

Discussion with Parliamentarians on Pillar II of the Responsibility to Protect (R2P): Perspectives on the 2014 United Nations Secretary General’s R2P Report



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On 11 December 2014, the Auschwitz Institute for Peace and Reconciliation, the UN Office on the Prevention of Genocide and the Responsibility to Protect, the Heinrich Boell Foundation North America, the Friedrich Ebert Foundation New York Office, and White & Case LLP co-organized a forum for parliamentarians from states across the globe to react to and discuss Secretary-General Ban Ki-moon’s report, “Fulfilling Our Collective Responsibility: International Assistance and the Responsibility to Protect”



(A/68/947-S/2014/449). The event, “Discussion with Parliamentarians on Pillar II of the Responsibility to Protect (R2P),” was held at the New York City headquarters of the global law firm White & Case and welcomed, among other noted participants, Dr. Jennifer Welsh, Special Adviser to the UN Secretary-General on the Responsibility to Protect (pictured above), and the following five legislators: Georges Dallemagne, MP, Member of the Committee of Foreign Relations, Belgium; Senator Adolfo Ferreiro, Member of the Jury of Prosecution of Magistrates, Paraguay; the Hon. Angellah Jasmine Kairuki, MP, Deputy Minister for Justice and Constitutional Affairs, Tanzania; Margarida Salomao, MP, Deputy Leader of the Workers Party in the Chamber of Deputies, Brazil; and, Jurgen Trittin, MP, Member of the Committee on Foreign Affairs, Germany.

The Responsibility to Protect principle refers to the responsibility of States to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity—collectively known as “atrocities crimes.” States affirmed this responsibility in the 2005 World Summit Outcome document. The 2009 report of the UN Secretary-General further elaborated the responsibility to protect by defining three equal, mutually-reinforcing, and non-sequential pillars: Pillar I—the primary responsibility of every State to protect its populations from these crimes; Pillar II—the responsibility of States and the wider

international community to encourage and assist other States in meeting their responsibility to protect; and, Pillar III—the responsibility of the international community to take collective action if a state is “manifestly failing” to protect its populations, in a timely and decisive manner and in accordance with the UN Charter. In August 2014, the UN Secretary-General issued a report to the General Assembly setting out the principles of the second pillar, outlining the ways in which national, regional and international actors can best assist States, and providing examples of Pillar II initiatives. The report was considered by the General Assembly in an informal debate on 8 September 2014. Given the key role that parliamentarians play in setting national policy agendas through legislation and monitoring implementation of policy, the organizers of the 11 December discussion invited parliamentarians from States with robust foreign assistance programs and from states benefitting from such programs to open a dialogue on the Secretary-General’s report.



The event provided a forum for States, and in particular, parliamentarians, to review their national development strategies as they pertain to the prevention of atrocity crimes. Dr. Jennifer Welsh delivered introductions and opening remarks. “As parliamentarians,” she said, “you play an important role in debunking the myths about R2P.” Dr. Welsh stressed that military intervention—which falls under pillar three of the norm—is only one option among an array of coercive and non-coercive tools States can use to protect populations from

atrocity crimes. Pillar two, she said, is “peer-to-peer support in the spirit of partnership to assist States to fulfill protection responsibilities.” According to Dr. Welsh, the 2014 Secretary-General report addresses “the how” of this assistance. One important aspect is state-to-state encouragement before crises arise to ratify and implement human rights protocols, like the UN Genocide Convention and the Convention Against Torture. During a crisis, States can remind other States of “the costs of making poor choices,” she added. Another aspect of pillar two assistance is capacity building geared towards eliminating horizontal inequalities, both social and economic, between groups. This can take many forms, she said, including media training designed to undercut hate speech, support of security sector reform to ensure military and police institutions are inclusive and reflective of the populations they serve, assistance towards bolstering atrocity crime risk assessments, and by providing judicial and mediation experts to States with weak judiciaries.

Dr. Welsh’s introduction was followed by brief remarks by representatives from the event’s co-organizers, then a panel discussion titled, “Pillar II of the Responsibility to Protect in Practice: Challenges to the Implementation.” This panel featured Savita Pawnday, Director of Programs at the Global Center for the Responsibility to Protect, Patrick Travers, Adviser to the Special Adviser to the UN Secretary-General on the Responsibility to Protect, German MP Jurgen Trittin (pictured



right), and was chaired Volker Lehmann, Senior Policy Analyst at the Friedrich-Ebert-Stiftung. Mr. Trittin agreed that discussions about R2P are all-too-often reduced to debates around the use of coercive military force. Events in Libya, where “R2P was used to justify a regime change,” has helped to delegitimize R2P in the eyes of the public. “If it turns out,” he said, “that most cases of military engagement not only failed, but also produced instable states, civil wars and rising terroristic groups, then R2P will become a synonym for war not for preventing atrocities.” As a solution, he said, “we have to strengthen pillar two—a wise and long-term investment.” In particular, “we have to assist states under stress *before* crises and conflicts break out.” In the German context, this means sending more and better-trained police officers for missions abroad and passage of a restrictive law on arms export, especially for light weapons, among other reforms. “Rather than focusing simply on military interventions,” he concluded, “we need a holistic approach to the crises we encounter at the moment.”

Ms. Pawnday also reflected on the future of R2P in light of what has already been achieved. “Whereas the last ten years of R2P have been about consensus building and conceptual clarity,” said Pawnday, “the next ten years will need to focus on implementation and institution building.” She noted, in particular, the special role that parliamentarians can play in providing legislative, supervisory, and advocacy support to R2P implementation. Mr. Travers elaborated on some of the recent work of the Office of the Special Adviser on the Responsibility to Protect and suggested ways to bolster the norm. This included a consolidation of experience, research, and best practices, an increase in peer-to-peer support, and a constant adaptation of the manner in which capacity building efforts take place in a given country in order to respond to local needs.



The second panel, “Legislative Action Supporting the Prevention of Atrocity Crimes,” featured Tanzania Member of Parliament Hon. Angellah Jasmine Kairuki (pictured left) and Senator Adolfo Ferreiro of Paraguay, with Owen Pell, Partner at White & Case, serving as chair. Legislators have an important role in prevention, said Mr. Pell, because they can set metrics, foster transparency, and enforce corporate codes of conduct, especially in regions where extractive industries are linked to State instability. Ms. Kairuki highlighted the importance of implementing regional protocols and forming national committees devoted to atrocity crime prevention. “In Tanzania,” she said, “the National Committee [for the Prevention and Punishment of the Crime of Genocide, War Crimes, Crimes Against Humanity and All Forms of Discrimination] is working very closely with the

central, as well as the local governments.” Robust ownership and commitment to the committee, she added, “explains why the Tanzania National Committee is well ahead other mechanisms in the regions in terms of discharging its mandate.” In addition to State ownership, she said “sustainable peace must be locally driven with support from the international community.” After all, she added, it is difficult for a developing country to

make reforms necessary for the prevention of atrocities without external assistance. “No one country can do it alone. That’s why events like this that allow the sharing of best practices are important,” she concluded.

Mr. Ferrero of Paraguay (pictured right) agreed, noting that States need to invest more support in helping other States build national capacities, especially in education. According to Ferrero, the likelihood of atrocities occurring in Paraguay are “low,” but risk factors are present, especially related to the exclusion and marginalization of native cultures. “We have 30 indigenous communities with less than 200 hundred people each, he said. “From a linguistic perspective, these people may disappear.” To safeguard the cultural heritage of these populations, “we need to review policies in regard to minorities.” Poverty and illiteracy are also high in indigenous communities, he added, and should be addressed. “There is no development without equality,” he said.



The third discussion panel, “Development Assistance for the Prevention of Mass Atrocity Crimes and Parliamentary Oversight,” featured Brazil MP Margarida Salomao (pictured left) and Belgium MP Georges Dallemagne. Charlotte Beck, Program Director for Foreign and Security Policy at the Heinrich Boell Stiftung - North America served as chair. Margarida Salomao opened her remarks noting that in line with R2P’s first pillar, the Brazilian Constitution and the Brazilian State aim to prevent the commission of atrocity crimes, but

nevertheless, “there are risk situations which deserve to be addressed by legislators and carefully watched by the human rights community.” She highlighted three main challenges: a legacy of impunity from the military dictatorship (1964 – 85), the situation of Brazil’s indigenous population, and the risks experienced by young, black males in Brazil’s security and criminal justice system. She highlighted the work of the National Committee for the Search of Truth, which offered 28 recommendations towards strengthening human rights policies. Some of these recommendations, she added, “are presently the matter of legislative efforts by the Brazilian Congress.” For example, a legislative push is underway to unify Brazilian police forces. “Military police are notoriously more violent in repressive acts than the civilian branch,” she said. Salomao was hopeful that needed reforms will take place, especially as President Dilma Roussef and Brazilian civil society have supported efforts to demilitarize the police forces. In addition to stressing domestic efforts towards the prevention of atrocity crimes, Salomao also discussed Brazil’s foreign assistance within a pillar two framework. In particular, she spoke of Brazilian troop deployment as part of the UN Stabilization Mission in Haiti (MINUSTAH). She said that Brazil supports the mission’s mandate, which includes, among other aims, to restore a secure and stable environment, to

promote the political process, to strengthen Haiti’s government institutions and rule-of-law-structures, as well as to promote and to protect human rights.

Belgium’s Georges Dallemagne (pictured right) also highlighted his country’s foreign assistance programs within the framework of R2P’s second pillar. The section of the 2014 Secretary-General’s R2P report on a professional and accountable security sector (paragraph 44) is of “paramount importance.” “The Belgians trained the Congo army without human rights training—the results were very bad,” he said, referring to Belgian-trained DRC battalions later implicated in war crimes. “Based on lessons learned,” he added, “the military cooperation between DRC and Belgium changed drastically.” For the past eight years, an improvement in human rights training of DRC troops have had “a huge impact on the behavior and real efficiency of the troops to protect the population from atrocities.” Today, he continued, “Battalions 321, 322 and 323 are now well trained and have been involved successfully to fight and defeat the rebels of M23 while the civilians have been respected and protected.”



Mr. Dallemagne also discussed the role that extractive industries may have in destabilizing a region and contributing to violence. “This is certainly the case in Eastern Congo,” he said. According to Dallemagne, “as long as there is no transparent...and fair mechanisms to exploit the natural resources such as gold, diamonds, coltan, wood or petrol and gas in this area, the mass crimes will go on.” MP Salomao agreed, noting that in many regions “corporations are active in both equality and inequality.” She conceded that compelling corporations to act responsibly is difficult because “big business finances political campaigns.” Therefore, she added, “it is hard to fight economic influence on political actions.”



Concluding remarks were delivered by Dr. Jennifer Welsh and AIPR Executive Director Tibi Galis (pictured left). Dr. Welsh said that critical dialogues are “useful because they allow us to talk about the wider possibilities of R2P”—especially given the critiques leveled at the norm amid ongoing atrocities in Syria. For Galis, “this discussion validated the idea of an international space for cooperation between parliamentarians.” The organizers, he added, hoped that this dialogue will serve as a critical starting point for parliamentarians to interact

regularly to conduct policy analysis and recommend approaches to the prevention of genocide and other atrocity crimes at the parliamentary level.