

The Rhetoric and Practice of the International Responsibility to Prevent Mass Atrocities: Reflections on South Africa's Peacebuilding Role in South Sudan (2005 – 2013)

Abstract

While global consensus on the meaning and application of the responsibility to protect (R2P) principle remains tenuous, there is little contention among major actors that the development of the norm should prioritise the prevention of mass atrocities. In particular, BRICS countries, whose role is vital for the future development of R2P as a global norm, but which continue to express reservations about the intent and application of the doctrine, have been strong advocates of the preventive aspects of the principle. This rhetorical consensus, however, belies the conceptual and practical challenges that are associated with the prevention of mass atrocities. In this paper, I use the example of South Africa's post-conflict reconstruction and development (PCRD) interventions in South Sudan from 2005 to 2013 to reflect on the role of external actors in supporting conflict-affected states to implement the preventive aspects of R2P. I argue that while South Africa, like other BRICS countries, has used the rhetoric that atrocity prevention should be at the core of R2P to legitimise its opposition to military intervention for humanitarian purposes, it has struggled to back this rhetoric with coherent strategies and concrete actions to prevent mass atrocity crimes within its sphere of influence. The gap between rhetoric and practice in the preventive aspects of R2P is not unique to South Africa, but highlights fundamental difficulties inherent in global efforts to prevent mass atrocities.

Keywords: R2P; South Sudan; South Africa in Africa; mass atrocity crimes; BRICS and R2P

Introduction

The inclusion of the R2P concept in the Outcome Document of the 2005 World Summit of the UN marked an important milestone in the global debate on protecting populations from mass atrocity crimes. Earlier in 2001, the Canadian-sponsored International Commission on Intervention and State Sovereignty (ICISS) had given renewed global attention to this debate when it introduced the notion of R2P in its report titled *The Responsibility to Protect*. The ICISS report capitalised on the heightened global consciousness around the need to avoid a repeat of the egregious massacres in Rwanda and Srebrenica in April 1994 and July 1995 respectively, to underscore the responsibility of the international community to protect civilians from mass atrocities, and propose a framework for exercising this duty.

A decade after its endorsement by the UN, the notion of R2P is far from being an established international norm. The slow pace at which the concept has been developed into a legitimate global norm reflects its limitations in the context of an international environment that is characterised by

power imbalances, which have historically encouraged some states to dominate and impose their will on others. Put differently, R2P has proven to be inadequate in resolving the long-standing debate on reconciling the moral imperative to protect civilians and the legal principles of non-interference and sovereign equality. As the controversy over the international intervention in Libya and the deadlock over Syria reveal, building international consensus on R2P has remained an elusive goal, mainly because key states in the Global South continue to harbour reservations on the interpretation and application of the norm.

Notwithstanding lingering misgivings in some quarters over the intent and application of R2P, there has been little contention over the preventive aspects of the concept. Both the ICISS report and the World Summit Outcome Document underscore the centrality of the preventive dimension of R2P, recognising the limitations and contestations associated with military interventions and other forms of strong-arm tactics vis-à-vis preventive measures. More importantly, the BRICS countries,¹ whose role remains vital for the future development of R2P but which continue to express reservations about the concept, have been strong advocates of the prevention pillar of the doctrine. However, the practice of R2P over the past decade has witnessed a general watering down of the pre-eminence of the preventive dimension of the concept, accompanied by a disproportionate focus on reacting to crisis situations that already endanger the lives of civilian populations. Academic discourses on R2P have also followed this trend, focusing almost exclusively on the third pillar of the norm, especially on the highly controversial aspect of military intervention. There have been very few attempts to examine the development of the norm around a culture of prevention, particularly from an empirical perspective.

Building on the limited scholarship on the preventive aspects of R2P,² this paper draws on the example of South Africa's bilateral cooperation with South Sudan from 2005 to 2013 to reflect on the role of external actors in preventing mass atrocity crimes. It argues that while South Africa, like other BRICS countries, has used the rhetoric that atrocity prevention should be at the core of R2P to legitimise its opposition to military intervention for humanitarian purposes, it has struggled to back this rhetoric with coherent strategies and concrete actions to prevent mass atrocity crimes within its sphere of influence. However, the gap between rhetoric and practice in the prevention of mass atrocities is not unique to South Africa, but reflects fundamental conceptual and practical challenges that are often taken for granted in the atrocity prevention discourse.

The paper consists of five parts and is structured as follows. The first section examines the origins of, and developing countries' misgivings over, R2P in the context of the historical debate on humanitarian intervention. This is followed by an attempt to problematize the dominant discourse on mass atrocity prevention. The third section provides an overview of South Africa's position on R2P, while the fourth section of the paper analyses South Africa's PCRDC interventions in South Sudan from 2005 to 2013 through the lens of its commitment under the second pillar of R2P. The paper

concludes by reflecting on the meaning of the South African case study in the context of the discourse on the global responsibility to prevent mass atrocities.

The Responsibility to Protect in Historical Context

The preoccupation with civilian protection embodied in the notion of R2P is by no means new. Rather, R2P as articulated by the ICISS is only the latest attempt to circumvent key sticking points in the historical debate on the desirability and legitimacy of humanitarian intervention. The ICISS sought to capitalise on the international outcry and lingering sense of guilt that accompanied two major massacres in the twentieth century³ to reframe the debate on humanitarian intervention and generate global consensus around a new framework that would put an end to international inaction in the face of conscious-shocking atrocities. The changing nature of contemporary conflicts had made the imperative to address this inertia all the more urgent. The post-Cold War period has been characterised by a rising incidence of intra-state conflicts, which are fought mainly by irregular armies using unconventional methods of warfare. These new conflicts, which generally take the form of civil wars and insurgencies, tend to expose civilian populations to enormous risks.⁴

The idea of humanitarian intervention can be traced as far back to the writings of early advocates of an international society in the European state system, including Alberico Gentili, Francisco Suarez and Hugo Grotius.⁵ Grotius, for example, argued in favour of an exception to the principle of non-interference and respect for sovereign jurisdiction in cases where rulers committed atrocities against their subjects. According to Grotius, the legality of any action to intervene in the jurisdiction of another state was predicated not on the right of one ruler to punish another, but on the right to protect the victims of inhumane treatment. This was in accordance with the tradition of natural law and the just war doctrine, which presuppose the existence of universal human rights.⁶ However, from its early conception, the idea of humanitarian intervention was received cautiously by international legal scholars that subscribed to the realist, pluralist and legal-positivist traditions. The reservations of these scholars were fed by concerns that humanitarian intervention would be abused by powerful states, undermine the fledgling principle of sovereignty, and ultimately create disorder in the system of states.⁷ The humanitarian interventions undertaken by European powers in the 19th century in Greece, Lebanon, the Balkans and Cuba embodied both the argument in favour of exceptions to the principle of sovereignty and the limitations therein.

Although these interventions were largely underpinned by legitimate humanitarian sentiments,⁸ in some cases the expansionist ambitions of the European powers involved also motivated intervention. The resort to multilateral action was, however, used to restrain these ambitions.⁹ More generally, humanitarian intervention in the context of the Concert of Europe also had to contend with the dynamics of the balance of power, which, as was the case in the intervention in the Balkans from 1975-1978, sometimes limited cooperation among European powers and undermined the success of

operations.¹⁰ This was the more so because humanitarian intervention in this context was conceived not as a responsibility but as a legitimate option available to states.¹¹ Additionally, the fact that beyond ending atrocities humanitarian interventions did little to rebuild the political and social fabric of affected states also attracted criticism.¹²

Perhaps more importantly, the European experience with humanitarian intervention in the 19th century raised important questions about the underlying values and assumptions of the practice. Firstly, the fact that most of the interventions during this period were carried out by Christian European powers against the Ottoman Empire to protect Christian minorities has been interpreted to suggest a convergence between humanitarian intervention and a reigning belief in the cultural and moral superiority of Europe. As Heraclides argues, by denoting the Turks as “barbarian humanity” as opposed to the “civilised humanity” of Europeans, the Ottoman Empire was accorded less sovereignty compared to European states, making intervention acceptable especially when the lives of Christians were at stake.¹³ Secondly, some scholars have pointed to the double standards that characterised this practice, arguing that humanitarian interventions were essentially a case of powerful European states correcting their weaker counterparts. There was never a possibility that the atrocities of the Great powers of Europe would attract the same reaction.¹⁴

Humanitarian intervention in the context of the international legal regime established by the UN Charter has not been any less controversial. If anything, the emergence of post-colonial states in Asia, Latin America and Africa, and their continued struggle to assert their independence and keep at bay the continued interference of former colonial masters only amplified this controversy. To recall, the UN Charter prohibits the use of force by states against other states except in cases of self-defence or when authorised by the UN Security Council to deal with situations that pose a threat to international peace and security.¹⁵ However, the sanctity of state sovereignty in modern international law has over the years been challenged by the growing recognition of the legal status of individual human rights as distinct from those of states. The adoption of the Universal Declaration of Human Rights and the Genocide Conventions by the UN General Assembly in 1948, as well as the numerous rules and instruments that fall under the rubric of international humanitarian law attest to the tension between state sovereignty and human rights. This will subsequently give rise to the notion of “sovereignty as responsibility”, by which respect for a minimum standard of human rights was considered an essential attribute of state sovereignty.¹⁶

Despite lacking universal appeal, the “the sovereignty as responsibility” principle served as the foundation of what became known as the golden era for humanitarian intervention in the 1990s. During this period, western countries spearheaded supposed humanitarian interventions in countries such as Iraq, Somalia, East Timor and the former Yugoslavia, often without the authorisation of the UN Security Council. Mohammed Ayoob argues that the examples of humanitarian intervention in

the 1990s brought into sharp relief the vices that have historically been associated with the idea and practice – including abuse by powerful states, destabilisation of the international order, and double standards of application.¹⁷ The controversy that accompanied these interventions, coupled with the global inaction in the face of the shocking atrocities in Rwanda and Srebrenica during this same period, prompted the then UN Secretary-General, Kofi Anan, to challenge world leaders to “forge unity around basic principles of intervention in cases of...gross and systematic violations of human rights”.¹⁸

It was in response to this challenge that the Canadian government launched the ICISS, which articulated and introduced the concept of R2P into the debate on humanitarian intervention. Building on the notion of “sovereignty as responsibility”, R2P transformed the discourse on humanitarian intervention from a debate about the right of states to intervene in the affairs of other states into one about the responsibility of the international community to protect populations at risk of mass atrocities.¹⁹ While acknowledging the inviolability of national sovereignty as the default norm underpinning relations among states, the ICISS report argues that “the principle of non-intervention yields to the international responsibility to protect when the responsible state is unwilling or unable to halt or avert mass atrocities”.²⁰ This responsibility is not limited to the use of force to protect civilians, but also entails efforts to strengthen the capacity of states to protect their own citizens. From this perspective, proponents of R2P argue that the principle has the potential to strengthen rather than undermine the institution of sovereignty.²¹

For critics, however, R2P embodies the same problems and contradictions that are intrinsic to the idea of humanitarian intervention. Global consensus around the emerging norm therefore remains very shaky. Many developing countries, in particular, are wary of the provision under pillar three, which sanctions the use of force against a state for purposes of protecting civilians. These misgivings, which are informed mainly by fears that the use of force within the framework of R2P will be abused by Western powers to promote their interests, were reinforced in the wake of the controversial application of [the](#) norm in the Libyan conflict in 2011. Against the backdrop of a strong moral argument in favour of international action to protect populations on the one hand, and a shaky legal justification for humanitarian intervention on the other hand, a broad consensus seems to have emerged around the view that the operationalisation of R2P should focus on the preventive measures of this framework. However, as the discussion in the next section suggests, the compromise to focus R2P on the “responsibility to prevent” is not without its own conceptual and practical challenges.

Problematizing the Discourse of Mass Atrocity Prevention

For the most part, the scholarly scepticism around R2P is rooted in the argument that in its current articulation, the doctrine fails to address the historical challenges to humanitarian intervention. However, even sceptics have conceded that the concept has had the effect of re-orienting the

discourse on the protection of populations from mass atrocities away from the traditional focus on intervention to a new emphasis on prevention.²² The ICISS report underscores this priority when it argues that “prevention is the single most important dimension of the responsibility to protect”, calling for greater international commitment to prevent deadly conflicts that often degenerate into mass atrocities.²³ The R2P consensus that came out of the 2005 World Summit also emphasised prevention as the core of the norm, including an international commitment to assist states to prevent mass atrocity crimes.²⁴

The global consensus that places atrocity prevention at the centre of R2P provides the normative basis for the UN’s framework for operationalising the norm. In his 2009 report on *Implementing the Responsibility to Protect*, the UN Secretary-General, Ban-Ki Moon, outlined a three-pillar strategy that articulates the obligations of states and the international community to protect populations from genocide, ethnic cleaning, war crimes and crimes against humanity. Although pillar three makes provision for timely and decisive international action in response to imminent or ongoing mass atrocity crimes, the overall strategy is premised on prevention. In other words, military intervention can only be deployed after the preventive measures contemplated under the first two pillars of the strategy have been exhausted.²⁵

Pillar one entrusts individual states with the primary responsibility for protecting populations within their borders from genocide, war crimes and crimes against humanity. This obligation is consistent with the assumption that the best strategy to protect populations from mass atrocities is to prevent conditions such as discrimination, intolerance and exclusion that could give rise to these crimes. Pillar one therefore makes the case for states to adopt inclusive and responsible policies, and develop the requisite institutions, capacities and systems to identify and address, in a timely manner, situations that make their societies vulnerable to serious and large scale violations of human rights.²⁶

The second pillar of Ban-Ki Moon’s strategy for the implementation of R2P also hinges on the rhetoric of prevention, but recognises that some states would require international support in order to adequately protect their populations from mass atrocity crimes. Under pillar two, the Secretary-General delineates at least three ways through which external actors can exercise their responsibility to assist states to prevent mass atrocities. First, the international community can, through persuasive measures and positive incentives, encourage states to meet their responsibilities under pillar one. Second, external actors can directly help states to exercise their responsibility to protect by, for instance, providing military support in cases where states and their populations are threatened by armed groups. Such support could also take the form of providing development assistance in a strategic manner. Third, pillar two makes provision for the international community to assist states to build the capacity required to prevent situations that can give rise to mass atrocity crimes.²⁷

The focus on prevention in the discourse on how the R2P norm should be developed and operationalised is underpinned by a two-part logic. First, prevention is seen to prioritise the lives of victims over the right of the international community to intervene in the affairs of a sovereign state. This is seen to mitigate the dilemma between intervention to protect human rights and inaction in deference to national sovereignty, which is at the core of scepticism towards R2P. Second, it is believed that preventing atrocities is less expensive and more feasible than mounting an intervention mission to halt atrocities or rebuild societies devastated by such egregious crimes.²⁸

However, the argument in favour of developing R2P around its preventive pillars tends to overlook inherent conceptual, normative and practical problems, which have made it difficult for UN member states to move beyond their rhetorical support for prevention to actually taking actions to prevent mass atrocity crimes. While intended to address the dilemma between the protection of human rights and respect for state sovereignty, the focus on atrocity prevention raises its own dilemma, especially when it comes to the obligation of the international community under pillar two. Should external action seek to address the direct and root causes of the violent conflicts that often serve as breeding grounds for mass atrocity crimes, or should efforts be directed specifically at preventing genocide, ethnic cleansing, war crimes and crimes against humanity?²⁹

The dominant discourse among BRICS countries, which resonates with the recommendations of the ICISS, suggests a preference to conflate the responsibility to prevent mass atrocities with the broader UN agenda of preventing armed conflict.³⁰ There is no doubt that preventing armed conflicts reduces the likelihood of mass atrocity crimes. However, as recent commentaries on R2P have pointed out, the relationship between armed conflict and mass atrocities is complex. While most of these crimes tend to be committed in the context of armed conflict, some have occurred without armed conflict. Moreover, the incentives that encourage the deliberate targeting of civilians are not always the same as those driving armed conflict. In this regard, measures to prevent armed conflict may not only be insufficient to avert atrocity crimes, but may in some instances run counter to the goal of atrocity prevention.³¹

Even if a straight relationship were to exist between the prevention of armed conflict and atrocity prevention, efforts to achieve the latter would still have to contend with the normative and practical challenges that have undermined the UN conflict prevention agenda for decades. At the multilateral level, this relates primarily to the normative tension between proponents of direct conflict prevention and advocates of structural conflict prevention, including those who argue for conflict prevention measures to recognise the link between conflict and socio-economic deprivation. Atrocity prevention as conflict prevention also has to deal with the problem of circumventing sovereignty and non-intervention norms, considering that conflict prevention, even from a structural perspective, is a value-laden exercise.³² Furthermore, the empirical analysis below suggests that at the level of bilateral

cooperation between states, the gap between rhetoric and practice in the prevention of mass atrocities via conflict prevention and peacebuilding measures derives mainly from pragmatic considerations such as capacity and foreign policy prioritisation.

South Africa and the Responsibility to Protect

South Africa's position and engagement with R2P is consistent with the general orientation of the country's post-1994 foreign policy. Given its history of oppression and human rights abuses under apartheid, South Africa's post-apartheid foreign policy has always had a clearly articulated ethical dimension, with the global promotion of human rights at its core. Thus, despite lingering anti-colonial and anti-imperialist sentiments within the ruling elite, as Landsberg notes, South Africa has been an active advocate for R2P both in Africa and globally.³³ It played a key role in entrenching the idea within the normative framework of the African Union (AU), and thereafter encouraged other African states to support the adoption of the principle by the UN World Summit in 2005.³⁴

Notwithstanding its strong record in advocating for R2P, South Africa's position on operationalising the principle has increasingly diverged from that of Western powers. Although South Africa is not obstinately opposed to the use of military action as a means to protect civilians from gross human rights violations, it has generally expressed reluctance in supporting this option as provided for under pillar three of the UN's R2P framework. Pretoria's lukewarm attitude towards the third pillar of the R2P strategy stems mostly from what it considers to be a tendency by Western powers to abuse the provision to further their regime change objectives. However, this predisposition against the use of force within the R2P framework also speaks to South Africa's understanding of R2P as falling squarely within the ambit of traditional conflict prevention and resolution efforts.³⁵ It is not surprising, therefore, that in its articulations of how the responsibility to protect concept should be developed and implemented, South Africa has aligned itself fully with the first two pillars of the UN's R2P framework. Pretoria has repeatedly made a case for R2P to be grounded in efforts to address the root causes of conflict, defined in terms of socio-economic underdevelopment, poverty, inequality and discrimination, as well as poor governance. Against this backdrop, it specifically welcomed pillar two of Ban-Ki Moon's R2P framework, arguing that "it includes elements of great importance to developing countries such as development assistance and capacity building with regard to conflict prevention and management".³⁶

South Africa's attempt to link R2P to conflict prevention and resolution is in line with a major thrust of its foreign policy, which seeks to promote peace and development in Africa through processes of peacemaking, peacebuilding and post-conflict reconstruction and development. In addition to working towards strengthening the capacity of regional and sub-regional organisations such as the AU and the Southern African Development Community (SADC) to effectively engage in multilateral peace diplomacy, South Africa has also used its bilateral cooperation with individual African countries to

assume a leading role in conflict prevention and resolution across the continent. Significantly, Pretoria has buttressed its peacemaking and peacekeeping activities in Africa with a post-conflict reconstruction and development (PCRD) role. This has largely taken the form of support for human and institutional capacity building, security sector reform and economic development, with a view to consolidating peace and preventing a relapse into violence. This PCRD framework was institutionalised in 2001 with the establishment of the African Renaissance and International Cooperation Fund (ARF). With an annual budget that has ranged from R50 million to R931 million, the ARF has served as the primary instrument through which South Africa has given expression to its peacemaking and peacebuilding agenda in Africa.³⁷

South Africa's preference for a structural approach to the prevention of conflicts and mass atrocities in Africa has seen it also play a leading role in advocating for the transformation of the UN's peace and security regime. In this regard, it has used its two tenures as a non-permanent member of the UN Security Council (2007-2008 and 2011-2012) to not only re-orient the Council's focus on systemic challenges that breed conflict and expose civilian population to serious harm, but also to institutionalise and deepen collaboration between the Security Council and regional organisations such as the AU. During its presidency of the Security Council in January 2012, South Africa successfully sponsored Resolution 2033, which specifically called for an enhanced relationship between the Council, the AU, and Africa's regional economic communities (RECs).³⁸ This global multilateral diplomacy has served to complement and facilitate Pretoria's peacemaking and peacebuilding efforts on the continent.

However, the extent to which South Africa's peace diplomacy over the past two decades has contributed to the prevention of armed conflict and created a stable environment for socio-economic development and the protection of human rights in Africa remains debatable. On the one hand, some observers and policy-makers have pointed to the relative peace and stability in the DRC, Zimbabwe and, until recently, Burundi as evidence of the positive impact of South Africa's pivotal role in conflict prevention and peacebuilding in Africa. On the other hand, a case has been made that, despite its good intentions and initial signs of success, South Africa's peace diplomacy has not been able to bring about sustainable peace in most of the countries in which it has been undertaken. Among the factors considered to be responsible for this limited impact is an enduring ambivalent attitude held by other African countries towards South Africa's role on the continent, as well as the tendency for South Africa to impose its own experience of a peaceful negotiated transition on conflict situations in Africa with little regard for the specific contexts and dynamics of the conflicts.³⁹ South Africa's preference for negotiated settlements has not always been popular with the ruling elite in other African countries, with the latter often opting for a military approach to resolving political conflicts. This means that Pretoria's peacemaking efforts have sometimes been met with resistance in Africa, a reality that has since the mid-1990s prompted South African policymakers to tread with caution when responding to

conflict situations on the continent. As Van Nieuwkerk notes, “[the] South African government’s view of the country’s continental role, initially infused with notions of human rights activism, has been tempered by the realities of the African condition”.⁴⁰ However, in countries such as South Sudan where South Africa has applied its PCRD framework to consolidate peace and prevent a resurgence of armed conflict, it is the absence of a strong staying power and a declining capacity for peace diplomacy that have, on the one hand, worked against Pretoria’s rhetorical commitment to promoting peace and stability in Africa, and on the other hand exposed the limits of its discourse on mass atrocity prevention.

South Africa in South Sudan: A Case of Limited PCRD without R2P?

South Sudan is the youngest state in Africa. It only achieved independence in July 2011 following a referendum that was held six months earlier, during which the majority of South Sudanese voted to secede from Sudan. The January 2011 referendum was mandated by a 2005 Comprehensive Peace Agreement (CPA), which ended more than two decades of civil war between the southern region of Sudan led by the Sudan People’s Liberation Army/Movement (SPLA/M) and the armed forces of the Sudanese government. The war is believed to have killed about 2.5 million Southern Sudanese who were fighting for greater autonomy and an end to what they perceived to be Khartoum’s marginalisation of their region. The CPA made provision for a semi-autonomous Southern Sudan government, and gave the region an option to break away from Sudan through a referendum.⁴¹

However, since independence the new state of South Sudan has been beset by insurgencies, ethnic violence, state fragility, and power struggles within the ruling SPLM party which degenerated into a civil war in December 2013. While reflecting the legacy of years of armed conflict with Sudan, continued instability in South Sudan also speaks to the failure of the country’s political elite to prioritise state and nation building over personal ambitions. More importantly, South Sudan’s current instability has highlighted the inability of the new state to protect its population from gross human rights violations, and the inadequacy of international assistance for the country’s peacebuilding and post-conflict reconstruction efforts. The recent violence resulting from the power struggle between President Salva Kiir and his erstwhile deputy, Riek Machar, has provided the context for targeted attacks against civilian populations by both government and opposition forces, which according to an AU commission of inquiry, could constitute war crimes and crimes against humanity.⁴²

Although the recent crisis in South Sudan was triggered by power struggle within the ruling SPLM, it quickly took on an atrocious dimension because it fed off of a society that has not been at peace with itself for a long time. Historical personal, ethnic and regional grievances, which have remained unresolved, mean that the South Sudanese society continues to be defined by a deep culture of revenge, with individuals and groups waiting for the least opportunity to settle past scores. This is

exacerbated by a lingering culture of violence, high levels of illiteracy and unemployment, and the widespread presence of small arms and light weapons in the South Sudanese society.⁴³ Given the fragility and weak state capacity of the new state of South Sudan, it was self-evident that it would require international assistance to rebuild the war-torn country and guarantee the protection of the population within its borders.

South Africa is among the many international actors that recognised this need and came to the assistance of South Sudan even before it became an independent state. In the wake of the signing of the CPA in 2005, South Africa deployed its PCRDR framework in the then Southern Sudan with a primary focus on assisting the region develop its capacity for self-governance, peacebuilding and socio-economic development. This bilateral engagement evolved in tandem with, and partly flowed from South Africa's role as chair of the Ministerial Committee for Post-Conflict Reconstruction and Development in Sudan, which was established by the AU in July 2003 in anticipation of the signing of the CPA. The mandate of the committee centred on assessing the post-conflict reconstruction and peacebuilding needs of Sudan, and mobilising international support for these efforts. Under the leadership of South Africa, the committee deployed a technical team of experts to Sudan (and Southern Sudan) from 28 March to 10 April 2011 to ascertain major post-conflict needs and identify priority projects. The outcomes of this assessment mission appear to have guided the PCRDR interventions of both the AU and the South African government in Sudan and South Sudan. However, some observers have noted that the committee has not been active for some time now, pointing to the need for its revival with a new mandate to focus specifically on the peacebuilding and post-conflict challenges of the new state of South Sudan.⁴⁴

Despite its convergence with the initiatives of the AU, South Africa's interest in post-conflict reconstruction and peacebuilding in South Sudan is largely inspired by the historical relationship between the ruling parties in both countries – the African National Congress (ANC) and the Sudan People's Liberation Movement (SPLM) – which was forged during their respective liberation struggles. In the post-apartheid era, the ANC provided capacity-building and other forms of assistance to the SPLM, notably in the lead up to the 2011 referendum.⁴⁵ Both parties signed a Memorandum of Understanding (MOU) in 2009 in which they pledged to leverage their common historical experiences to develop a framework for transforming the two parties into viable, accountable and democratic movements.⁴⁶ However, not much seems to have taken place insofar as the implementation of the MOU is concerned. It was only after the outbreak of violence in South Sudan in December 2013 and the subsequent deadlock in talks between Salva Kiir and Riek Machar, mediated by the Intergovernmental Authority on Development (IGAD), that the ANC appeared to have adopted a more proactive posture in its cooperation with the SPLM. The ANC has since 2014 collaborated with Tanzania's ruling party, Chama Cha Mapinduzi, to attempt to reconcile the various factions of the SPLM.

South Africa's intergovernmental cooperation with South Sudan reveals a trend that is similar to the ebb and flow of the ANC's relationship with the SPLM. Consistent with the AU's PCRD framework for Sudan, South Africa launched a capacity-building programme for Southern Sudan in the immediate aftermath of the signing of the CPA in 2005. Several South African government departments and state institutions, notably the Department of International Relations and Cooperation (DIRCO), the University of South Africa (UNISA), and the Public Administration Leadership and Management Academy (PALAMA), collaborated to support human and institutional capacity-building in the semi-autonomous region of Southern Sudan, and later in the new state of South Sudan. Official accounts suggest that by the end of 2011, over 1,600 civil servants, diplomats, as well as top and middle-level managers from South Sudan had been trained by South Africa as part of its post-conflict peacebuilding support in the new state.⁴⁷ Some of this training was provided through trilateral cooperation initiatives involving South Africa and northern donors. For example, 22 judges and 37 correctional service officials from Southern Sudan were trained and mentored for a month by UNISA and the South African Department of Correctional Services and that of Justice and Constitutional Development, within the framework of a 2008 trilateral partnership between South Africa, Germany, and the government of Southern Sudan.⁴⁸ Similarly, the Norwegian government provided funding for the South African Police Service (SAPs) to train and transform selected former combatants of the SPLA into officers in a new police service, and provide technical support for the establishment of a police academy in Southern Sudan.⁴⁹

The South African government's contribution to efforts towards consolidating peace and rebuilding South Sudan also took the form of contributing police personnel to the UN peacekeeping mission in South Sudan (UNMISS), which was launched after independence in 2011. This is in addition to encouraging its firms to invest and do business in South Sudan, thereby contributing to stimulating the economy and developing the infrastructure of the new state. By 2011, South Africa's major telecommunication and brewery companies, MTN and SABMiller respectively, were doing business in South Sudan, while KV3 Engineers, a South African-based consulting engineering company, had been contracted to refurbish government buildings in the new state. Another South African firm, the African Resource and Logistics Company (Arelco) was responsible for livestock development in South Sudan.⁵⁰

South Africa does not have a clearly articulated policy on R2P. However, as pointed out above, official discourses have generally linked the principle to Pretoria's peacemaking, peacebuilding and PCRD activities in Africa. Therefore, even without a direct reference to R2P, South Africa's support for state-building and socio-economic recovery efforts in South Sudan, as described above, could be construed as a contribution to the structural prevention of armed conflict and the potential of mass atrocities in that country. However, a close examination of Pretoria's PCRD activities in South Sudan from 2005 to 2013 suggests that its rhetorical commitment to conflict prevention and peacebuilding in

Africa has not always been matched with effective interventions that could contribute to mitigating the risk factors associated with armed conflict and mass atrocities. Indeed, substantial efforts and resources went into providing capacity-building and technical support to key institutions of the emerging state of South Sudan, including the police and security services, the judiciary, the diplomatic corps, and the media. However, the contribution of these interventions to conflict prevention and peacebuilding in the South Sudanese society was significantly curtailed by the fact that South Africa's PCRD activities were undertaken without any overarching vision or strategy, resulting in poorly targeted interventions that also lacked coherence and sustainability.⁵¹ This was hardly surprising, given that even as it has since 1994 assumed a pivotal role in the search for peace, stability and development in Africa, South Africa has struggled to develop an effective institutional capacity to give strategic direction to its peacemaking and peacebuilding agenda in Africa, let alone to mainstream the prevention of mass atrocity crimes in the operationalization of this agenda in high risk countries such as South Sudan.⁵²

In addition to lacking coordination and strategic guidance, South Africa's PCRD interventions in South Sudan were also devoid of any long-term perspective, and were therefore not sustained in a concerted manner during the period under study, significantly curtailing their impact on peacebuilding and nation-building efforts in the fragile South Sudanese society. Although it was initially marked by great enthusiasm, South Africa's PCRD engagement in South Sudan subsequently coincided with a period of unprecedented domestic political reorganisation in the post-apartheid dispensation, which would result in the re-prioritisation of the strategic focus of Pretoria's foreign policy. President Thabo Mbeki, the main architect of South Africa's activist and solidarist Africa policy, lost the leadership of the ruling ANC in December 2007, and was later forced by his party to resign from the South African presidency in September 2008. The incoming president, Jacob Zuma, was elected on a populist platform that promised to refocus the country's energies and resources on meeting the socio-economic needs of South Africa's historically marginalised black population, which was becoming increasingly discontented with the ANC. Thus, while Zuma's administration would continue to hold onto the trappings of Mbeki's *African Agenda*, with its strong commitment to peacemaking, peacebuilding and PCRD, there has been a noticeable shift towards using South Africa's diplomatic engagements in Africa to promote narrow economic interests.⁵³

Perhaps no other relationship exemplifies the de-prioritisation of conflict prevention and peacebuilding in South Africa's Africa policy than its bilateral cooperation with South Sudan. Despite its active engagement in Southern Sudan in the early period after the signing of the CPA, South Africa never seized the opportunity of the former's independence to consolidate its peacebuilding and PCRD activities in the country. In fact, South Africa's engagement in South Sudan witnessed a steady decline as Zuma's administration sought to rationalise the country's international relations against the backdrop of a struggling economy and growing social discontent.⁵⁴ Pretoria only signed a General

Cooperation Agreement with South Sudan in April 2013, two years after the latter became an independent state. A few months later, simmering political tensions within the ruling SPLM party would take on a violent turn and exploit unaddressed divisions, grievances and hatred within the South Sudanese society, resulting in targeted killings of civilians in different parts of the country.

Significantly, a policy discussion forum convened in 2011 under the auspices of the Policy Research and Analysis Unit (PRAU) of the South African Department of International Relations and Cooperation had identified lingering insecurity and divisions within the South Sudanese polity, as well as the state's weak institutional capacity as critical risk factors that could undermine peace, stability and development in the new country.⁵⁵ The South African government was therefore advised to reinforce its capacity building interventions in South Sudan while also giving special attention to issues of social dialogue, healing and reconciliation as part of nation-building efforts. However, as described above, Pretoria's subsequent engagement with South Sudan would reflect less of these insights and policy recommendations, and more of the growing determination to re-orient South Africa's foreign policy towards international partnerships that complement domestic efforts of socio-economic development. As a result, South Africa missed out on a golden opportunity to use its peacebuilding and PCRD activities to contribute to averting the targeted killings of civilians in South Sudan and, by doing so, substantiate its normative discourse on mass atrocity prevention with concrete actions.

Conclusion: The Limits of the Atrocity Prevention Discourse

South Africa's official discourse on R2P, like that of other BRICS countries, is premised on the primacy of the preventive dimension of this principle, and links the prevention of mass atrocity crimes to efforts aimed at building strong state capacity and promoting inclusive socio-economic development. This orientation is consistent with Pretoria's foreign policy, which prioritises the promotion of peace, security and development in Africa as a strategy for securing South Africa's long-term national interest. However, the case of South Africa's PCRD interventions in South Sudan demonstrates that as far as the conflict prevention and peacebuilding agenda is concerned, noble intentions do not always translate into the capacity and political commitment for concrete action, as other foreign policy priorities may become more attractive. As pointed out above, weak institutional capacity to deploy coherent, targeted, and well-coordinated PCRD activities, as well as a waning political will to remain engaged in South Sudan in the context of mounting domestic challenges mean that despite its rhetorical commitment to peacebuilding in the former, South Africa was unable to play a meaningful role in preventing the outbreak of violence in December 2013 which resulted in the targeted killing of civilian populations.

This observation is, however, not unique to South Africa or the BRICS countries for that matter, but reflects a fundamental challenge to making the transition from rhetoric to action in atrocity

prevention, which stems largely from the complexity of the dynamics involved. As Jason Ralph has noted, even Western countries such as the United Kingdom with well-established institutional systems and advanced economies have until now only paid lip service to the mainstreaming of atrocity prevention into their general conflict prevention agenda.⁵⁶ This then raises questions about the legitimacy of the discourse that, on the one hand, seeks to confine the development of the R2P norm solely around measures aimed at preventing mass atrocities, and on the other hand simplistically equates the prevention of mass atrocity crimes to broader conflict prevention and peacebuilding strategies. While there is a strong case to be made in favour of prioritising preventive measures in developing the R2P doctrine, particularly those that seek to address the structural causes of violent conflicts and mass atrocities in a timely and holistic manner, the discourse in this regard needs to evolve further to acknowledge the conceptual haziness around, and the normative implications of, the notion of mass atrocity prevention. Equally important, and as underscored in the preceding analysis, the discourse on the international responsibility to prevent mass atrocity crimes cannot overlook the practical challenges that this obligation imposes on external state actors, particularly those such as South Africa with significant domestic challenges of their own.

Notes

¹ BRICS countries include Brazil, Russia, India, China and South Africa.

² See, for example, A Bellamy, Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent, *The Stanley Foundation Policy Analysis Brief*, 2011; E Starnes, The Responsibility to Protect and 'Root Cause' prevention, *Norwegian Institute of International Affairs Report*, 2010; J Ralph, Mainstreaming the Responsibility to Protect in UK Strategy, *United Nations Association – UK, Briefing*, 2, 2014, 12-21.

³ In Rwanda in 1994, the international community assumed the role of bystanders while close to a million people were slaughtered by Hutu extremists, despite the fact that the UN peacekeeping mission in the country (UNAMIR) had issued clear early warning messages and recommendations for action. A year later, 8000 Muslim men and boys taking refuge in a supposed UN-protected safe-haven in Srebrenica were massacred by Bosnian Serbs. For more on this, see F Grunfeld and W Vermulen, Failures to Prevent Genocide in Rwanda (1994), Srebrenica (1995), and Darfur (since 2003), *Genocide Studies and Prevention: An International Journal*, 4:2, 2009, 221-238.

⁴ See R Schutte, *Civilian Protection in Armed Conflict: Evolution, Challenges and Implementation*, Weisbaden: Springer VS, 2014, 107-116.

⁵ A Heraclides, Humanitarian intervention in the 19th Century: The Heyday of a Controversial Concept, *Global Society*, 26:2, 2012, 218.

⁶ TB Knudsen, The History of Humanitarian Intervention: The Rule of the Exception? *Paper presented at the 50th ISA Annual Convention*, New York, 15-18 February 2009, 4-5. See also J Howorth, Humanitarian Intervention in the post-Cold War era: A Provisional balance-sheet in light of Libya, Syria and Mali, *paper presented at the Fundacion Chile 21*, Santiago, 21 March 2013, p 3.

⁷ TB Knudsen, The History of Humanitarian Intervention: The Rule of the Exception? *Paper presented at the 50th ISA Annual Convention*, New York, 15-18 February 2009, 15.

⁸ *Ibid.*, 32.

⁹ A Heraclides, Humanitarian intervention in the 19th Century: The Heyday of a Controversial Concept, *Global Society*, 26:2, 2012, 223.

¹⁰ TB Knudsen, The History of Humanitarian Intervention: The Rule of the Exception? *Paper presented at the 50th ISA Annual Convention*, New York, 15-18 February 2009, 31.

¹¹ *Ibid.*, 36.

¹² *Ibid.*, 32.

¹³ A Heraclides, Humanitarian intervention in the 19th Century: The Heyday of a Controversial Concept, *Global Society*, 26:2, 2012, 228-229.

¹⁴ TB Knudsen, The History of Humanitarian Intervention: The Rule of the Exception? *Paper presented at the 50th ISA Annual Convention*, New York, 15-18 February 2009, 32; A Heraclides, Humanitarian intervention in the 19th Century: The Heyday of a Controversial Concept, *Global Society*, 26:2, 2012, 228.

¹⁵ See Articles 2(4), 39 and 51 of the Charter of the United Nations adopted in 1945 in San Francisco.

¹⁶ TB Seybolt, *Humanitarian Military Intervention: The Conditions for Success and Failure*, New York: Oxford University Press, 2008, 9. See also M Ayoob, Humanitarian Intervention and Sovereignty, *The International Journal of Human Rights*, 6:1, 2002, 83-84.

¹⁷ M Ayoob, Humanitarian Intervention and Sovereignty, *The International Journal of Human Rights*, 6:1, 2002.

¹⁸ TB Seybolt, *Humanitarian Military Intervention: The Conditions for Success and Failure*, New York: Oxford University Press, 2008, 913.

¹⁹ *Ibid.*

²⁰ ICISS, "The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty", December 2001, p. xi.

²¹ See Ban Ki-Moon, Secretary-General Defends, Clarifies 'Responsibility To Protect' at Berlin Event on 'Responsible Sovereignty: International Cooperation for a Changed World, UN press release, 15 July 2008.

²² See, for example, TM Abbas, *The shifting discourse of the 'responsibility to protect*, e-international relations, 23 August 2012.

²³ ICISS, "The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty", December, 2001, p. xi.

²⁴ United Nations General Assembly, *2005 World Summit Outcome*, A/RES/60/1, paragraphs 138-139.

²⁵ United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*, A/63/677, 12 January 2009, 2.

²⁶ *Ibid.*, 10-14.

²⁷ *Ibid.*, 15-21.

²⁸ A Bellamy, Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent, *The Stanley Foundation Policy Analysis Brief*, February 2011, 1. See also Alex Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Cambridge: Polity Press, 2009, p.98.

²⁹ See also A Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Cambridge: Polity Press, 2009, 102.

³⁰ See O Stuenkel, [BRICS and the Future of R2P: Was Syria or Libya the exception? *Global Responsibility to Protect*, 6:1, 2014, 3-28.](#)

³¹ See A Bellamy, Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent, *The Stanley Foundation Policy Analysis Brief*, February 2011, 8; R Gerber, Prevention: Core to the Responsibility to Protect, e-international relations, 10 October 2011; E Stamnes, The Responsibility to Protect and 'Root Cause' prevention, *Norwegian Institute of International Affairs Report*, 2010, 12.

³² See also A Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities*, Cambridge: Polity Press, 2009, 104-105; E Stamnes, The Responsibility to Protect and 'Root Cause' prevention, *Norwegian Institute of International Affairs Report*, 2010, 17-21.

³³ C Landsberg, Pax South Africana and the Responsibility to Protect, *Global Responsibility to Protect*, 2, 2010, 436 – 457.

³⁴ K Smith, R2P and the Protection of Civilians: South Africa's Perspective on Conflict Resolution, *SAIIA Policy Briefing*, 133, March 2015, 2.

³⁵ C Landsberg, Pax South Africana and the Responsibility to Protect, *Global Responsibility to Protect*, 2, 2010. See also F Maberera and T Dunne, South Africa and the responsibility to protect, *AP R2P Brief*, 3:6 2013; K Smith, R2P and the Protection of Civilians: South Africa's Perspective on Conflict Resolution, *SAIIA Policy Briefing*, 133, March 2015, 2.

³⁶ Statement by H.E. Mr Baso Sangqu, Ambassador and Permanent Representative of South Africa to the UN during the debate on the Secretary General's Report on Implementing the Responsibility to Protect, New York, 23 July 2009.

³⁷ See A van Nieuwkerk, A review of South Africa's peace diplomacy since 1994, in C Landsberg and J van Wyk (eds.), *South African Foreign Policy Review*, Pretoria: Africa Institute of South Africa and Institute for Global Dialogue, 2012, 84-107.

³⁸ See F Nganje, *South Africa's presidency of the UN Security Council: What to make of it*, *Global Insight*, Issue 96, March 2012.

³⁹ A van Nieuwkerk, A review of South Africa's peace diplomacy since 1994, in C Landsberg and J van Wyk (eds.), *South African Foreign Policy Review*, Pretoria: Africa Institute of South Africa and Institute for Global Dialogue, 2012, 90-94; C Ajulu, South Africa and the Great Lakes: A complex diplomacy, in P Kagwanja and K Kondlo (eds.), *State of the Nation: South Africa 2008*, Pretoria: Human Science Research Council, 2009, p. 256.

⁴⁰ A van Nieuwkerk, "South Africa's peace diplomacy and symbiosis with the continent", *The BRICS Post*, 23 September 2013.

⁴¹ See AS Natsios and M Abramowitz, Sudan's secession crisis: can the South part from the North without war? *Foreign Affairs* 9:1, 2011, 19-27.

⁴² African Union, *Final Report of the African Union Commission of Inquiry on South Sudan*, Addis Ababa, 15 October 2014.

⁴³ Information in this section was obtained from interviews conducted in Juba in August 2014 with a number of individuals in the academia, government and civil society. For more on the dynamics of the crisis in South Sudan, see The Sudd Institute, *South Sudan Crisis: Its Drivers, Key Players and Post-Conflict Prospects*, *Sudd Institute Special Report*, 3 August 2014.

⁴⁴ A Lucey and S Gida, Enhancing South Africa's post-conflict development role in the African Union, *ISS Paper*, 256, May 2014, 4; South African Government, Meeting of the Ministerial Committee on Post-Conflict Reconstruction and Development in the Sudan – (Ethiopia), *Media Statement*, 29 January 2011; African Union, Report on the implementation of the decisions of the PSC on post-conflict reconstruction & development in the Democratic Republic of Congo (DRC) and Burundi, and follow-to assessment missions to Liberia, Sierra Leone, Central African Republic (CAR), and the Sudan, Addis Ababa, 2-3 June 2011.

⁴⁵ J Stremlau, ANC well placed to help South Sudan, *Business Day*, 16 March 2015. See also Mmanaledi Mataboge, "ANC: Ramaphosa to mediate in South Sudan", *Mail and Guardian*, 6 February 2014.

⁴⁶ J Stephen, SPLM and ANC Sign Memorandum of Understanding, *Gurtong*, 27 October 2009.

⁴⁷ C Hendricks and A Lucey, South Africa and South Sudan: Lessons for post-conflict development and peacebuilding partnerships, *ISS Policy Brief*, 49, December 2013, 3; DIRCO, Mr Ramaphosa visits South Sudan, South Africa Department of International Relations and cooperation, 5 March 2014.

⁴⁸ German Mission in South Africa, "Trilateral Cooperation with South Africa in Southern Sudan", available at www.southafrica.diplo.de/Vertretung/suedafrika/en/05_Politics/Germany_SA/Trilateral-Coop_Sudan.html.

⁴⁹ Embassy of South Sudan in Pretoria, Sudan Police Training Workshop in Pretoria, May 18-22 2010, www.ross.org.za/announcements/sudan-police-training-workshop-in-pretoria-may-18-22-2010.

⁵⁰ UNMISS Facts and Figures, <http://www.un.org/en/peacekeeping/missions/unmiss/facts.shtml>; South African Government News Agency, "SA firms urged to invest in Sudan", 23 February 2011.

⁵¹ See C Hendricks and A Lucey, "South Africa and South Sudan: Lessons for post-conflict development and peacebuilding partnerships", *ISS Policy Brief* 49, December 2013. This assessment was further echoed at a roundtable discussion hosted by the author in partnership with the Sudd Institute in Juba on 30 August 2014, during which some participants argued that South Africa's capacity building initiatives have had very little impact on the targeted sectors.

⁵² See, for example, F Kornegay, South Africa's 'Peace & security' perspective on fragile states, in J Sherman et.al (eds.), *Engagement on development and security: New actors, new debates*. Centre on International Cooperation, New York University, 2011, 41–43; W Braude, P Thandrayan & E Sidiropoulos. *Emerging donors in international development assistance: The South Africa case*, 2008, www.idrc.ca/EN/Documents/Case-of-South-Africa.pdf.; and C Landsberg, South Africa's 'African agenda': Challenges of policy and implementation. Paper prepared for the South African Presidency Fifteen Year Review Project, 2009, 20–24.

⁵³ See C Landsberg, "Thabo Mbeki's Legacy of Transformational Diplomacy", in D Glaser (ed.) *Mbeki and After: Reflections on the Legacy of Thabo Mbeki*, Johannesburg: Wits University Press, 2010, 263. See also Global Health Strategy initiative (GHSi), "Shifting Paradigm: How the BRICS are Reshaping Global Health and Development", March 2010, 72.

⁵⁴ Personal conversation with official in the South African embassy in Juba, South Sudan, August 2014.

⁵⁵ The policy discussion forum, which was attended by the author, was convened by PRAU, in partnership with two Pretoria-based think tanks – the Institute for Global Dialogue (IGD) and the Africa Institute of South Africa (AISA) – and was intended to generate recommendations on how the South African government should support the imminent state of South Sudan, in the wake of the successful referendum in January 2011.

⁵⁶ J Ralph, "Mainstreaming the Responsibility to Protect in UK Strategy", *United Nations Association – UK, Briefing*, 2, 2014, 12-21.