** The UN-AU ten-year capacity-building program broadly covers peace-and-security issues. It has begun to make significant progress in enhancing AU decision-making, planning, and operational response capacities. Importantly, it has also strengthened the collaboration between the relevant peace-and-security entities of the UN and the AU, most notably by fielding a small team of UN staff in Addis Ababa. However, the cooperation between the UN and African regional and subregional organizations

has tended to focus disproportionately on peacekeeping and mediation. Donor countries should build on their existing support of African regional and subregional organizations by enhancing assistance given to early-warning and preventive capacities. Specifically, the AU's nascent early-warning system should be further developed and connected to the various subregional early-warning mechanisms. In addition, the mediation capacities of the AU and ECOWAS—the Panel of the Wise and the Council of Elders respectively—should be enhanced and can serve as models for other parts of the world.

V. CONDUCT ONGOING STUDIES OF THE PARTICULAR FEATURES OF RtoP CRIMES AND VIOLATIONS

49. **Study the specific causes, triggers, and indicators of RtoP crimes and violations:** Effective early warning requires an understanding of what to look for. There is likely to be substantial overlap between the causes and triggers of RtoP crimes and violations and those of armed conflict more generally. However, little attention has been given to date to disaggregating and understanding what indicators might foreshadow a situation spiraling into mass atrocities. Such indicators could include the passage of discriminatory legislation, stockpiling of weapons, legislation that centralizes power in the executive by reducing checks and balances, or media that manipulate identity and incite violence, among many others. Joint studies on the specific causes, triggers, and indicators of RtoP crimes and violations should be undertaken by independent research institutions in developed and developing countries to inform the preventive work of relevant UN entities (including but not limited to the joint office on genocide prevention and RtoP discussed above, the UN Department for Political Affairs, OCHA, DPKO, UNDP's

Bureau for Crisis Prevention and Recovery, UNICEF, and the Office of the High Commissioner for Human Rights).

50. As part of these studies, specific examples of RtoP or potential RtoP situations that have been dealt with successfully (such as Kenya), as well as some less successful examples, should be identified and examined for useful policy lessons.
51. Under “pillar two” of RtoP, the emphasis is on supporting and building the capacity of the state to uphold its protection responsibilities toward the people on its territory. In his recent report on RtoP, the Secretary-General describes the types of capacities that have been identified as critical: conflict-sensitive development analysis; indigenous mediation capacity; consensus and dialogue; local dispute-resolution capacity; and capacity to replicate capacity.¹⁴ However, little information exists on what types of activities would enhance these or other much-needed capacities. Would these activities differ from those already being undertaken by the UN, donors, and nongovernmental organizations? If so, how? Research on the specific causes, triggers, and indicators of RtoP situations would also help to define the types of efforts that could be made under “pillar two.”
52. **Agree on guidelines regarding situations of concern, including the appropriate threshold for action:** Such comprehensive studies, led by independent research institutions, on the specific causes, triggers, and indicators of RtoP crimes and violations would provide the much-needed evidence base to begin to move from rhetoric to reality. Drawing on this information, member states should agree on guidelines or indicators regarding situations of concern, including what the appropriate threshold should be for different types of preventive action.

Conclusion

53. Calls for preventing mass atrocities and conflict make for good rhetoric, but only exceptionally have they led to effective action. The core challenge on both fronts is to turn words into deeds. Investing in multilateral mechanisms—and agreeing to work through them—will be essential to build trust and enhance the political will to act.
54. There is no doubt that efforts to prevent conflict will diminish the chances of RtoP crimes and violations being perpetrated. Likewise, efforts to prevent mass atrocities will likely help to forestall conflict. But, while they may overlap in many respects, conflating them analytically does not serve the cause of developing a clear framework for action on either.

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3. United Nations Secretary-General, *An Agenda for Peace*, UN Doc. A/47/277–S/24111, June 17, 1992, para. 20.
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7. See, for example, Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, DC: Brookings Institution, 2008), p. 81.
8. Many of these issues are addressed in the UN Secretary-General’s report on the implementation of RtoP, released in January 2009. See United Nations Secretary-General, *Implementing the Responsibility to Protect*.
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Annex 1: Background Non-papers

NON-PAPERS FOR OPENING PLENARY MEETING

PREVENTION OF CONFLICT

JUNE 3, 2008

Introduction

Prevention of conflict is one of the core missions of the United Nations. The first clause in the Preamble of the Charter says the UN was conceived “to save succeeding generations from the scourge of war.” The first purpose of the UN in Article I(1) is “to take effective collective means for the prevention and removal of threats to the peace.”

There is a huge body of academic work on conflict prevention. This paper is focused, however, on the concrete political aspects of the issue and some practical ideas for improving the United Nations’ performance.

1. What are the current policy and institutional shortcomings in multilateral capacity for prevention of conflict?

The multilateral security framework already has extensive conflict prevention machinery:

- the Charter establishes and empowers competent organs, all of which have been supplemented by a plethora of subsidiary bodies;
- Chapter VIII recognizes the importance of regional frameworks. Most regions have now put in place machinery with various competencies and invented techniques such as “track II” diplomacy;
- large nongovernmental organizations (NGOs) have extensive field presences and often make excellent contributions;

- donors seem ready to fund all kinds of initiatives; and
- there is a bewilderingly large number of institutes and other private actors itching to add their capacity. (They can sometimes make a big difference—as the San Edigio community demonstrated in the Mozambique peace process in 1992-1993.)

Yet, in his report on conflict prevention on January 14, 2008,¹ the Secretary-General highlighted the fact that a “considerable gap remains between rhetoric and reality,” noting that in Africa alone the failure to prevent conflict was costing an amount equivalent to the resources the whole continent receives in international aid. The consequences of the catastrophic failures of prevention in Rwanda in 1994, and in Somalia are well known. So what is the underlying problem?

The basic shortcoming is a deep-seated hesitation about prevention. The political constituency for proactive preventive action internationally is low. (But this is true domestically as well. For instance, domestic policymakers are similarly hesitant about investing capacity in preventing crime by addressing its root causes.) Action is often easier to justify politically after the event, when there are innocent victims demanding a response. Beforehand, it is all too easy to construct the following arguments:

- there is insufficient information or knowledge about the real causes;
- the risks of unintended negative impacts outweigh anticipated gains;
- the problem may resolve itself peacefully if left alone;
- the costs are too high and, anyway, there are competing higher priorities; and
- it is not possible to prove that the action will make a difference.

It must also be acknowledged that there are four other very significant factors inhibiting collective prevention responses at

the international level:

- The nonaligned movement (NAM) countries fear that collective prevention activities will be manipulated by one or more powerful states to tilt internal playing fields in directions favorable to their interests (and they feel that their historical experiences make this fear a reasonable one) and that, as yet, powerful countries have not shown real evidence of a genuine commitment to prevention which addresses root causes.
- The OECD countries fear that any systematic commitment to collective prevention activities will trigger a very large, uncontrollable burden on their treasuries and/or their military capability, which their voting public will not support. Some also fear it will limit their capacity for steering prevention responses unilaterally.
- Prevention often runs into the practical reality that the causes of conflict sometimes develop precisely because a government feels impelled to use or allow force against minorities or political opponents to combat perceived challenges to national integrity or challenges to constitutional frameworks, which have themselves become part of the local problem—or sometimes simply to retain power. Such governments resent international prevention activities which they fear will inevitably limit their options.
- Factors of loyalty between political leaders or other connections, including shared political interests, sometimes make it difficult for member states to be proactive about problems in another country—until the situation has become a desperate crisis.

2. Why have previous attempts to address these shortcomings failed?

The human rights paradigm, essentially western driven, reflects the belief that respect for rights, the rule of law, and the resulting good governance are essential to prevent conflict and mass atrocities. (There is evidence in the case of Nepal, for instance, that the Office of the High Commissioner for Human Rights played an instrumental role in securing peace.) However, especially at the intergovernmental level, there is a growing NAM resistance

to the human rights paradigm.

The Security Council paradigm is another approach—usually championed by the US, UK, and France. But collective action in the Security Council seems often to veer toward a Chapter VII, or more accurately, a peacekeeping focus rather than use of Chapter VI tools. This paradigm is attracting increasing opposition in the General Assembly (which feels that its role has been overlooked) and in subsidiary bodies such as the Special Committee on Peacekeeping Operations (C-34).

The New International Economic Order (NIEO) was an attempt in 1973 to construct a development paradigm—in part as a solution to root causes of unrest in many developing countries. It was resisted by major OECD countries because they saw it as a flawed economic theory based on central planning and regulatory instruments.

The Millennium Development Goals (MDGs) launched in 2000 represented a new effort to achieve consensus on a development approach to collective action. However, in the lead up to the World Summit, G8 countries resisted the kind of collective approach to implementation that G77 members were hoping for, and this has played a role in creating the current impasse. It remains to be seen whether the Financing for Development process will facilitate a more optimistic track.

Successive Secretaries-General have promoted the “good offices” paradigm for prevention activity. Many situations have benefited from the intervention of various Secretaries-General and their array of Special Envoys. There is talk of a new “culture of prevention” in the Secretariat. However, experience suggests that the “culture of risk aversion” usually trumps effective preventive action. Use of Article 99 as a tool for the Secretary-General seems to have lapsed.

There have been modest enhancements of Secretariat prevention capacity (such as the creation of the Mediation Support Unit

and the Panel of Standby Experts). However, even this tool of prevention is currently meeting growing resistance as G77 members are resisting plans to expand the Department of Political Affairs (DPA).

In 2001, the Secretary-General proposed that the Security Council reenergize its working group on prevention and shift the focus of its discussion from the thematic level to addressing specific cases where conflict prevention was required.² However, Council members continued to prefer abstract discussion. In April 2008, the Council again passed over these suggestions. Resolution 1809, sponsored by South Africa, was a positive development in defining a more effective partnership between the UN and regional organizations.² But its focus was substantially Chapter VII-type responses. There was only a very limited recognition of the partnership also being made to work in the Chapter VI area of political reconciliation and prevention. There was only a brief mention of the issue in the joint communiqué of the African Union's Peace and Security Council and the Security Council following their meeting on April 17, 2008.⁴

In practice, the Security Council has shown little appetite over the past decade for its Chapter VI tools in prevention situations—whether involving state-to-state conflict, such as between Ethiopia and Eritrea, or internal conflicts such as Darfur, Chad, Somalia—and has typically focused on strategies involving Chapter VII-type responses.

3. What policies and institutional renovations, including legal frameworks and financial arrangements are needed?

A key to breaking the impasses that have emerged may be to shift from a silo approach to prevention to an integrated approach. Secretary-General Kofi Annan was the first to articulate this idea in 1999 when, in a succession of speeches, he put forward the proposition that there are three interconnected pillars of security—peace, development, and human rights and good

governance. The 2005 Summit picked up this theme:⁵

We recognize that development, peace and security and human rights are interlinked and mutually reinforcing.

An integrated approach in the near future might be based on the following policies:

- A policy in the Security Council that space can be allowed for the General Assembly to play a role beyond the financing of appropriations for initiatives by the Secretariat and the Security Council.
- A policy by the principal UN contributors accepting that new resources should be appropriated for integrated UN prevention activities in targeted cases where risks of conflict are high. (This may not require substantial increases in absolute dollar figures but rather in the distribution between voluntary and assessed contributions.)
- A policy agreed within the Fifth Committee that rectifies the current imbalance between peacekeeping on the one hand (where the peacekeeping budget allows elasticity in funding so that appropriations can grow for specific crisis situations) and conflict prevention (which relies on the capped regular budget so that if the number or severity of crises expand the Secretariat simply has to spread its conflict-prevention capacity even more thinly).
- A policy that ensures that integrated prevention strategies can be conducted with both enhanced accountability and discretion. (The need for some prevention activity to be undertaken discreetly is a key factor—as is the need for improved accountability.)
- A policy that enables UN capacity to partner with regional or subregional prevention efforts at an early stage. (The positive roles played by Burkina Faso in the Côte d’Ivoire situation, the Intergovernmental Authority on Development (IGAD) in the North-South Sudan conflict in 2004-2005, and the AU recently in Kenya, show the value of local knowledge at the regional level.)
- A policy that enables actual in-country activity by the UN

deploying in an effective and integrated way all three of the pillars—political reconciliation, human rights, and focused development inputs to address immediate root causes.

4. What strategy is needed to achieve these renovations? (i.e., an integrated approach on “Chapter VI and Chapter VII” collective action)

Given the current impasse on almost all aspects of the conflict-prevention agenda, a successful renovation strategy needs to be balanced and therefore to have something in it for all.

- A strategy would be helped enormously if the Security Council took the first step and decided to both improve its own performance and recognize a larger capacity for the General Assembly. It could
 - ♦ Adopt a Presidential Statement signaling its intention on a case-by-case basis to invite the General Assembly, as envisaged in Articles XI(1) and XII(1) of the Charter, to make recommendations—either to the countries in question or to the Council—on one or more country-specific issues on the Council agenda which would benefit from a wider approach to conflict prevention. (In the early 1990s, Bosnia was concurrently on the agenda of both organs and the positive General Assembly role—especially when the Council was deadlocked—is often underestimated.) If agreement could be reached on a first such case so much the better. The strategy should also include an open Council debate in which the wider UN membership could participate. A coalition of elected Council members should take the initiative in such a proposal and also commit politically to continuing to support the strategy in the General Assembly—including after leaving the Council. Such a debate would provide an opportunity to develop a supportive cross-group coalition in the General Assembly of states committed to achieving the other elements of the integrated strategy, as discussed below.
 - ♦ Transform its current Ad Hoc Working Group on Conflict Prevention into a Committee on Conflict Prevention. The committee could be authorized to work closely with regional organizations on country specific situations where there

was a need or opportunity for conflict-prevention action. It could meet with countries in question, regional neighbors and agencies which are addressing root causes in the field. The committee could receive briefings in closed session and the Council should specifically request DPA, the High Commissioner for Human Rights, the High Commissioner for Refugees, the Office for the Coordination of Humanitarian Affairs (OCHA) and the International Committee of the Red Cross (ICRC) to brief the committee as needed. The Council could specify that the committee would not take further action on such situations unless the Council agreed. For all concerned, a discreet procedure would be essential at this stage and agreement of the Council might need to be obtained in a closed session—at which the country in question would be heard in an appropriate way along with nonstate parties in an Arria-style meeting. The toolbox for the committee following Council agreement could include visits to the region, demarches, reinforcement of Secretariat “good offices” missions, interaction with regional or subregional parties, coordination of bilateral demarches by member states with influence, further closed or open meetings, and an integrative role by exercising a degree of oversight of the in-country prevention focused activity—including the contribution of the UN country team. Recommendations to the Council could be an option if it became necessary to escalate action.

- The General Assembly coalition referred to above needs to address the other elements of the integrated approach by way of a cross group initiative:
 - ◆ The Secretary-General could be requested to establish a conflict-prevention trust fund at a defined level. Donors would contribute on a voluntary basis the initial tranche and commit to policies for the governors of international financial institutions to approve loans to the fund. The Secretary-General would be authorized to finance posts—including for Special Envoys—from the fund up to a monetary level to be agreed. (The actual number and level of posts would be left to the Secretary-General to allow flexibility to respond to evolving situations.) The posts in question would cover the three pillars and involve contracts with flexible provisions for rotation between duty stations. The fund would also permit

draw-downs to meet operational expenditure on the three pillars—including quick-impact development needs to address root causes in-country (to be defined), and secondment of Secretariat experts to assist regional conflict prevention. The fund would be replenished by appropriations from the regular budget.

- ◆ The Secretary-General could be encouraged to establish a series of informal groups with participation and working methods modeled on the Peacebuilding Commission country-specific configurations to support his good-offices missions. These would help to ensure integration in country, political oversight, and management accountability. These groups could meet when appropriate in joint session with the proposed Security Council committee when the latter was also involved.
- ◆ Coordinated action could be taken in the governing bodies of all the programs, funds, and agencies to ensure that country-team activity gives full support and resources to the integrated approach.

RESPONSIBILITY TO PROTECT

JUNE 3, 2008

Protection of the people is one of the basic duties of the nation-state and protection against mass atrocities is one, fortunately rare, example of this protection responsibility.

The growth of international norms during the twentieth century resulted in many aspects of state responsibility for protection ceasing to be completely discretionary domestic matters governed by state sovereignty alone. Shared or collective international responsibility began to play an increasingly great role. Inevitably, this evolution in the role of the state has produced tensions. In particular, fault lines developed between those states wanting to preserve freedom to act unilaterally—without regard to international constraints—and those states which believe that peoples everywhere should be afforded certain basic protections under United Nations leadership.

Nowhere is this fault line more acute in 2008 than on the issue of protection against mass atrocities. Mass atrocities, when they occur, tend to be associated with serious social or political pathologies in the nation-state. They usually implicate many leaders in one or more social or political groups. This conjunction of pathology and responsibility usually means that the incentives on those in charge of the government to resist external influence are huge. By contrast, in the world at large, the failure to prevent or stop outbreaks of mass atrocities stimulates a deep international moral outrage and backlash at the failure of protection in general, and this is directed at both governments and international institutions. This in itself has also become an important political reality.

1. **What are the current policy and institutional shortcomings in multilateral capacity for the responsibility to protect?**

In 2005 the World Summit clearly defined the norm relating to protection against mass atrocities. The General Assembly, meeting at the head-of-government level, adopted by consensus the following statement:⁶

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement.

It went on to affirm a collective responsibility:

The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.

And it defined the responsibility of the United Nations to

use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Finally, it confirmed a clear policy for worst-case scenarios:

We are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

And it also made a commitment to a role for the General Assembly:

We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes,

ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

It is very hard to argue, in light of the above decisions, reinforced by the Security Council in 2006 in Resolution 1674,⁷ that there are shortcomings in the norm.

At the institutional level, with its references to Chapters VI and VIII in respect of peaceful means, and Chapter VII in respect of worst-case scenarios, the World Summit Outcome Document clearly allocates institutional roles to the Security Council. It also allocates a clear institutional role for the Secretariat. It supports development of an “early warning capability” and the role of the Special Adviser for the Prevention of Genocide. And a future institutional role for the General Assembly—especially in capacity building—was also foreshadowed.

But with respect to the underlying policy, it is clear that a major problem remains. And this policy problem is beginning to infect a wider range of discussions in the UN on issues such as security sector reform and implementation of norms relating to armed conflict—in particular those protecting civilians in time of conflict and the role of UN peacekeeping missions in this regard.

It seems that the problem is essentially one of trust. Many states, including some that had worked in support of paragraphs 138 and 139 in the Outcome Document, seem concerned that the language on collective Chapter VII action, which was agreed as a response to worst-case scenarios in the limited case of mass atrocities, may be open to misuse or be taken as a precedent and unilaterally expanded to cover all kinds of other protection issues, or even misapplied in cases where protection was only a smokescreen to cover intervention in support of specific national interests.

2. Why have previous attempts to address these shortcomings failed?

- The consequences of the catastrophic failures of protection in Rwanda and in Bosnia are well known. The main lessons learned from these failures are in fact well reflected in the Outcome Document:
 - ◆ Huge efforts are required at the prevention stage, i.e., what the Outcome Document called “diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter.”
 - ◆ To help with this, the Secretariat needs early-warning capability and capacity to undertake quiet “good offices” initiatives and mediation to head off future catastrophes.
 - ◆ Moreover, what was ultimately lacking in cases such as Rwanda and Bosnia—when the worst-case scenarios happened—was political will to act collectively through the United Nations to suppress the mass atrocities. This was not an absence of political will on the part of NAM or G77 countries. It was a failure on the part of member states with capacity to act (and by those with often the loudest voices in favor of protective intervention).
- A second area identified in the Outcome Document where elements of failure can be identified is the need for action in cooperation with regional organizations. This is referred to in connection with “peaceful means” by virtue of the mention of Chapter VIII, and it is also referred to in how to respond to a worst-case scenario under Chapter VII. In the 1990s (the division in NATO over Bosnia will be recalled), the failures of the regional organizations were at least as much a part of the problem as the failures at the global level. And, more recently, it continues to be the case that in some situations (e.g., Zimbabwe) regional organizations have proved ineffective in an early prevention role. The Security Council and the Secretariat have made some progress in developing better cooperation with regional organizations and working together in various cases. The ongoing tragedy in Darfur has forced some progress in this regard. The case of Kenya is a more positive example of the two levels working together to avert crisis.
- There have been failures also in attempts to build early warning and “peaceful means” capacity in the Secretariat. Important recommendations of the Brahimi Report in 2000 were never

implemented. The Secretary-General has begun an initiative to improve capacity. Unfortunately, his proposals for additional resources have become bogged down for a range of reasons. G77 members are resisting plans to expand the Department of Political Affairs, and there was strong push back with respect to new high-level Secretariat appointments on the prevention of genocide and the responsibility to protect.

- A further area of failure stems from the fact that in practice the Security Council shows little appetite for effective use of its Chapter VI tools in situations which call for prevention and “peaceful means” as articulated in the Outcome Document. It has typically focused on strategies involving Chapter VII-type responses.
- Finally, no one has really begun to address the specific capacity-building issues that would help both states and the international community to better fulfill their responsibilities to protect against mass atrocities.
- But perhaps the greatest failure is the deterioration of the underlying political environment in the world of multilateral diplomacy. The mistrust between the West and NAM on RtoP is symbolic of a much larger problem. But the mistrust has practical manifestations, and the failure of “RtoP” as a label is one of these. NAM members rightly challenge the label as begging many wider questions. Protection of whom? Protection against what?

3. What policies and institutional renovations, including legal frameworks and financial arrangements, are needed?

- Two institutional renovations seem desirable:
 - ♦ the UN member states should deliver on their 2005 commitment regarding early warning capacity in the Secretariat; and
 - ♦ the Security Council should deliver on improving its working methods so that it can meet the aspirations in the Outcome Document for its Chapter VI and VIII roles.
- As to new policies, it seems that something fundamental is needed to rectify the mistrust referred to above. A policy is

needed to reassure the wider UN membership that protection against mass atrocities is not a subterfuge for other forms of intervention. There is a case for the OECD countries meeting together to agree on a statement to be delivered at a high level in the General Assembly confirming that

- ◆ they understand the concerns that have been expressed;
 - ◆ they would equally be opposed to forceful interventions based on spurious protection grounds;
 - ◆ they interpret the current norm strictly;
 - ◆ they also prefer prevention using Chapter VI and VIII tools and will fund both the Secretariat and their national machinery with additional capacity for early warning and “peaceful” action and support capacity building in this regard for regional organizations;
 - ◆ they commit to the “Precautionary Principle” in Chapter 4 of the 2001 ICISS report and the key recommendations in its Chapter 6 regarding the need for Security Council authorization;
 - ◆ they will work together to ensure that, in the event of worst-case scenarios, the problems of political will of the past can be avoided in the future and that in specific cases they will act through the United Nations; and
 - ◆ that, no doubt, language may also be necessary to reflect the possibility of future summits defining new norms covering other protection issues.
- A second policy is needed to address the case in which, for national interest reasons, a veto might block Security Council action. This could be developed in a parallel statement by the P5 also to be delivered at a high level in the General Assembly. It might constitute a promise that, in the event of the occurrence or imminent threat of mass atrocities as defined in the Outcome Document, the five would be responsive to the views of the wider UN membership, as expressed either by the elected members of the Council or the General Assembly. If an affirmative vote of nine Council members was indicated, members of the P5 would not act so as to prevent the adoption of a response action by the United Nations.

- A third policy is required with respect to the role of the General Assembly:
 - ◆ An important role for the General Assembly in specific cases may be, as indicated above, to act when there are divisions in the Security Council of a political kind. There is already a precedent for this in the role that the General Assembly played in the 1990s with respect to Bosnia, drawing attention to the view of the wider UN community that forceful protection action should be taken.
 - ◆ At the generic level, the Outcome Document envisages the General Assembly playing a role in capacity building. This requires a policy and the General Assembly could begin by requesting a report from the Secretary-General on the options for the United Nations Development Group, including through UNDP's Democratic Governance and Crisis Prevention and Recovery Programmes, to assist member states in identifying risk factors and response strategies. It might also recognize the need for additional resources to fund such programs and establish a pledging event to coincide with consideration of the Secretary-General's report.
- A fourth policy is to address the lack of political will in larger states when the world is confronted with worst-case scenarios. A major element in this is the reluctance to commit scarce and expensive military capacity to tasks which are ill defined, for which there is no current doctrine or training, and where there is no obvious exit strategy. This problem of political will cannot be resolved in the UN. It is a matter for the member states with advanced military capacity to resolve initially for themselves. It requires redefining their military doctrine and planning so that they are able to visualize viable and achievable operational plans and training manuals for the kinds of operations that might be required in worst-case scenarios. These could also be developed jointly by a number of states working together. A "Never Again" Contingency Planning Group could be formed by member states with capacity and resources. The group should not focus on specific situations but on contingency work of a general kind, i.e., generic planning; development of doctrine; cooperation on logistics; integrated command and deployment arrangements; and ongoing liaison via designated focus points in capitals. Member states would therefore be better equipped to ensure

that some collective capacity to respond exists, should there be a failure of peaceful means and if, at short notice, a coalition or United Nations operation is required. Over time, the outcomes should be disseminated—perhaps through the UN—to all UN troop contributing countries as a part of capacity-building projects.

- A fifth policy area also involving member states' national capacity is the training of diplomats and aid workers. There was much soul-searching in the UN in 2006 when the organization was taken by surprise by the outburst of renewed violence in Timor Leste. But it was not only the UN that did not see the warning signs. There were plenty of diplomats and other international staff in that country, yet either no one saw the signs or no one had systems to bring the information to the right place. This suggests that a major new approach to civilian training is needed for diplomats and civilian staff likely to be assigned to countries at risk. Such training would need to bring together not only the political dimensions, but also the social and psychological indicators that staff in the field should be trained to see. One can envisage roles in this regard for universities, diplomatic academies, and, in the UN, for the United Nations Institute for Training and Research (UNITAR)

4. What strategy is needed to achieve these renovations?

As indicated above, the most deep-seated cause of the tension on this issue is the fault line between those states wanting to preserve freedom to act unilaterally—without regard to international constraints—and those states which believe that peoples everywhere should be afforded basic protections under United Nations leadership.

There is an important trap that needs to be avoided. There is more than a minor coincidence between the positions of weak states seeking to maximize their sovereign right to act unilaterally internally and strong states seeking to maximize their sovereign rights to act unilaterally externally. Both, for different reasons, tend to obstruct commitments to UN action. This bizarre symmetry could become a major inhibiting factor in securing

effective United Nations responses. To be effective, therefore, any strategy needs not only to reassure skeptical NAM members that the western approach to RtoP is genuinely consistent with the carefully negotiated limited scope in the World Summit Outcome Document, but also to clearly commit the strong to acting within the United Nations and not unilaterally.

But to get the buy-in of the strong, however, there needs to be a strategy to deal with ongoing concerns among some P5 members that the power of veto given in Article 27 to their P5 partners will be misused to prevent appropriate collective action. A deal within the P5 is therefore a critical element and it is as important as a deal between the NAM and the OECD countries.

A strategy is also necessary if the Chapter VI functions envisaged in the Outcome Document are to be effectively utilized by the Security Council. Reform of Council working methods is essential in this regard and is therefore urgent. It should be progressed on its own merits taking into account the practical matters that arise if the Council is to exercise the responsibilities envisaged in the Outcome Document. (Many of these tasks overlap with those required for a more effective Council Chapter VI role in conflict prevention—covered in a separate paper.) Clearly this should not be held hostage to Council expansion issues.

A strategy is also necessary for the Secretary-General to ensure that he always has sufficient capacity in-house to analyze situations where failure of peaceful means seems possible and mass atrocities could occur. This capacity should be sufficiently well resourced to monitor all relevant situations and, should a crisis situation begin to develop, to enable the integration of Secretariat political, human rights, peacekeeping, and humanitarian resources. The Secretary-General should also be in no doubt about his responsibility to exercise his Article 99 powers in such cases. If there is another genocide, no Secretary-General will be excused in the future simply on the basis that his capacity proposals

were blocked in the Fifth Committee. Moreover, the internal strategy of the Secretariat also needs to include provision for its own separate contingency planning against the possibility that the Security Council could decide that it prefers to respond to a Chapter VII prevention situation with a United Nations operation rather than a coalition. This planning would need to address whether and how such an operation could be included within UN command-and-control structures; how to separate it from regular peacekeeping; and what changes in doctrine and rules of engagement would need to be considered.

Finally, although it is hardly a strategy, an option that should be open to discussion is changing the label. Sometimes symbolic changes carry important weight in reaching negotiated solutions. If the acronym “RtoP” were to slide out of usage in UN discourse and be replaced by something like the “responsibility to protect populations and prevent crimes such as genocide, war crimes, ethnic cleansing, and crimes against humanity” it would perhaps improve the overall atmosphere.

Colin Keating

Notes:

1. United Nations Secretary-General, *Report of the Secretary-General on the Implementation of Security Council Resolution 1625 (2005) on Conflict Prevention, Particularly in Africa*, UN Doc. S/2008/18, January 14, 2008, para. 6.
2. United Nations Secretary-General, *Prevention of Armed Conflict*, UN Doc. S/2001/574, June 7, 2001.
3. UN Security Council Resolution 1809 (April 16, 2008), UN Doc. S/RES/1809.
4. United Nations, *Letter Dated 18 April 2008 from the Permanent Representative of South Africa to the United Nations Addressed to the President of the Security Council*, UN Doc. S/2008/263, April 21, 2008.

5. United Nations, *2005 World Summit Outcome*, UN Doc. A/RES/60/1, October 24, 2005, para. 9.
6. UN General Assembly, *2005 World Summit Outcome*, UN Doc. A/RES/60/1, October 24, 2005, paras. 138 and 139.
7. UN Security Council Resolution 1674 (April 28, 2006), UN Doc. S/RES/1674.

Annex 2: Reflections from the Opening Plenary Meeting

JUNE 25, 2008

1. **What are the current policy and institutional shortcomings in implementing conflict prevention and the responsibility to protect?**
 - Conflict prevention is one of the core missions of the UN—it is built into the structure of the Charter and reflected in specific provisions like Article I(1). However, the gap between the rhetoric about conflict prevention and the reality of its implementation is significant, as Secretary-General Ban Ki-moon himself recognized in his most recent report on the issue. Most of the machinery is in place, but the political will to use it and to commit the necessary resources is lacking.
 - Related to conflict prevention, but distinct from it, is the specific set of prevention and protection challenges encompassed by the responsibility to protect (RtoP). RtoP evolved out of a broader history of attempts by (and failures of) the international community to prevent, deter, and punish mass atrocities. As adopted in the 2005 World Summit Outcome Document, RtoP rests on three pillars: first, the existing responsibilities of individual 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 in meeting these obligations; and third, the responsibility of the international community to respond in a timely and decisive manner to help protect populations where states are manifestly failing to do so. “Operationalizing” RtoP within the UN requires work on three fronts: clarifying the scope of the concept; strengthening and linking up relevant institutional mechanisms and efforts; and rebuilding political support.
 - The aim of both conflict prevention and RtoP is to address situations at an early stage, before they develop into full-blown crises. However, prevention continues to attract fewer resources and less attention than reaction at both the national

and international levels, in part because the results are harder to see (and harder to claim credit for). Moreover, member states remain unwilling to precommit to action in the most serious cases where prevention has failed.

- Without a strengthened institutional architecture supporting the prevention of conflict and of RtoP crimes and violations, unilateral action will continue to be seen by some as an acceptable, even necessary, alternative to operating through the multilateral framework of the UN.
- The challenges in implementing both conflict prevention and RtoP should be seen in the wider context of the current difficulty of pursuing meaningful reform of the UN system due to a serious erosion of trust among the member states. It will be hard to make progress on these particular issues unless this more fundamental challenge is also addressed.

2. What have previous attempts to address these shortcomings accomplished and why have some failed?

- The broader membership of the UN is reluctant to accept the Security Council as the lead actor in these situations because it is seen as focusing on Chapter VII responses at the expense of the broader array of pacific measures at its disposal under Chapters VI and VIII. The Council has generally been reluctant to discuss conflict prevention in the context of specific cases.
- To the extent that RtoP and conflict prevention are seen as related to broader efforts to mainstream human rights in the UN system, they will encounter the same resistance. There are various reasons for this resistance, including a perceived lack, particularly on the part of those member states supporting the promotion of human-rights norms, of a corresponding commitment to address key development challenges.
- On the Secretariat side, the Secretary-General's good-offices function has not been used as assertively as it could be. At the same time, even modest efforts to expand the prevention capacity of the Secretariat have been resisted by a number of member states, and many of the relevant recommendations proposed in the Brahimi Report are still outstanding.

3. What policies and institutional renovations, including legal frameworks and financial arrangements, are needed?

- Both conflict prevention and RtoP require a “recommitment to multilateralism” from all member states, as well as a demonstration on the part of the major funders of their willingness to address root causes. This implies not only a commitment to funding the necessary institutional reforms, but also a commitment to provide the resources for relevant development efforts.
- The UN needs to improve its modes of collaborating with regional and subregional arrangements. In particular, their critical role in prevention needs to be emphasized. Mechanisms for including them in the process of assessing situations, and in any preventive action that is subsequently taken, need to be institutionalized.
- There is a serious need for agreement on relevant guidelines or indicators of situations of concern, including what the appropriate “threshold” should be for different types of preventive action or response, particularly in relation to war crimes. Specific examples of RtoP or potential RtoP situations that have been dealt with successfully (such as Kenya) need to be identified and examined for useful lessons.
- With respect to early warning, the issue is less the availability of information than the need for an integrated process of risk assessment and analysis, which could form the basis for generating credible policy options for consideration by the Secretary-General and intergovernmental bodies.
- The Security Council should continue its trend toward more open working methods. It is not clear whether a new subsidiary body is needed, such as a reinvigorated Security Council Working Group on Conflict Prevention, but this question should be considered.
- In those cases when a Chapter VII-type response is appropriate, the soldiers and officials who are tasked with carrying out a human protection mandate need adequate doctrine to guide their operations. The international community should also be prepared to provide the necessary resources when the Security Council decides to establish such a mission.

- The work of the Peacebuilding Commission is especially relevant and greater attention should be given to how RtoP goals and indicators could be integrated into its work.
- In general, RtoP is about enhancing existing tools, not about creating a new layer of bureaucracy, operational capacity, or decision-making authority within the UN system.

4. What strategy is needed to achieve these renovations?

- A “win-win” strategy is needed for progress to be made on these issues. Security Council members could potentially take the lead on this by acknowledging the role of the broader membership of the UN and by demonstrating a commitment to make full use of its Chapter VI and VIII powers.
- The supporters of RtoP should adhere strictly to paragraphs 138 and 139 of the Outcome Document. In exchange, concerned member states should accept that this concept has been agreed to and that the common challenge now is how to put it into operation. There are a number of other humanitarian and human rights situations deserving serious concern (such as natural disasters or massive human rights violations not amounting to crimes against humanity), but these should be pursued in their own right and separately from RtoP.
- The question of whether the terminology itself is part of the problem should be discussed, though it is not clear that this would address the underlying concerns of some member states about the aims of RtoP, or that a retreat from the terminology would be accepted by civil society and the broader public, for whom the term retains both power and some ambiguity.
- There is a need to bring out victims’ perspectives on both issues, as this is something that would help bridge the “North-South” divide that has developed on a range of cross-cutting issues at the UN, including conflict prevention and RtoP.
- It will take time to develop a true “infrastructure for prevention” within the UN: patience will be essential.

Annex 3: Methodology and Timeline

Four questions guided the Task Forces in helping IPI to generate policy and institutional ideas for action:

1. What are the current policy and institutional shortcomings in multilateral security capacity on these issues?
2. Why have previous attempts to address these shortcomings failed?
3. What policies and institutional renovations, including legal frameworks and financial arrangements, are needed?
4. What strategy is needed to achieve these renovations?

The Opening Symposium on Development, Resources, and Environment served as an essential backdrop to the Task Forces. By examining these critical related issues, the symposium provided a larger geopolitical and economic context for the work of the subsequent Task Forces on security challenges. The two Task Forces, convened sequentially, addressed two thematic clusters of issues, each of which were broken down into smaller roundtables, as follows:

Task Force One

Transnational Security Challenges

1. Transnational Organized Crime
2. Weapons of Mass Destruction
3. Global Terrorism
4. Small Arms and Light Weapons
5. Biosecurity

Task Force Two

Inter- and Intra-state Armed Conflict

6. Peace Operations
7. Mediation and Peace Processes
8. Peacebuilding
9. Conflict Prevention and the Responsibility to Protect

Each Task Force consisted of members drawn from UN member states, academia, and policy-research institutions. The composition of each group ensured a broad range of perspectives regarding multilateral security capacity on the issues in question. Through this intensive work process, the Task Forces constituted core groups of stakeholders with an interest in developing practical strategies for addressing the institutional and policy shortcomings in these areas.

Task Force members met in opening and closing plenary sessions, as indicated below. Experts, in collaboration with IPI, prepared a series of non-papers, serving as a basis for discussion. Smaller groups gathered between the plenary sessions in roundtables, along with invited guest experts, for more in-depth, topic-specific discussions. Following each roundtable IPI produced a summary reflecting the group's discussions that served as a guide for the closing plenary session. Likewise, IPI drew on the Task Force deliberations to produce the final reports, detailing practical and achievable steps for strengthening multilateral action in the area in question. As noted, the content of these reports is the responsibility of IPI, and does not necessarily represent the positions or opinions of individual Task Force participants.

TIMELINE

Opening Symposium “Development, Resources, and Environment: Defining Challenges for the Security Agenda”

February 7-8, 2008 [Greentree Estate, Long Island]

Task Force One: Transnational Security Challenges

Opening Plenary Meeting

April 2-4, 2008 [Greentree Estate, Long Island]

1. Roundtable on **Transnational Organized Crime**
April 10-11, 2008 [Millennium UN Plaza Hotel, New York]
2. Roundtable on **Weapons of Mass Destruction**
April 24-25, 2008 [IPI, New York]

3. Roundtable on **Global Terrorism**

May 1-2, 2008 [IPI, New York]

4. Roundtable on **Small Arms and Light Weapons**

May 8-9, 2008 [Millennium UN Plaza Hotel, New York]

5. Roundtable on **Biosecurity**

May 21-22, 2008 [IPI, New York]

Closing Plenary Meeting

May 28-30, 2008 [Greentree Estate, Long Island]

Task Force Two: Inter- and Intra-state Armed Conflict

Opening Plenary Meeting

June 11-12, 2008 [Greentree Estate, Long Island]

6. Roundtable on **Peace Operations**

June 16-17, 2008 [IPI, New York]

7. Roundtable on **Mediation and Peace Processes**

June 30-July 1, 2008 [IPI, New York]

8. Roundtable on **Peacebuilding**

July 2-3, 2008 [IPI, New York]

9. Roundtable on **Conflict Prevention and the
Responsibility to Protect**

July 8-9, 2008 [IPI, New York]

Closing Plenary Meeting

October 15-16, 2008 [Greentree Estate, Long Island]

Annex 4: Task Force Participants

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Argentina	India	Republic of Korea
Australia	Indonesia	Romania
Austria	Ireland	Russian Federation
Bangladesh	Israel	Singapore
Brazil	Japan	Slovak Republic
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China	Luxembourg	Sweden
Colombia	Malaysia	Switzerland
Costa Rica	Mexico	Tanzania
Cuba	Morocco	Turkey
Czech Republic	Mozambique	Uganda
Denmark	Netherlands	United Kingdom
Egypt	New Zealand	United States of America
Ethiopia	Niger	Uruguay
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