



GLOBAL POLICY INITIATIVE  
COLUMBIA UNIVERSITY

# **RESPONSIBILITY WHILE PROTECTING**

**Implementation and the Future  
of the Responsibility to Protect**

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Conference Report | April 2015

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## Introduction

Ten years after the Responsibility to Protect (RtoP) was unanimously adopted by the General Assembly in 2005, the international community is still faced with challenges of ensuring that genocide, crimes against humanity, war crimes, and ethnic cleansing are never again committed. In light of RtoP's 10<sup>th</sup> anniversary and ongoing situations of mass atrocities around the world, the Columbia University Global Policy Initiative (CGPI) and the International Relations Research Center at the University of São Paulo (NUPRI) organized a two-day conference on The Future of the Responsibility to Protect: Responsibility while Protecting and Implementation Mechanisms.

Ambassador Antonio de Aguiar Patriota, Permanent Representative of Brazil to the UN, and Dr. Jennifer Welsh, Special Adviser to the UN Secretary-General on the Responsibility to Protect, presented keynote speeches. Topics under consideration included the Brazilian concept of Responsibility while Protecting, implementation mechanisms for RtoP from diplomacy to the use of force, and the future of RtoP. Participants gathered at Columbia University in the City of New York and participated remotely from the University of São Paulo and the Columbia Global Center-Rio de Janeiro.

RtoP has been described as a fundamental doctrinal innovation within the UN system. It shifted the definition of state sovereignty to imply responsibility for preventing atrocity

crimes domestically, a major rethinking of absolutist conceptions of sovereignty. While still far from perfect or easily achieved, RtoP strengthened the moral imperative of international response to atrocities through diplomacy, sanctions, peacekeeping, or—in the most extreme case—coercive use of force.

The concept of RtoP was first coined by Francis Deng and then developed in 2001 by the Canadian Independent Commission on Intervention and State Sovereignty (ICISS), chaired by Gareth Evans and Mohamed Sahnoun. It was then adopted by the General Assembly in paragraphs 138-140 of the 2005 World Summit Outcome Document (see appendix).

The World Summit Outcome Document asserts that states have a responsibility to protect their civilians in cases of genocide, crimes against humanity, war crimes, and ethnic cleansing. Should a state manifestly fail to protect its civilians, the international community has a responsibility to act in an effective and timely manner through the Security Council. RtoP is interpreted to have three pillars: (1) the primary responsibility of the state to protect; (2) a corresponding responsibility of the international community to assist the state in protecting its population; and (3) finally, should the state fail to protect, a residual responsibility of the international community to take timely action through the Security Council.<sup>1</sup>

This gives a license to the UN Security Council to go beyond the most narrow readings of its responsibilities in Chapter VII of the UN Charter, namely to protect international peace and security, and prevent threats or breaches to the peace or acts of aggression. RtoP says that there are some domestic crimes that are so severe that they should be interpreted by the Security Council as a fundamental part of its mandate.

At the same time, RtoP is a leash on the Security Council. It asserts that while the Council has broad discretion to interpret what constitutes a threat to the peace Chapter VII it is not an infinitely broad category. In the view of the General Assembly, it is limited to protecting populations within countries from the four atrocity crimes.

In 2011, this doctrine of RtoP was put to the test in its most extreme form. Utilizing an RtoP framework, the Security Council referred the situation in Libya to the International Criminal Court and applied sanctions with Resolution 1970, and later authorized NATO to implement a no-fly zone over Libya and use all means necessary to protect civilians from the imminent threat of atrocities in Resolution 1973 (see appendix). This intervention was seen by some to have far exceeded its mandate with the ultimate ouster and death of Colonel Muammar el-Qaddafi and resulting instability and chaos reigning in Libya today.

In reaction, the Brazilian government presented the concept of Responsibility while Protecting (RwP) in a 2011 concept note presented to the UN Security Council (see appendix). This concept held that forcible intervention should be done only as an absolute last resort after diplomacy and prevention have failed, it must be limited and proportionate in nature, and it must result in effective protection and avoid further

violence or instability.

RwP was, in effect, a reconceptualization of the RtoP norm and a call for further debate and deliberation about not just what RtoP was but how to implement it effectively in order to actually save lives.

Four years after the intervention in Libya, the concepts of RtoP and RwP are still evolving. This conference asked what happened to RtoP after Libya, how RwP has changed RtoP, how we can improve effective implementation of RtoP, and finally what the future of RtoP and atrocity prevention holds. The conference's three panels will be discussed below as well as the two keynote addresses. Recommendations are presented to improve our understanding and implementation of atrocity prevention and response.

1 RtoP is distinct but similar to the concept of "protection of civilians." While RtoP focuses on preventing or stopping the four atrocity crimes, protection of civilians obliges parties in an ongoing armed conflict to uphold all of their obligations under international human rights and humanitarian law.

## Keynote Address: Ambassador Antonio de Aguiar Patriota, Permanent Representative of Brazil to the UN

Ambassador Antonio de Aguiar Patriota delivered a keynote address on April 9, 2015 on the Future of the Responsibility to Protect. He spoke of the great challenges facing the United Nations today, as well as causes for optimism, in light of the organization's 70<sup>th</sup> anniversary.

The ambassador began his remarks by noting the vast geopolitical transformations that have occurred since the UN's founding in 1945. Drawing a parallel to the transition from a unipolar to a multipolar world at the Vienna Congress in 1815, the ambassador sees the UN's anniversary as an opportunity to reflect on the contemporary transition to a multipolar world and the rise of new regional powers.

The ambassador went on to explain the larger role of Brazil in global affairs today. Not only does Brazil have more influence today than at any previous stage in its history, including through an expanding network of Embassies, but the ambassador also asserted that Brazil's rise and its commitment to non-proliferation and peaceful international relations allows it to play a vital role in the world. **Instead of consolidating a hegemonic sphere of influence, Brazil is instead committed to creating a sphere of cooperation for peaceful relations.** He asserted that not only does Brazil have the capacity to create such a sphere of



cooperation but also a responsibility to play this vital role in global politics.

In the context of the UN's 70<sup>th</sup> anniversary, Ambassador Patriota outlined some of the most important accomplishments as well as key issues faced by the organization. He was optimistic about the UN's capacity to respond to new challenges in both the normative and institutional sense, in particular with respect to complex thematic areas. He highlighted the modernizing platform of the Post-2015 Sustainable Development Agenda and the outcome of the Rio+20 Conference on Sustainable Development. These collective processes have created a road-map for universally applicable Sustainable Development Goals (SDGs), displaying the strong normative role

the UN can fulfill. He further highlighted that the previous Millennium Development Goals, while generally a positive move forward, were a top-down process and did not include awareness of the challenges posed by climate change. If adopted, the SDGs would serve as a key point of progress for international cooperation.

**Ambassador Patriota stressed the importance of the review of peacekeeping operations and of the peacebuilding architecture underway this year as important developments.**

Ambassador Patriota then turned to the issue of Responsibility to Protect (RtoP). This year marks the 21<sup>st</sup> anniversary of the Rwandan Genocide and the 20<sup>th</sup> anniversary of the Srebrenica massacre, which he emphasized as an appropriate opportunity to reflect on the groundbreaking 2005 World Summit Outcome Document and RtoP. The ambassador noted that RtoP attempts to mobilize or appeal to a universal conscience in cases of genocide or mass atrocities. He also commented that he recently met with Hubert Védrine, France's special envoy to pursue limiting the veto of permanent members of the UN Security Council and to develop a special code of conduct for the Security Council. He noted that this was an initiative in the same vein as RtoP and should go hand in hand with broader reforms to make the Security Council more reflective of the current multipolar global system. In Ambassador Patriota's view, it was very refreshing to see attempts to conceive new multilateral approaches to these key issues of international peace and security within a more multipolar configuration of world powers.

Finally, Ambassador Patriota turned his attention to some of the major challenges facing the United Nations on its 70<sup>th</sup>

anniversary. Notwithstanding some of the normative advances in the agenda of the UN Security Council, including the attention now paid to protection of civilians and women and children in armed conflict, Ambassador Patriota expressed concern that the current practices and the composition of the UN Security Council fail to provide adequate answers to contemporary challenges. He focused attention on **three specific recent cases where the Security Council has failed to unify for action: Syria, Ukraine, and Gaza**. According to the ambassador, these cases all highlight the need to rethink how we approach new challenges such as the role of non-state actors and terrorism in international peace and security. These crises show the failures of diplomacy and the limits of military action. Ambassador Patriota pointed out that these issues should be unifying for the world, but the sad reality is that strategies that have been adopted by the Security Council have been divisive.

To deal with these challenges, Ambassador Patriota argued that RtoP and protection of civilians had an important place in the debate. He noted that the 2011 Brazilian concept note concerning the Responsibility while Protecting (RwP) is still highly relevant to today's discussions of RtoP. RwP was developed in response to Brazil's concerns regarding the Security Council authorized NATO intervention in Libya in 2011. Brazil received wide praise as an emerging norm entrepreneur for their role in trying to reestablish minimum threshold criteria for coercive intervention.

**Ambassador Patriota called for an honest and objective assessment of the potential for protecting civilians through prevention and an evidence-based evaluation of the success of military force or robust peacekeeping in protecting civilians and decreasing potential loss of life.**

According to the ambassador, the intervention in Libya showed that there is a need to carefully assess the likely consequences of an intervention before approving Chapter VII forcible intervention mandates. Furthermore, if it were decided that military force would have a responsible and effective impact on a situation,

monitoring and accountability mechanisms in line with an RWP framework would have to be authorized and implemented. What is needed for the future is responsible and effective protection that can be monitored and that truly has an impact for those in dire need of protection.



Antonio Jorge Ramalho, Kai Michael Kenkel, Ambassador Antonio Patriota, Gustavo Macedo, & João Marcos Leme.



## First Panel: A Case for Responsibility while Protecting

The first panel focused on the concept of Responsibility while Protecting (RwP), developed by Brazil in 2011 in response to the Security Council authorized intervention in Libya. All panelists maintained that RwP advanced and improved the Responsibility to Protect (RtoP) framework. Some of the issues covered included the formulation of this doctrine by the Brazilian academics and diplomats, the shortcomings of the RtoP in practice, the issue of sequencing of the RtoP pillars, prevention mechanisms, as well as exhausting diplomatic means before authorizing use of force at the UN Security Council.

Questions considered by the panel: What is the Brazilian concept of Responsibility while Protecting (RwP)? How does RwP change RtoP? What direct policy implications does RwP have and what should states do to further RwP's normative development?

### Panelists

- Chair: Ambassador Antonio de Aguiar Patriota, Permanent Representative of Brazil to the United Nations
- Gustavo Carlos Macedo, University of São Paulo
- João Marcos Leme, Brazilian Embassy London

- Antonio Jorge Ramalho, University of Brasilia
- Kai Michael Kenkel, Instituto de Relações Internacionais at PUC-Rio

All panelists asserted that the 2011 military intervention in Libya wounded RtoP due to its failure to understand the circumstances in the country, failure to prevent the collapse of the State (as is apparent today), and the international community's failure to rebuild strong governance and institutions in Libya after the intervention. All panelists applauded Brazil for the concept of RwP, which emerged as a result of perceived failures of Libya, and all emphasized Brazil's role and vision as an emerging global leader and norm entrepreneur.

**RwP is an attempt to protect RtoP from some bad genes in its own DNA, one panelist noted.**

Though RtoP is a noble concept, some of its nuances and protections were lost in translation from the 2001 report of the Independent Commission on Intervention and State Sovereignty (ICISS) to the 2005 World Summit Outcome Document. By bringing nuance and criteria back into the debate, the RwP concept has actually helped RtoP recover its credibility after Security Council Resolution 1973, a panelist noted.

**The most important elements of RwP were**

**described as the precedence of prevention and diplomacy over the use of force; the use of force only as a last resort; and emphasis on accountability, monitoring, and proportionality if force is used.**

The panelists went on to say that RWP highlights that extreme measures under Pillar Three of RtoP are in most cases inadequate. Most often the use of force adds to more violence or may replace a violent status quo with a new kind of lawlessness and destabilization. RtoP itself was described as an asset of dual-use, comparable to sovereignty or nuclear energy. These dual-use assets are not good or bad in and of themselves but are subject to use selectively and may be misused in order to advance other agendas. The panelist asserted that we should not demonize RtoP for this but discipline it. This is what RWP attempts to add to RtoP: a disciplining of when and how to use coercive intervention.

**RWP can bridge gaps among a wide variety of countries and views on RtoP because of its ability to recover part of RtoP's original ethos in the ICISS report, a panelist asserted.**

One panelist also highlighted the strong commitment of Brazil to Pillars One and Two of RtoP and commented that **Brazil had challenged the pro-intervention monopoly of coercive measures and overwhelming focus on Pillar Three coercive intervention.** They asserted that the 2011 concept note on RWP was still highly relevant today.

They also highlighted that **instead of only focusing on military intervention, RWP pushes for a new humanism** that would involve a renewed commitment to international law, an improved governance mechanism at the UN Security Council, and require active participation from civil society

and academia to keep us on a humanistic road-map.

Another panelist noted that **RWP should be thought of as a “concern” to be considered under the RtoP framework, rather than its own norm or doctrine justifying a separate normative structure.** RWP should be seen as a collective and global concern about the implementation of RtoP frameworks that helps revise and hone the RtoP agenda. The panelist asserted that RWP is not and will not be its own norm – rather it is a concept that will become a principle to inform the normative evolution of the Responsibility to Protect.

Several panelists noted that RWP still lacks clarity and needs strong political leadership from Brazil to move the debate forward on accountability and monitoring of interventions. Others held that the concept needs to find other member state champions to push it forward and encouraged the UN Group of Friends on RtoP to formally discuss the role of RWP in RtoP.

**All panelists agreed that for lasting peace, prevention and deterrence mechanisms should be enhanced, hasty use of force should be constrained, and a higher moral threshold should be applied when authorizing the use of force.**

The importance of preventing mass atrocities in the first place and also protecting civilians before and after any kind of intervention was emphasized. It was acknowledged that much of this prevention agenda would take place outside of the Security Council, and the panelists encouraged the connection of the post-2015 agenda with issues of structural atrocity prevention and long-term peacebuilding.

Panelists pointed out that all actions of

military intervention could instigate further violence and have grave consequences for civilians, be it authorized by the leaders and authorities of an illiberal state or the UN Security Council. Therefore less or non-militaristic and cooperative interventions, such as structural prevention methods like the eradication of poverty and overcoming global injustice, were cited as possibly more effective measures to prevent acts of atrocities. In this context, RWP addresses disciplining the use of force and focusing on the accountability and proportionality of any intervention as well as employment of greater diplomatic efforts to handle conflicts.

Another panelist maintained that RWP is a catalyst for building lasting relationships with states and local governments. Stressing that both the lives of civilians and the sovereignty of states are at stake, this panelist asserted that states that are part of the problem should thus be part of the solution too. Parties need to acknowledge that military interventions often take place without deliberations of proportionality and impartiality, and they fail to consider inclusion of local authorities that might bring about lasting peace.

Further militarization and internationalization of local conflicts have destabilizing impacts for problematic states and regions, and in the longer run they cause more harm, a panelist said. Emphasis should be placed on engaging with local authorities from the very beginning because those authorities will ultimately maintain the legitimacy and sovereignty of the state and hold responsibility for protecting civilians. Creating international and local dialogue, influencing structural socio-economic developments, and establishing good governance institutions are of crucial importance.

The panelists concluded by recognizing the major doctrinal development RtoP provided

to the multilateral system for peace and security. Citing a Global Public Policy Institute report, **panelists noted that what is needed now is “responsible and effective” protection and objective analysis of the efficacy of the use of force.**<sup>1</sup>

After ten years of implementation what is now needed to improve atrocity prevention is an objective evaluation of how RtoP has contributed to the protection of civilians over the last decade and how we can safeguard this concept in order to ensure it protects civilians in the future, learn from mistakes, and draw inspiration from new ideas.

1 [“Effective and Responsible Protection from Atrocity Crimes: Toward Global Action,”](#) Berlin: Global Public Policy Institute, April 2015.

## Second Panel: Operationalizing the Responsibility to Protect

In the second panel, the discussion revolved around implementation of the concept of the Responsibility to Protect (RtoP). This included a discussion on sequencing of RtoP's three pillars, use of sanctions, use of coercive force, and protection of civilians.

Questions considered by the panel: How should RtoP be implemented from prevention to reaction? What are best practices for civilian protection and peacekeeping? How was RtoP used as a mediation tool in Kenya? What is the role of sanctions as a tool for atrocity prevention? Can force protect and, if so, when can it legitimately be used?

### Panelists

- Chair: Simon Adams, Global Centre for the Responsibility to Protect
- Emily Paddon, Columbia University
- Elisabeth Lindenmayer, Columbia University
- Robert Pape, University of Chicago
- Helen Mulvein, Legal Counsellor for the Permanent Mission of the United Kingdom to the United Nations

In discussing the implementation of the Responsibility to Protect, it was emphasized that RtoP does not just apply when crises are

underway. **At its heart RtoP is a prevention doctrine that applies everywhere at all times.** To be most effective, it must utilize all the tools of early warning and early action. In a similar vein, a panelist noted that in most cases intervention takes place with the consent of countries or at their explicit request (in the form of peacekeeping missions). It was acknowledged that situations in which RtoP coercive military intervention could be invoked would be rare and extraordinary circumstances.

Although certain countries are more at risk of mass atrocities taking place than others, it was stressed that **no countries can be categorized as “zero risk” countries.** To ensure effective prevention, all countries must continually monitor for early warning signs, should have atrocity prevention policies in place, and should have national legislation criminalizing mass atrocities and ensuring accountability mechanisms.

The idea of sequencing the three pillars of RtoP, as proposed in the initial conception of Responsibility while Protecting (RwP), was questioned as an unrealistic understanding of crisis situations and an untenable requirement. Panelists posited that sequencing was unlikely to reflect the reality on the ground and that pragmatism had to be taken into account in any attempt to coherently operationalize the concept of RtoP.



Emily Paddon, Simon Adams, Elisabeth Lindenmayer, Robert Pape, & Helen Mulvein.

When discussing the application of RtoP, two things need to be kept in mind, according to one panelist. First, the world has witnessed a profound change in conflicts over the past decades; new conflicts are often asymmetric, and the rise of non-state armed groups as well as criminal networks in fragile states challenges the conventional toolbox of the UN and other actors. Second, concerning the political context, RtoP can never be discussed in a vacuum.

As a norm of the UN, its application depends on the geopolitical context. Any tool deployed under Chapter VII of the UN Charter requires the political will of the permanent five members (China, France, Russia, UK, US) and at least four other members of the Security Council. Panelists acknowledged that the Security Council had come a long way in terms of referencing both RtoP and the protection of civilians in thematic and country specific resolutions.

The 2007-2008 African Union mediation in Kenya was discussed as a key example of

RtoP's success at early prevention. Contrary to many assertions that RtoP is solely a Western imposition, the 2008 mediation was an entirely African initiative led by former UN Secretary-General Kofi Annan at the request of the African Union. It was both a prevention and reactive effort, one panelist noted, as it stopped the escalation of violence but also responded to the more than 1,000 dead and 500,000 refugees already resulting from the crisis. While RtoP was not explicitly cited at the time of the mediation, in later accounts Annan noted that the context of RtoP and threat of RtoP intervention was a key element bringing the parties to the negotiating table.

The 2013 Kenyan election was also highlighted as an overlooked success of RtoP. A panelist said that it was the result of the 2008 mediation efforts and continual efforts in the run up to 2013 that helped prevent another wave of violence and displacement in the country. **It was acknowledged that successes in prevention need to be more**

**openly discussed and analyzed so the clear benefits of early diplomatic efforts could be seen.**

Sanctions were also discussed as a vital tool available to the Security Council, member states, and regional groups to address atrocity situations. Using Article 41 of the UN Charter, the Security Council can impose targeted and meaningful sanctions on a case-by-case basis in coordination with relevant regional actors. Sanctions apply pressure on regimes, individuals, or entities to change their behavior through asset freezes, financial restrictions, travel bans, and restricting diplomatic contact.

Acknowledging past concerns regarding blanket sanctions, a panelist noted that criteria for sanctions designation are becoming more and more specific and are only aimed at those responsible for crimes while minimizing the impact on the civilian population. It was highlighted that sanctions in and of themselves would never be a silver bullet to stop atrocities but must be considered a tool within a broader strategy.

The case of Libya was discussed as an example of the most aggressive application of RtoP – the coercive use of military force against a sovereign state. NATO involvement in Libya in 2011 is often portrayed as a failure because the intervention went beyond the spirit of the mandate articulated in Security Council Resolution 1973.

However, in a push-back against this narrative, **one panelist argued that Libya was already a failed state prior to the intervention and the Qaddafi regime's ouster was inevitable with or without NATO intervention.** While acknowledging that RWP was a tremendous step forward to reform our thinking of how to understand RtoP intervention, the panelist warned that RWP

increases the role of politics in the military phase of an intervention. The panelist asserted that this is unworkable and is likely to lead to more chaotic interventions and more loss of life.

The panelist asserted that RWP would not have prevented regime change in Libya in 2011. According to the research presented by the panelist, **the Qaddafi regime was already broken before the NATO intervention.** More than a dozen ministers had already defected from the state. There were only 8,000 soldiers fighting for the regime by early March. 60,000 soldiers were unaccounted for and some 8,000 had defected to the rebels. Additionally, more than 75 percent of the Libyan population centers had broken away from the state by early March 2011.

**In Misrata, a key battleground city in central Libya, there was a significant rise in the number of rebel forces from 4,000 in May to 36,000 in October 2011, according the panelist's research. It was this prominent rebel force—not the minimal aerial bombing from NATO—that caused the city to fall to the rebels.** Thus the panelist asserted **regime change in Libya was brought about from within rather than established through the international intervention.**

Panelists noted that the current failure of the Libyan state is a failure to take the necessary measures for successful peacebuilding. As one panelist said, for two years after the fall of Qaddafi there was relative peace in Libya. This was an opportunity that was not seized upon to prevent the current fractured governments and crises that have severely destabilized the country.

Lastly, in a discussion on protection of civilians and peacekeeping, one panelist

noted a checkered record for protection of civilians, and highlighted several challenges for implementation on the ground. Successful peacekeeping missions are dependent on strong, unambiguous political backing from the Security Council. However, “protection” itself has no common understanding and interpretations vary considerably within missions, across missions, and between member states, the panelist said.

It is often unclear what the strategic direction of a protection mandate is and how it fits into other mission objectives, leading to incoherent practices on the ground. The panelist highlighted a growing gap between the justified expectations of civilians on the ground for protection and the actions peacekeeping missions take to protect.

There is a need to move beyond simply talking about greater resource allocation as the key to a successful peacekeeping mission, the panelist asserted. Resource availability, doctrine, and training are all critical factors that deserve our attention. However, **the bigger issue that requires urgent attention is the erosion of the underlying political bargain of peacekeeping**: what it can be, what it should be, and what it should not be used towards; who is willing to shoulder the burden, when, where and for how long.

What is required is a frank discussion about the feasibility and the possibilities for consistent protection given the political realities. The very real divisions on the Security Council between those that pen and

finance mandates and those who actually implement them on the ground need to be addressed.

An open discussion on the real circumstances, opportunities, and limitations for peacekeepers to carry out protection mandates is needed. Ambiguous language and politicization of mandates are issues that need to be tackled through such conversations.

Finally, a panelist noted that we cannot think of RtoP’s normative life as a linear progression. It is instead being continually debated, reassessed, and reinterpreted by each crisis it faces. And hopefully, through this process of examination, it is strengthened.

RtoP is only ten years old. What was the state of human rights in 1958, ten short years after the Universal Declaration of Human Rights was adopted? In 1958, states instrumentalized human rights for their own objectives or ignored them entirely, but that did not mean we threw away the human rights framework.

Today when we see a protection crisis we do not walk away. We learn from failures; we adapt; and we hopefully move forward. We still need to guard against the misuse of RtoP and continually be working towards consistent application, but overall, we are strengthening the protection agenda, human rights, and RtoP.

## Keynote Address: Dr. Jennifer Welsh, Special Adviser to the UN Secretary- General on the Responsibility to Protect

Dr. Jennifer Welsh delivered a keynote address on April 10, 2015 on the Future of the Responsibility to Protect. Despite the many facets of the debate on the Responsibility to Protect (RtoP), the principle rests on a simple assertion: there is a collective responsibility to protect populations from acts that the international community as a whole has stigmatized as crimes – crimes against humanity, genocide, war crimes and ethnic cleansing. That responsibility rests first and foremost with the state in which populations live. But, and this was the core of the principle at its inception, outside actors have a responsibility to assist states in a variety of ways to fulfill that protection role, Dr. Welsh asserted. If a state is manifestly failing to protect, either from a breakdown in capacity or from an express intention to inflict atrocity crimes, outside actors have a residual protection role.

Dr. Welsh acknowledged that the principle can be abused and manipulated. She would not, however, posit that RtoP is a dual-use asset like a drone, which is neither good nor bad. The core of RtoP is good. The question is how it can be used for productive purposes—protection—and how we can address and limit those instances in which we may see it being abused.

Almost a decade has passed since member states endorsed the principle of RtoP in the 2005 World Summit Outcome Document. We now enjoy a high degree of consensus



on the overall parameters of the concept and the three-pillar framework outlined in 2009. The Secretary-General has tried to make very clear in his annual reports that each of the pillars is equally important and the edifice cannot stand without all of them, Dr. Welsh said.

There has also been a concerted effort, particularly since 2009, to shift from concept to implementation. Examples of this shift include the creation of the Joint Office of the Special Advisers on Genocide Prevention and RtoP based in New York; the development of a convening mechanism for Under-Secretaries-General of the UN; and the creation of new regional mechanisms, including the Latin American Network for Genocide and Mass Atrocity Prevention and



the African Union Rapid-Response Force. Several states have also built up their own domestic capacity to address these four crimes and violations specified by RtoP, whether they be internally focused—in terms of developing a capacity to assess national risk—or externally focused, such as the US Atrocity Prevention Board. While some are still debating the theory of RtoP, most have turned their attention to practice and how RtoP can concretely make a difference.

The principle of RtoP has also been invoked in thematic and country specific resolutions of the Security Council and Human Rights Council. In short, **RtoP has become a part of the world’s diplomatic language. Consensus has steadily grown, and it has grown toward the goal of building partnerships between national, regional, and international organizations to prevent and respond to atrocity crimes.** The debate in the UN Security Council in 2014 to mark the 20<sup>th</sup> anniversary of the Rwandan Genocide spoke powerfully to some of the progress that has been made in the battle against atrocity crimes. It is no longer possible for such acts to occur inside a country and for some to argue that it is not a matter of international concern.

And yet, Dr. Welsh asked, do we always see the kind of response we would like to see? We continue to see situations where warning signs were clearly present and we failed to heed them. South Sudan is an example of this; so too is the Central African Republic, where the international community did respond but only after serious crimes had been committed.

We also see situations where the humanitarian imperative is overwhelming but where strategic considerations outweigh the imperative to act to protect populations. Moreover, **in trying to make**

**RtoP acceptable to a broad constituency, there has at times been an overemphasis on prevention and a lack of emphasis on response.** Both aspects of the principle are critical. There have been false divisions created among the three pillars, which has allowed some states to argue that they support some aspects of RtoP, but not others. We are now able to move to a point where the three-pillar edifice can be reaffirmed, Dr. Welsh asserted.

We also should be careful about trying to ‘tame’ RtoP too much in our efforts to gain political consensus. As the previous Special Adviser, Edward C. Luck, reminds us, norms should be aspirational, should challenge, and should encourage us all to do better. **We need to remember that RtoP was created because the status quo was not acceptable. We had all of the international law we needed—the Genocide Convention, the Geneva Conventions, international human rights, and international humanitarian law—but what we did not have was full implementation of that law.** There was a clear gap between states’ legal commitments and what populations were experiencing every day.

While the past decade has seen concrete progress on RtoP, there are five challenges that continue to confront those who work to implement the norm.

First, despite being a multifaceted agenda, the implementation of RtoP is still too often associated with the coercive use of military force and seen to be a principle that belongs solely to the UN Security Council. The Security Council is one key ‘owner’ of RtoP, but not the only one. We must also acknowledge that there is an inbuilt inconsistency in the Security Council’s approach to RtoP, given the way states articulated the principle in 2005. Member states asked the Security

Council to address situations involving atrocity crimes on a ‘case-by-case’ basis. That does not mean that one cannot strive for greater consistency in how the Council approaches such situations; indeed one should, Dr. Welsh said. But selectivity is likely to remain, in the near term, part of the Council’s approach. How that selectivity is perceived by others will affect RtoP’s legitimacy. However, **even when the Security Council is inconsistent, it is absolutely imperative that other actors who do not face the same political constraints are absolutely consistent in characterizing situations accurately—no matter how difficult those situations may be—in order to draw attention to those crises and to remind states of their responsibilities.**

Secondly, there remains some suspicion among organizations involved in humanitarian work about the political and coercive aspects of RtoP. This is a real challenge. We all may be directed toward protection but there is an understandable concern about the potential politicization of humanitarian efforts, Dr. Welsh said.

Thirdly, there is continued difficulty in mobilizing the UN and other organizations for prevention and early action versus crisis response. **Dr. Welsh asserted her firm belief that in the next decade of RtoP, the key to realizing prevention is to make atrocity crime prevention and response a ‘normal’ rather than exceptional way that organizations and actors function.** Much can be gained by utilizing existing information gathering and analysis techniques, and embellishing them with a framework that specifically focuses on the risk factors for atrocity crimes and establishes a process for identifying and elevating situations of concern to decision makers. Dr. Welsh noted that her office is trying to do this through the UN Human Rights Up Front program,

by helping to define criteria that the UN will use for identifying situations at risk and mobilizing early action.

**In order to make sustained progress, we also need to continue to raise the place of atrocity crime prevention and response in the hierarchy of national priorities.** Atrocity prevention should not just play a role in what national governments do in multinational forums, but also in what they do at home. Legislative bodies play a key role here, and we are only beginning to consider how they can play a part in the implementation of RtoP, Dr. Welsh said.

Fourth, some of the crises we face today are very different from those that were in the minds of the norm entrepreneurs at the end of the 1990s when the idea of RtoP was developed. Syria has proved to be an intractable conflict where the erosion of humanitarian principles on all sides and the irresponsibility of actors in the region—particularly in supplying weapons—has challenged the collective security system of the UN.

The final challenge raised by Dr. Welsh relates to the issues surrounding the use of military force. There remain vital legal questions surrounding the use of force. For example, if force cannot be used legally without authorization from the Security Council, what do we do in situations where the Council is paralyzed? If regional organizations have an intervention mechanism, do they need Council authorization prior to action? There are also operational questions involved. How can protection actually be achieved through military means? What can air power achieve, and where does it remain insufficient? How can we ensure that we minimize harm through the use of military means? How do we ensure that we act proportionately and comply with international humanitarian law?

These questions are all part of the agenda of ‘responsible protection.’ And there are postwar challenges as well. How can better we estimate the impact of using potentially destructive means and better prepare for the task of rebuilding? **It has become a moral imperative for decision makers to better anticipate the consequences of using military means and to plan for those as best as they can.**

Dr. Welsh also noted the complex issues surrounding contexts involving non-state actors, and the practice of providing military assistance to states that are facing non-state actors who are perpetrators of atrocity crimes. While she agreed that such military assistance can save lives, it also raises a set of legal and political issues that require consideration. Where the Security Council or regional organizations have authorized the provision of military assistance, the legality is relatively straightforward. The same is true of third-party military action where a state explicitly requests assistance. But when do those providing assistance become parties to the conflict? How do those providing assistance ensure that those engaged in action against non-state actors are not themselves committing gross violations of human rights or international humanitarian law?

The invitation of a government to provide assistance is not the beginning and the end of the story. Examples of military assistance to states facing threats from non-state actors also illustrate the potential convergence of the RtoP agenda and the counter-terrorism agenda. This convergence is controversial

for many who want to ensure that RtoP maintain a strong human rights focus.

2015 offers us an opportunity to reflect on these challenges and take stock of RtoP. How has implementation progressed? What are the best practices? Where are the gaps? And what should our priorities be nationally, regionally, and globally? How do we make regional organizations and the UN work more effectively together and build a real partnership for protection? We need to remain optimistic about what RtoP can contribute. **RtoP remains a very critical and welcome clarification of standards and responsibilities for protection that values both vulnerable populations and state sovereignty.** The Secretary-General has emphasized that RtoP is designed to be an ally of state sovereignty and enhance the capacity of states to protect their populations.

But optimism needs to be coupled with a keen appreciation of where we still need to go. RtoP is only ten years old, and only in the first phase of its normative evolution. We need to talk honestly about what it has achieved and what it still might achieve. Think, for example, how long it has taken to entrench the human rights agenda and to ensure that human rights norms are deeply embedded in societies, in legislation, and in social programs. This was not a straightforward process. There were contestations, setbacks, and critiques. So it will be with RtoP.

## Third Panel: The Future of the Responsibility to Protect

The third panel discussed how the Responsibility to Protect (RtoP) has evolved in the geopolitical landscape. Particular focus was placed on both broadening and deepening international commitment to RtoP principles as well as the results of empirical research on the relevance of the norm. Prevention, protection, and prosecution inclusive of their respective linkages were discussed as well.

Questions considered by the panel: How has RtoP evolved since its adoption at the 2005 World Summit? How have the 2011 intervention in Libya and failure of the Security Council to address the situation in Syria impacted RtoP? Do member states still utilize RtoP language and mandates? How can RtoP overcome political gridlock at the Security Council? How do you foresee RtoP changing international atrocity prevention over the next ten years?

### Panelists

- Chair: Michael Doyle, Columbia Global Policy Initiative
- Dr. Jennifer Welsh, Special Adviser to the Secretary-General on RtoP
- Ambassador Antonio de Aguiar Patriota, Permanent Representative of Brazil to the United Nations
- Ambassador Karel J.G. van Oosterom, Permanent Representative of the Kingdom of the Netherlands to the United Nations and Co-Chair of the Group of Friends for RtoP
- Maggie Powers, Columbia Global Policy Initiative
- Philipp Rotmann, Global Public Policy Institute

A simplified and well-circulated story suggests that international action in Libya and inaction in Syria has signaled the end of RtoP. However, empirical research presented by a panelist and widely supported by the remainder concluded that RtoP in fact remains widely referenced and broadly integrated in UN justificatory discourse. Such research is useful in breaking down stereotypes about the scope and nature of opposition to RtoP. Empirical research helps to remove assumptions that skepticism is based on ill motives.

In an analysis of UN Security Council resolutions and presidential statements from 2005 through February 2014, the panelist found that there were only six references to RtoP before March 2011 (including the authorization of the use of force in Libya). After the Libya intervention, there were more than six times as many references, with 15



Ambassador Karel J.G. van Oosterom, Philipp Rotmann, Jennifer Welsh, Michael Doyle, Ambassador Antonio Patriota, & Maggie Powers.

resolutions and 11 presidential statements of the Security Council citing RtoP.

The panelist also noted that **79 different member states have made a total of 248 affirmations of RtoP in the Security Council since March 2011. Only five states – Syria, Sudan, Nicaragua, Venezuela, and Russia – made negative references to RtoP in that time.** The panelist asserted that these empirical results reveal the Security Council's continued and increasing use of RtoP frameworks despite the perceived backlash of Libya.

Moreover, debates today no longer focus on what RtoP is—instead, discourse is focused on how to practically and effectively implement the norm. Yet, broad use of the language, while a strong and generally positive indicator that demonstrates the currency the norm possesses, may have a corresponding negative quality. The panel expressed universal concern over the misuse of RtoP language by some nations as a way to masquerade ulterior motivations for unsanctioned intervention.

Panelists thus agreed that no matter how often RtoP language is used, it still must be applied prudently and ethically in line with the normative framework as expressed in the three pillars.

Through this lens one can reassess the lessons of Libya and Syria. One panelist pointed out that the Libyan situation is not necessarily the consequence of RtoP, and the lesson drawn should not be that coercive action is always wrong. Similarly, the Syrian situation reminds us of the cost of inaction. The fact is that the international community is neither perfect nor omniscient, and several panelists mentioned that actors need a sense of humility, flexibility, and openness for constant learning. Recognizing the failures of Libya and Syria is not solace to the lives lost, but it can serve as strong motivation to improve.

With general agreement reached on the aforementioned elements of the current landscape, the panel focused on the practical challenges of prevention, protection, and pos-hoc accountability mechanisms. With

respect to prevention, panelists considered practical limitations and expectations of such mechanisms. Early warning is challenged by biases—or assumed biases—of information and general public skepticism towards perceived ‘Western based’ organizations. Reduction of biases and skepticism through improvements in the moral authority of such institutions is imperative, one panelist suggested.

An online participant from São Paulo broached an important question in asking how to advance early warning without raising concern over external surveillance. On this issue, the panel asserted that global fora and mechanisms might not always be best suited for this work and often regional or bilateral influence is more effective. An option to ameliorate concerns with respect to global fora is to universalize periodic reviews. Focal point networks are useful because they are peer-to-peer, and civil society plays a strong role in reducing misreporting and misrepresentation of events. Finally, the power of social media was addressed and considered favorable for galvanizing international support to prevent atrocity crimes and drawing attention to urgent crises.

With respect to protection, the panel unanimously supported the premise behind the Responsibility while Protecting (RwP), but some expressed concern that the agenda lacked concrete ideas. The panel emphasized, in line with Pillar Two of RtoP, that protection does not necessarily imply forcible military action. Effective protection can come in a variety of forms, including development assistance or economic support. At the same time, a panelist noted that all development is not structural prevention; otherwise there would never be atrocity crimes. A panelist provocatively suggested that every prevention attempt

should be treated as an experiment in order to build in the highest level of flexibility for continuous learning and to not become locked into certain irreversible paths.

In concluding remarks on the conference’s two days of discussion, the panelists noted that the RtoP agenda is alive and well and needs to be realized. The panelists then laid out a series of questions that remained after the conference and recommendations for how to move forward. They asserted that the RtoP agenda needs to address two issues of vital concern. First, prevention remains an unrealized component of the RtoP framework. Second, accountability has been a weak element in the protection agenda embodied in Pillar Three.

With regard to prevention, we have not yet fully incorporated the academic knowledge and understanding of the origins of conflict into our debate. **We have not yet defined what analytic capabilities would supplement the goal of prevention, whether in the UN Secretariat, in regional organizations, or through networks of NGOs. We have not fully made the case for how to combine the tools that one could bring to bear with regard to prevention activities.** We know there is a gap but we do not yet understand what the right institutional structures are to tackle prevention at the global or regional level. Is this a role for ECOSOC, or a revitalized Peacebuilding Commission or is this something that should be embodied in the Human Rights Council or in some new body that might be established? Until we deal with those hard problems we will not be confident that a new emphasis on prevention is anything other than the status quo. Real intellectual work needs to be done in these areas.

No matter how good prevention and assistance are, we know that there will be

emergencies that will require some form of a Pillar Three engagement. There again we need a better sense of what the range of mechanisms are from diplomacy and sanctions through targeted forms of force and lastly the need to rebuild. We need accountability in practice so that mandates that are handed out are not run away with. We have come to the end of the era of blank checks from the Security Council. The question is what kinds of mandates are written and how they are interpreted by those who can implement them. That will be a major ongoing discussion.

We also need to take stock of the ongoing and evolving history of RtoP. Much as Kofi Annan established lessons learned mechanisms to assess the new style of peacekeeping missions in the early 1990s, **RtoP activities need a lessons learned capacity to try to learn from these critical events. A meeting with the UN Secretariat, key member**

**states, and academics should convene for a no-holds barred debate over Libya to come to some common understanding of the history and what can be learned from it. It is time also to have a retrospective on the failure to act on Syria.**

This agenda requires political leadership, and the General Assembly has a vital role to play. One panelist called on the Special Adviser to reach out to academics around the world who are engaged in these topics and recruit them as an informal research community. Academics and NGOs should step up and provide the necessary in-depth research to assess and recommend improvements in policy. All of these steps need to be taken for the Responsibility to Protect to move forward and for effective and responsible prevention and response to situations of genocide, crimes against humanity, war crimes, and ethnic cleanings.



Columbia University Faculty House, 10 April 2015.

## Recommendations for Progress

### United Nations

- **UN Group of Friends of RtoP should formally discuss RWP and the need for monitoring and accountability mechanisms for Pillar Three RtoP frameworks**
- **Through the General Assembly and Security Council thematic debates on protection of civilians, hold a thorough and candid discussion on the opportunities and limitations of peacekeeping for protection of civilians and develop lessons learned for protection of civilians mandate creation**
- **General Assembly should discuss the link between structural prevention and long-term peacebuilding within the RtoP framework**
- **Improve governance mechanisms and participation in the UN Security Council**
- **Member states should debate clearer threshold criteria for interventions using lessons learned from successful and failed interventions**
- **Recognize the positive prevention action under RtoP in the 2008 and 2013 Kenyan engagement and consider this an example for other early warning and early prevention activities**



## Governments and Regional Organizations

- **Consider the use of bilateral state relationships, foreign direct investment, and international financial institutions as other avenues for effective prevention and diplomacy**
- **Universalize periodic reviews before relevant global bodies and recognize the importance of regional and sub-regional institutions, particularly civil society, in early warning**
- **Take a strong role as champions of RtoP in their national policies and within international and regional organizations**
- **Ensure that mass atrocity crimes and accountability for mass atrocities is fully incorporated into national law**

## Academics and Civil Society

- **Provide in depth analysis of prevention analytics, the full range of measures of RtoP implementation, and options for accountability mechanisms for use of force mandates**
- **Host lessons learned retrospectives on the crises in Libya and Syria with key members of the UN Secretariat and member states**

# Appendix

## CONFERENCE AGENDA

### **The Future of the Responsibility to Protect: Responsibility While Protecting and Implementation Mechanisms**

**April 9 -10 | Columbia University Faculty House**

#### **Keynote Speakers**

- Ambassador Antonio de Aguiar Patriota, Permanent Representative of Brazil to the UN
- Dr. Jennifer Welsh, Special Adviser to the Secretary-General on the Responsibility to Protect

*Thursday, April 9*

#### **Welcome Dinner**

- Michael Doyle, Welcome and introduction

#### **Keynote: Ambassador Patriota on the Responsibility while Protecting and how to implement the Responsibility to Protect**

*Friday, April 10*

#### **Welcome and Introductions**

- Michael Doyle, Columbia Global Policy Initiative

#### **A Case for Responsibility while Protecting**

Questions to consider: What is the Brazilian concept Responsibility while Protecting (RwP)? How does RwP change RtoP? What direct policy implications does RwP have and what should states do to further RwP's normative development?

- Moderator: Ambassador Patriota
- Gustavo Carlos Macedo, University of São Paulo
- João Marcos Leme, Brazilian Embassy London
- Antonio Jorge Ramalho, University of Brasilia
- Kai Michael Kenkel, Instituto de Relações Internacionais at PUC-Rio

### **Operationalizing Responsibility to Protect: examining the full range of implementation mechanisms**

Questions to consider: How should RtoP be implemented from prevention to reaction? What are best practices for civilian protection and peacekeeping? How was RtoP used as a mediation tool in Kenya? What is the role of sanctions as a tool for atrocity prevention? Can force protect and, if so, when can it legitimately be used?

- Moderator: Simon Adams, Global Centre for the Responsibility to Protect
- Emily Paddon, Columbia University
- Elisabeth Lindenmayer, Columbia University
- Robert Pape, University of Chicago
- Helen Mulvein, Legal Counsellor for the UK Mission to the UN

### **Keynote: Dr. Jennifer Welsh and the Future of Responsibility to Protect**

#### **The Future of Responsibility to Protect**

Questions to consider: How has RtoP evolved since its adoption at the 2005 World Summit? How have the 2011 intervention in Libya and failure of the Security Council to address the situation in Syria impacted RtoP? Do member states still utilize RtoP language and mandates? How can RtoP overcome political gridlock at the Security Council? How do you foresee RtoP changing international atrocity prevention over the next ten years?

- Moderator: Michael Doyle
- Respondent: Dr. Welsh
- Ambassador Patriota
- Ambassador Karel J.G. van Oosterom, Permanent Representative of the Kingdom of the Netherlands to the UN (Co-chair of Group of Friends for RtoP)
- Maggie Powers, Columbia Global Policy Initiative
- Philipp Rotmann, Global Public Policy Institute

## MEETING PARTICIPANTS

<b>Audrey ABAYENA</b>	Minister Counsellor, Permanent Mission of Ghana to the UN
<b>Simon ADAMS</b>	Executive Director, Global Centre for the Responsibility to Protect
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<b>Erik LINDBLAD</b>	Student Rapporteur, Columbia Global Policy Initiative
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<b>William R. PACE</b>	Executive-Director of the World Federalist Movement-Institute for Global Policy (WFM-IGP)
<b>Emily PADDON</b>	Rose Research Fellow in International Relations at the University of Oxford; European Research Council (ERC) Postdoctoral Fellow on the 'Individualisation of War' project; Visiting Scholar, Columbia University
<b>Robert A. PAPE</b>	Professor of Political Science, University of Chicago; Director, Chicago Project on Security and Terrorism
<b>Angela PATNODE</b>	Program Associate, International Coalition for the Responsibility to Protect

<b>Antonio DE AGUIAR PATRIOTA</b>	Permanent Representative of Brazil to the UN
<b>Urša PONIKVAR</b>	Third Secretary, Permanent Mission of Slovenia to the UN
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<b>Itai SNEH</b>	Associate Professor, John Jay College of Criminal Justice
<b>Sila SONMEZ</b>	Student Rapporteur, Columbia Global Policy Initiative
<b>Jaclyn STREITFELD-HALL</b>	Research & Publications Officer, Global Centre for the Responsibility to Protect
<b>Marcos TOURINHO</b>	Research Fellow, Fundação Getulio Varga, Center for International Relations São Paulo
<b>Patrick TRAVERS</b>	Consultant, Office on Genocide Prevention and the Responsibility to Protect, UN Department of Political Affairs
<b>Karel J. G. VAN OOSTEROM</b>	Permanent Representative of the Kingdom of the Netherlands to the UN
<b>Thomas G. WEISS</b>	Director Emeritus of the Ralph Bunche Institute for International Studies; Presidential Professor of Political Science at The Graduate Center, CUNY (The City University of New York); Research Professor at SOAS, University of London
<b>Jennifer WELSH</b>	Special Adviser to the UN Secretary-General on the Responsibility to Protect; Professor in International Relations, University of Oxford; Professor and Chair in International Relations, European University Institute; Senior Research Fellow, Somerville College
<b>Martin WELZ</b>	University of Konstanz; Visiting Fellow, SIPA, Columbia University

## PANELIST BIOGRAPHIES

### PANEL 1: A CASE FOR RESPONSIBILITY WHILE PROTECTING

**Antonio de Aguiar Patriota** is the Permanent Representative of Brazil to the United Nations. He was Minister of External Relations of Brazil from January 2011 to August 2013; Deputy Foreign Minister from October 2009 to December 2010; Ambassador of Brazil to the United States from 2007 to 2009; Undersecretary General for Political Affairs at the Foreign Ministry from 2005 to 2007; Chief of Staff to the Foreign Minister, in 2004; and Secretary for Diplomatic Planning at the Foreign Ministry, in 2003.

Overseas, he served at Brazil's Permanent Mission to the International Organizations in Geneva (1999-2003), having acted for two years as Deputy Permanent Representative to the World Trade Organization; at Brazil's Permanent Mission to the United Nations in New York (1994-1999), where he was a member of the Brazilian Delegation to the U.N. Security Council; at the Embassies of Brazil in Caracas (1988-1990) and Beijing (1987-1988); and at Brazil's Permanent Mission in Geneva (1983-1987).

**Gustavo Carlos Macedo** is a PhD Candidate in Political Science at University of São Paulo (Brazil). He was also a Visiting Scholar at Columbia University (New York, US) from 2014 to 2015. Mr. Macedo is ISA's Additional Representative at the United Nations (New York, US). He was a researcher of the Brazilian Truth Commission (2013-2014). He received his MA in Political Science at University of São Paulo (Brazil), and his BA in Social Sciences at State University of Campinas (Brazil), and at Goldsmiths College at the University of London (UK). Mr. Macedo is a researcher at the International Relations Research Center (Brazil), and a Collaborative Researcher at the Human Rights Group of the National Institute of Studies on the United States (NISUS). He is a member of the Doctoral School at SciencesPo (France). Currently, he is the coordinator of International Relations Working Group of the Brazilian Graduation Forum of Political Science. He has experience in the following topics: international politics, use of force and human rights.

**João Marcos Paes Leme**, a career diplomat, joined the Brazilian Foreign Service in 1998. He has been a political counsellor at the Embassy of Brazil in London since February 2013. Prior to this posting he worked as an advisor to Brazil's Foreign Minister (2011-12) and as press officer at the Ministry of Foreign Relations (2009-10) in Brasilia. He was also posted to Moscow (2007-9) and Brussels (2004-7). In 2013, he wrote *The Responsibility to Protect*,

before and after the intervention in Libya: a Brazilian perspective, a thesis defended before Brazil's diplomatic academy, Instituto Rio Branco.

**Antonio Jorge Ramalho** holds a PhD in Social Sciences from the University of São Paulo and two MAs (International Relations from the Maxwell School of Citizenship and Public Affairs, and Political Science from IUPERJ). He has taught International Relations (IR) at the University of Brasilia since 1993. He has also worked as special advisor to the Minister of Defense since mid-2012. He chaired the Department of IR at the University of Brasilia for two terms and also directed both the Department of Cooperation of the Brazilian Ministry of Defense and the Brazilian Cultural Center at Port-au-Prince. He also worked as Chief of Staff to the National Education Development Fund and Senior Civilian Defense Assistant to the Secretariat for Strategic Affairs of the Brazilian Presidency of the Republic. His research focuses on International Security, Peacekeeping Operations, and Brazilian Foreign & Defense Policies.

**Kai Michael Kenkel** graduated in with an MA in International Relations from Johns Hopkins University and with a Ph.D. in International Relations from the Institut Universitaire de Hautes Etudes Internationales in Geneva. He publishes in the areas of peace operations, humanitarian intervention, responsibility to protect (R2P), civilian-military relations and light weapons. Professor Kenkel teaches and guides in the area of international security, with an emphasis on intervention and peace operations. He is the editor of the journal "Contexto Internacional".

## **PANEL 2: OPERATIONALIZING RESPONSIBILITY TO PROTECT: EXAMINING THE FULL RANGE OF IMPLEMENTATION MECHANISMS**

**Simon Adams** is Executive Director of the Global Centre for the Responsibility to Protect. Established in 2008 with the support of international human rights leaders including former UN Secretary-General Kofi Annan, as well as supportive governments and organizations such as Refugees International, Human Rights Watch and International Crisis Group, the Global Centre is the world's leading research and advocacy organization for advancing the international norm of the Responsibility to Protect (R2P) at the United Nations and beyond. Dr. Adams has worked extensively with governments and civil society organizations in South Africa, East Timor, Rwanda, Mozambique and elsewhere. Between 1994 and 2002 Dr. Adams worked with Sinn Féin and former IRA prisoners in support of the Northern Ireland peace process. He is also a former antiapartheid activist and member of the African National Congress.

Dr. Adams is the author of four books and numerous academic articles with a focus on international conflict. He has also written for the New York Times, Chicago Tribune, The Australian, Huffington Post, International Herald Tribune, News24 (South Africa), O Estado de S. Paulo (Brazil), Los Angeles Times and many other publications. Dr. Adams has appeared as an expert commentator on Al-Jazeera, BBC, ARD (Germany), Chinese Central Television and



numerous other media. Dr. Adams studied at the University of Witwatersrand in South Africa and at the University of New South Wales in Australia, where he received his Ph.D. He is also a graduate of the Executive Leadership Program at the Harvard Business School.

**Emily Paddon** is the Rose Research Fellow in International Relations at Lady Margaret Hall (University of Oxford) and a European Research Council (ERC) Postdoctoral Fellow on the 'Individualization of War' project. She is an elected fellow of the Rift Valley Institute and co-founder of the Oxford Central Africa Forum (OCAF). Her research focuses on the politics and practices of United Nations peacekeeping, humanitarianism and civilian protection with a geographical focus on sub-Saharan Africa where she has conducted extensive fieldwork. She is currently finishing a book entitled "Taking Sides in Peacekeeping: Impartiality and the Future of the United Nations" (in contract with Oxford University Press) and her research has been published in several peer reviewed journals including Security Dialogue, International Peacekeeping, and Africa: The Journal of the International African Institute. She has worked as a consultant for the Canadian Department of Foreign Affairs and International Trade, the Danish Refugee Council, the Swedish International Development Cooperation Agency, the Oxford Institute for Ethics Law and Armed Conflict, and Oxford Analytica.

Emily holds a DPhil and MPhil in International Relations from the University of Oxford, where she was a Trudeau Scholar, Clarendon Scholar and Canadian Department of National Defence Scholar. She has also been a visiting fellow at the International Peace Institute (IPI), an Action Canada public policy fellow, and a Sauve scholar at McGill University. She is a visiting scholar at Columbia University for the 2014-15 academic year.

**Elisabeth Lindenmayer** is the Director of the UN Studies Program and Acting Director of the International Conflict Resolution Specialization at Columbia University's School of International and Public Affairs (SIPA). She teaches courses on the UN Security Council, peacekeeping and peace building in Africa and the United Nations in a global world. Her program seeks to promote academic research on topics that are most relevant to practitioners at the United Nations, as well as to policy makers and academic institutions. She also serves as a Senior Advisor to the Center for International Conflict Resolution at Columbia and teaches in the Honor's Program at New York University. Professor Lindenmayer is a member of the Advisory Panel of the Security Council Report. She also serves as a board member of the Kofi Annan Foundation. She was part of the Kofi Annan Mediation Team in 2008, which led to a coalition government in Kenya. She has published the story of the crisis in an article entitled "Kenya: A Choice for Peace? The Story of the 44 Days of Mediation."

In 1997 Professor Lindenmayer was selected to serve in the Office of Secretary General Kofi Annan as his Executive Assistant, where she served as an advisor and led the many teams that accompanied him to his political missions around the world. From 2004-2005, Professor Lindenmayer was promoted to the Assistant Secretary General level and named Deputy Chef de Cabinet, which placed her at the center of the preparations for the largest ever summit on UN reform in 2005.

**Robert A. Pape** is Professor of Political Science at the University of Chicago, and Director of the Chicago Project on Security and Terrorism. He is one of the world's foremost experts on humanitarian intervention, economic sanctions, strategic air power, and terrorism. His books include *Cutting the Fuse: The Global Expansion of Suicide Terrorism and How to Stop It* (2010), *Dying to Win: The Strategic Logic of Suicide Terrorism*, and *Bombing to Win: Airpower and Coercion in War* (1996). Dr. Pape received his PhD from the University of Chicago in 1988 and graduated *summa cum laude* and Phi Beta Kappa from the University of Pittsburgh in 1982. His current work focuses on the targeting logic of suicide terrorist organizations, humanitarian intervention policy, and the future of US-China relations.

**Helen Mulvein** OBE is Legal Counsellor, Foreign & Commonwealth Office. Ms. Mulvein joined the United Kingdom's Foreign & Commonwealth Office (FCO) as a Legal Adviser in 2000 after five years in private practice as a barrister, and has advised a range of policy departments throughout her FCO career. She was posted to Baghdad as the Legal Adviser to the UK Special Representative for Iraq in 2004, and to Strasbourg as the Deputy Permanent Representative of the UK to the Council of Europe from 2006-09. After her return to the FCO in 2009, she headed the Counter-Terrorism & Human Rights Team in the FCO's Legal Directorate, whose work included the Middle East and North Africa, Eastern Europe and Central Asia (including Russia and Ukraine), the Americas, Counter-Terrorism, and Human Rights (including European Court of Human Rights litigation).

Since July 2014 Helen has been the Legal Counsellor at the UK Mission to the United Nations, New York. With the First Secretary (Legal), she is responsible for providing legal advice to the Mission on all legal issues arising in UN work, and policy advice on international criminal justice matters.

### **PANEL 3: THE FUTURE OF RESPONSIBILITY TO PROTECT**

**Michael W. Doyle** is the director of the Columbia Global Policy Initiative and University Professor, affiliated with the School of International and Public Affairs, the Department of Political Science, and the Law School. His research interests include international relations theory, international law, international peace-building and the United Nations. From 2006 to 2013, Doyle was an individual member and the chair of the UN Democracy Fund, a fund established in 2005 by the UN General Assembly to promote grass-roots democratization around the world.

Doyle previously served as assistant secretary-general and special adviser for policy planning to United Nations Secretary-General Kofi Annan. He formerly taught at Princeton University, Johns Hopkins University, and the University of Warwick in the United Kingdom.

**Jennifer Welsh** was appointed in July 2013 by United Nations Secretary-General Ban Ki-moon as his Special Adviser at the Assistant Secretary-General level on the Responsibility to Protect. Ms. Welsh works under the overall guidance of Adama Dieng, the Secretary-General's Special Adviser on the Prevention of Genocide, to further the conceptual, political, institutional and operational development of the responsibility to protect concept, as set out by the General Assembly in paragraphs 138 and 139 of the 2005 World Summit Outcome document. Currently, a Professor and Chair in International Relations at the European University Institute in Florence, Ms. Welsh's research projects include the evolution of the "responsibility to protect" in international society, the ethics of post-conflict reconstruction, the authority of the United Nations Security Council and the notion of sovereignty.

Ms. Welsh was previously Professor of International Relations and Co-Director of the Oxford Institute for Ethics, Law and Armed Conflict at the University of Oxford, Associate Director of the Peace and Conflict Studies Programme at the University of Toronto, Cadieux Research Fellow on the policy planning staff of Canada's Department of Foreign Affairs and Jean Monnet Fellow of the European University Institute. She has also taught international relations at McGill University and at the Central European University, in addition to having published widely on the responsibility to protect and atrocity prevention. She has worked as a consultant to the Government of Canada on international policy and has been a frequent commentator in the Canadian media on foreign policy and international relations.

**Antonio de Aguiar Patriota** is the Permanent Representative of Brazil to the United Nations. He was Minister of External Relations of Brazil from January 2011 to August 2013; Deputy Foreign Minister from October 2009 to December 2010; Ambassador of Brazil to the United States from 2007 to 2009; Undersecretary General for Political Affairs at the Foreign Ministry from 2005 to 2007; Chief of Staff to the Foreign Minister, in 2004; and Secretary for Diplomatic Planning at the Foreign Ministry, in 2003.

Overseas, he served at Brazil's Permanent Mission to the International Organizations in Geneva (1999-2003), having acted for two years as Deputy Permanent Representative to the World Trade Organization; at Brazil's Permanent Mission to the United Nations in New York (1994-1999), where he was a member of the Brazilian Delegation to the U.N. Security Council; at the Embassies of Brazil in Caracas (1988-1990) and Beijing (1987-1988); and at Brazil's Permanent Mission in Geneva (1983-1987).

**Karel J.G. van Oosterom** is the new Permanent Representative of the Netherlands to the United Nations in New York, and presented his credentials to UN Secretary-General Ban Ki-moon on August 5th, 2013. Mr. van Oosterom's most recent posting was as the Director-General for Political Affairs in the Netherlands Ministry of Foreign Affairs, a post he held since 2011. Prior to that, between 2006 and 2011, he was Foreign Policy and Defence Advisor to the Prime Minister. A career diplomat for almost 30 years, he held several positions in the Ministry of Foreign Affairs, including as Deputy Head of Mission at the Dutch Embassy in Beijing, from 2002 to 2006. During a six-year stint in the Ministry's European Affairs Department, he served

most recently as the Department's Deputy Director from 2000 to 2002, as well as Head and Deputy Head of the Western European Division from 1998 to 2000 and from 1996 to 1998 respectively.

Among his other posts, Mr. van Oosterom was based in Damascus, from 1992 to 1996, at the Netherlands Embassy as First Secretary. He served in the Atlantic and Security Policy Department in The Hague from 1988 to 1992. His first role after his diplomatic training course was a two-year stint as Third Secretary of the Netherlands Embassy in Ottawa, Canada.

**Maggie Powers** is a Project Coordinator with the Columbia Global Policy Initiative. Ms. Powers has been with the Global Policy Initiative since its inception in 2013. She serves as the lead coordinator for the Initiative's joint project on International Migration with the Office of the United Nations Special Representative of the Secretary-General for International Migration and Development. The Project is a multi-year venture that aims to develop a new international migration agenda for the coming decade.

Ms. Powers has also researched the normative evolution of the Responsibility to Protect at the United Nations and the impact of the 2011 Libyan intervention on the norm's development. She completed an empirical study of over 3,400 UN documents to track member-state usage of Responsibility to Protect from 2005-2014. This work found that the backlash following the Libyan intervention did not decrease rhetorical acceptance of the Responsibility to Protect at the UN and, instead, the norm has become further entrenched and is increasingly utilized in the Security Council and Human Rights Council. A summary of her research was published in "The Responsibility to Protect After Libya" on openDemocracy.com (June 24, 2014). Her full study will be published in a forthcoming article in *The International Journal of Human Rights* entitled "Responsibility to Protect: Dead, Dying, or Thriving?" (To be published summer/fall 2015). Ms. Powers is a graduate of Columbia University with a Master of Arts in Human Rights Studies.

**Philipp Rotmann** is associate director of the Global Public Policy Institute. His areas of interest include global security governance, conflict management and peace building in a changing global order, with a particular focus on peace operations, justice and security sector development as well as the protection of civilians. Currently, he leads projects on atrocity prevention, peacekeeping and security sector reforms and coordinates collaborative research on Global Norm Evolution and the Responsibility to Protect, with partners from Brazil, China, India, and across Europe.

## DOCUMENTS OF NOTE

- **Paragraphs 138-140, World Summit Outcome Document, 2005 (text below)**
- **[Security Council Resolution 1970 \(2011\)](#)**
- **[Security Council Resolution 1973 \(2011\)](#)**
- **Brazilian Concept Note on the Responsibility while Protecting, 2011 (text below)**
- **[“Effective and Responsible Protection from Atrocity Crimes: Toward Global Action,”](#) Berlin: Global Public Policy Institute, April 2015.**

## PARAGRAPH 138-140, WORLD SUMMIT OUTCOME DOCUMENT

### **Heads of state and government agreed to the following text on the Responsibility to Protect in the Outcome Document of the High-level Plenary Meeting of the General Assembly in September 2005**

138. 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, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. 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.

139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, 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 manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. 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.

140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.

## 2011 BRAZILIAN CONCEPT NOTE ON RESPONSIBILITY WHILE PROTECTING

United Nations

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Security Council**

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**Sixty-sixth year**

**Integrated and coordinated implementation of and  
follow-up to the outcomes of the major United Nations  
conferences and summits in the economic, social and  
related fields**

**Follow-up to the outcome of the Millennium Summit**

### **Letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General**

At the open debate of the Security Council on the protection of civilians in armed conflict, held on 9 November 2011, I had the honour of delivering a statement on behalf of Ambassador Antonio de Aguiar Patriota, Minister of External Relations of Brazil, expressing Brazil's view that the international community, as it exercises its responsibility to protect, must demonstrate a high level of responsibility while protecting. In this regard, I am enclosing a concept note developed by the Government of Brazil on this issue entitled "Responsibility while protecting: elements for the development and promotion of a concept" (see annex).

I should be grateful if you would circulate the text of the present letter and its annex as a document of the General Assembly, under agenda items 14 and 117, and of the Security Council.

*(Signed)* Maria Luiza Ribeiro **Viotti**  
Ambassador  
Permanent Representative

**Annex to the letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General**

**Responsibility while protecting: elements for the development and promotion of a concept**

1. Since the adoption of the Charter of the United Nations, in 1945, the thinking on the relationship between the maintenance of international peace and security and the protection of civilians, as well as on corresponding action by the international community, has gone through many stages.

2. In the 1980s, voices emerged in defence of the idea of humanitarian intervention, of a *droit d'ingérence*.

3. On its sixtieth anniversary, the United Nations incorporated the concept of the responsibility to protect in paragraphs 138 and 139 of the 2005 World Summit Outcome (General Assembly resolution 60/1), in terms and using parameters that were the result of long and intense negotiations.

4. The concept of the responsibility to protect is structured in three pillars. The first pillar identifies the State as the primary bearer of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The second pillar stresses the role of the international community in providing cooperation and assistance to allow States to develop local capacities that will enable them to discharge that responsibility. The third pillar, which applies to exceptional circumstances and when measures provided for in the first and second pillars have manifestly failed, allows for the international community to resort to collective action, in accordance with the norms and procedures established in the Charter.

5. In addition to recognizing that each individual State has the primary responsibility for protecting its own population, the 2005 World Summit Outcome placed limitations on the use of force by the international community in the exercise of its responsibility to protect: (a) material (genocide, war crimes, ethnic cleansing and crimes against humanity); (b) temporal (upon the manifest failure of the individual State to exercise its responsibility to protect and upon the exhaustion of all peaceful means); and (c) formal (through the Security Council, in accordance with Chapters VI and VII of the Charter and on the basis of a case-by-case evaluation).

6. The three pillars must follow a strict line of political subordination and chronological sequencing. In this sequencing, it is essential to distinguish between collective responsibility, which can be fully exercised through non-coercive measures, and collective security. Going beyond the exercise of collective responsibility and resorting to mechanisms in the domain of collective security implies that a specific situation of violence or threat of violence against civilians should be characterized as a threat to international peace and security. Needless to say, it is necessary to clearly differentiate between military and non-military coercion, with a view to avoiding the precipitous use of force.

7. Even when warranted on the grounds of justice, legality and legitimacy, military action results in high human and material costs. That is why it is imperative to always value, pursue and exhaust all diplomatic solutions to any given conflict.



As a measure of last resort by the international community in the exercise of its responsibility to protect, the use of force must then be preceded by a comprehensive and judicious analysis of the possible consequences of military action on a case-by-case basis.

8. Violence against civilian populations must be repudiated wherever it takes place. The 1990s left us with a bitter reminder of the tragic human and political cost of the international community's failure to act in a timely manner to prevent violence on the scale of that observed in Rwanda. There may be situations in which the international community might contemplate military action to prevent humanitarian catastrophes.

9. Yet attention must also be paid to the fact that the world today suffers the painful consequences of interventions that have aggravated existing conflicts, allowed terrorism to penetrate into places where it previously did not exist, given rise to new cycles of violence and increased the vulnerability of civilian populations.

10. There is a growing perception that the concept of the responsibility to protect might be misused for purposes other than protecting civilians, such as regime change. This perception may make it even more difficult to attain the protection objectives pursued by the international community.

11. As it exercises its responsibility to protect, the international community must show a great deal of responsibility while protecting. Both concepts should evolve together, based on an agreed set of fundamental principles, parameters and procedures, such as the following:

(a) Just as in the medical sciences, prevention is always the best policy; it is the emphasis on preventive diplomacy that reduces the risk of armed conflict and the human costs associated with it;

(b) The international community must be rigorous in its efforts to exhaust all peaceful means available in the protection of civilians under threat of violence, in line with the principles and purposes of the Charter and as embodied in the 2005 World Summit Outcome;

(c) The use of force, including in the exercise of the responsibility to protect, must always be authorized by the Security Council, in accordance with Chapter VII of the Charter, or, in exceptional circumstances, by the General Assembly, in line with its resolution 377 (V);

(d) The authorization for the use of force must be limited in its legal, operational and temporal elements and the scope of military action must abide by the letter and the spirit of the mandate conferred by the Security Council or the General Assembly, and be carried out in strict conformity with international law, in particular international humanitarian law and the international law of armed conflict;

(e) The use of force must produce as little violence and instability as possible and under no circumstance can it generate more harm than it was authorized to prevent;

(f) In the event that the use of force is contemplated, action must be judicious, proportionate and limited to the objectives established by the Security Council;

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(g) These guidelines must be observed throughout the entire length of the authorization, from the adoption of the resolution to the suspension of the authorization by a new resolution;

(h) Enhanced Security Council procedures are needed to monitor and assess the manner in which resolutions are interpreted and implemented to ensure responsibility while protecting;

(i) The Security Council must ensure the accountability of those to whom authority is granted to resort to force.

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