

Overcoming the Deadlock in Defining and Combating International Terrorism

Introduction

The word „Terrorism“ is derived from the french *terrorisme*, originally referring to state terrorism carried out by the French government during the French revolution, especially in the period of so called Reign of Terror. The French word itself comes from the Latin *terrier*, meaning „to frighten“.

Even though the term was originally used to describe acts committed by a government, the meaning has since shifted to killing of innocent people for political purposes in such a way to create a spectacle. This meaning was used for the first time by Sergey Nechayev, founder of the Russian terrorist group „People’s Retribution“ who referred to himself as a „Terrorist“ in 1869.

Definition of Key Terms

Deadlock - Stalemate situation with no foreseeable solution in near future

Terrorism - Killing of innocent people for political purposes in such a way to create a spectacle

Comprehensive Convention on International Terrorism - Proposed treaty seeking to criminalise all forms of international terrorism and deny terrorists, their financiers and supporters access to funds, arms, and safe havens. Negotiations are currently in the state of deadlock.

Organisation of Islamic Cooperation - international organisation founded in 1969 consisting of 57 member states. The organisation states that it is "the collective voice of the Muslim world" and works to "safeguard and protect the interests of the Muslim world in the spirit of promoting international peace and harmony“. The OIC has permanent delegations to the United Nations and the European Union.

General overview

The definition of the crime of terrorism which has been on the negotiating table of the Comprehensive Convention since 2002 reads as follows:

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:

- (a) Death or serious bodily injury to any person; or*
- (b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or*
- (c) Damage to property, places, facilities, or systems referred to in paragraph 1 (b) of this article, resulting or likely to result in major economic loss,*

when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organisation to do or abstain from doing any act.

The definition itself is not controversial, the deadlock situation arises from the opposing views on whether this definition would be applicable to the armed forces of a state or a self-determination movements.

The coordinator of the negotiations, supported by most western delegations, proposed the following exceptions to address those issues:

1. *Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.*
2. *The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.*
3. *The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.*
4. *Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.*

The state members of the Organisation of the Islamic Cooperation proposed instead the following exceptions:

2. *The activities of the parties during an armed conflict, including in situations of foreign occupation, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.*
3. *The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are in conformity with international law, are not governed by this Convention.*

UN Global Counter-Terrorism Strategy

The UNGA adopted the Global Counter-Terrorism Strategy in 2006. Through its adoption that all Member States have agreed the first time to a common strategic and operational approach to fight terrorism, not only sending a clear message that terrorism is unacceptable in all its forms and manifestation but also resolving to take practical steps individually and collectively to prevent and combat it. Those practical steps include a wide array of measures ranging from strengthening state capacity to counter terrorist threats to better coordinating United Nations system's counter-terrorism activities.

The General Assembly reviews the Strategy every two years, making it a living document attuned to Member States' counter-terrorism priorities. The Fifth Review of the United Nations Global Counter-Terrorism Strategy took place on 1 July 2016.

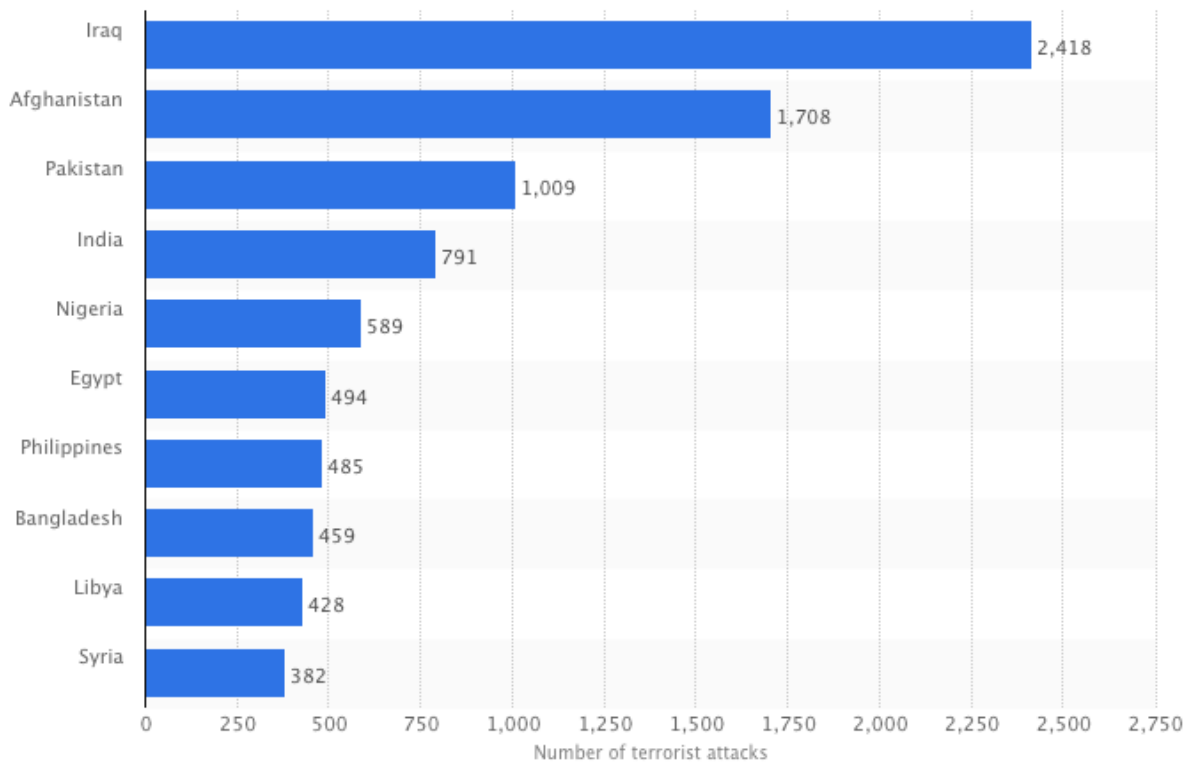
The strategy is composed of 4 pillars:

- “1. *Addressing the conditions conducive to the spread of terrorism*
2. *Measures to prevent and combat terrorism*
3. *Measures to build states' capacity to prevent and combat terrorism and to strengthen the role of the United Nations system in that regard;*
4. *Measures to ensure respect for human rights for all and the rule of law as the fundamental basis for the fight against terrorism.*¹

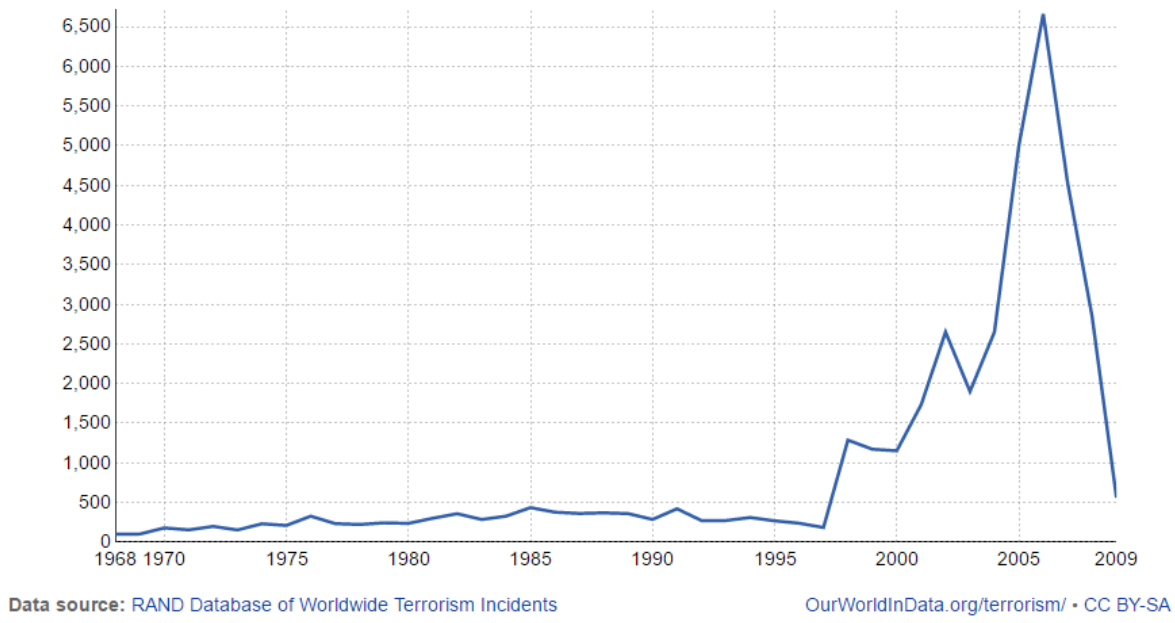
¹United Nations – Action counter terrorism: <http://www.un.org/en/counterterrorism/>



Number of terrorist attacks in 2015, by country



Total incidences of terrorism worldwide, 1968-2009



Major parties involved:

The North Atlantic Treaty Organization

The North Atlantic Treaty Organization was founded on 4th April 1949. Its purpose is to constitute a collective defence against an external threat. Three of the major member states are also permanent members of the UN Security Council.

The important milestones of dealing with international terrorism was in 1999 The Alliance's 1999 Strategic Concept which acknowledged terrorism as one of the major risks affecting the security of the member states and in September 2001 the Alliance decided to invoke collective defence clause (the Article 5 of Washington Treaty) if it is proven that the 9/11 terrorist attack had been directed from abroad.

The highlights of countering terrorism of NATO:

- *"NATO invoked its collective defence clause (Article 5) for the first and only time in response to the terrorist attacks of 11 September 2001 on the United States.*
- *NATO's Counter-Terrorism Policy Guidelines focus Alliance efforts on three main areas: awareness, capabilities and engagement.*
- *NATO develops new capabilities and technologies to tackle the terrorist threat and to manage the consequences of a terrorist attack.*
- *NATO cooperates with partners and international organisations to leverage the full potential of each stakeholder engaged in the global counter-terrorism effort.*

- *NATO supports the Global Coalition to Counter ISIL by providing NATO AWACS data to improve situational awareness*²

United states of America

*“America is at war with a transnational terrorist movement fueled by a radical ideology of hatred, oppression, and murder. Our National Strategy for Combating Terrorism, first published in February 2003, recognizes that we are at war and that protecting and defending the Homeland, the American people, and their livelihoods remains our first and most solemn obligation.”*³

The United States of America divides terrorism on domestic and international. The international terrorism are generally acts committed in violation of the criminal laws of United States, these acts are of violent nature of dangerous to human life. These acts are intended to spread fear and intimidate the population in order to affect the government legislation and its conduct. Another criterion of these acts is the transcendence of national boundaries.

The most important legislation:

- *“Executive Order 12947*
- *Executive Order 13224*
- *2001 Uniting and Strengthening America by Providing Appropriate Tools for Intercepting and Obstructing Terrorism Act (USA PATRIOT Act)*
- *Homeland Security Act of 2002*”⁴

Islamic state of Iraq and the Levant

The Islamic state of Iraq and the Levant (ISIL) is also known as The Islamic state of Iraq and Syria (ISIS) or Daesh in Arabic language. The ISIS is a Sunni extremist group which adheres the global jihadist ideology. The ISIL is closely linked to al-Qa’ida, which is a terrorist organization responsible for the terrorist attacks on 11. September 2001. The organization became al-Qa’ida affiliate in 2004. In 2013 due to the inner conflict, ISIL was formally separated and exist as a separate consolidation, active mainly in Syria and Iraq.

In order to gain new followers and get funding for their actions, the organization targets young Sunni man by encouraging them to take steps against exploitation and suppression against Sunni people by the governments of Iraq and Syria. The organisation is funded through illegal activities, mainly weapons and fighters transfer between Iraq and Syria as well as extortion, kidnapping, theft, black marketeering, smuggling and legitimate businesses.

The Islamic State is known to have engaged in acts that:

- *“cause, or could cause, serious damage to property, or the death of persons, or endanger a person’s life or create a serious risk to a person’s safety;*

² NATO – Countering terrorism: http://www.nato.int/cps/en/natohq/topics_77646.htm

³ U.S. Department of state – archive: <https://2001-2009.state.gov/s/ct/rls/wh/71803.htm>

⁴ Legislation Online: <http://www.legislationline.org/topics/country/54/topic/5>

- *are done with the intention of advancing the Islamic State's political, religious or ideological causes;*
- *are done with the intention of coercing or intimidating the government of a foreign country (be that Iraq or Syria); and*
- *are done with the intention of intimidating sections of the public globally.*⁵

al-Qa'ida

Al-Qa'ida or al-Qaeda (literally means 'The Fundament') is an extremist Sunni organization founded in 1988 by Osama bin Laden and Abdullah Azzam. Their initial intentions were to fight against the Soviet invasion of Afghanistan in 1980s. The structure of the organization is made of individual Salafist jihadists and extremist fighters.

The most famous terrorist attack of this organization was the September 11 attacks on the World Trade Center. These attacks were the initial impulse for the 'War on Terror', which was the military action against terrorism particularly against al-Qa'ida. The main target of this campaign lead by President Bush was to eliminate the organization's leaders. After successful assassination of Osama bin Laden in 2011 the organization is under leadership of Ayman al-Zawahiri.

The main goals of the organization are:

- *„Establishing the rule of God on earth*
- *Attaining martyrdom in the cause of God*
- *Purification of the ranks of Islam from the elements of depravity*⁶

Recommended literature:

- UNITED NATIONS - ACTION TO COUNTER TERRORISM:
<http://www.un.org/en/counterterrorism/>
- Terrorist Crimes and International Co-operation: Critical Remarks on the Definition and Inclusion of Terrorism in the Category of International Crimes by Marcello di Filippo 2008
- Our World in Data – Terrorism by Max Roser and Mohamed Nagdy:
<https://ourworldindata.org/terrorism/>
- U.S. Department of State – Archive: <https://2001-2009.state.gov/s/ct/rls/wh/71803.htm>

Sources:

- United Nations – Action counter terrorism: <http://www.un.org/en/counterterrorism/>
- NATO – Countering terrorism: http://www.nato.int/cps/en/natohq/topics_77646.htm
- U.S. Department of state – archive: <https://2001-2009.state.gov/s/ct/rls/wh/71803.htm>

⁵ Australian National Security – Islamic State:

<https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/IslamicState.aspx>

⁶ Global Security – Al-Qaeda: <http://www.globalsecurity.org/military/world/para/al-qaida.htm>

- Legislation Online: <http://www.legislationline.org/topics/country/54/topic/5>
- Australian National Security – Islamic State: <https://www.nationalsecurity.gov.au/Listedterroristorganisations/Pages/IslamicState.aspx>
- Global Security – Al-Qaeda: <http://www.globalsecurity.org/military/world/para/al-qaida.htm>
- Guardian – ISIS: <https://www.theguardian.com/world/isis>
- U.S. Department of State - National Consortium for the Study of Terrorism and Responses to Terrorism: Annex of Statistical Information: <https://www.state.gov/j/ct/rls/crt/2015/257526.htm>

R2P: Responsibility to Protect- the Past and the Future of International Efforts to Prevent Mass Atrocities

Introduction

During the 2005 United Nations World Summit, it was agreed by all member states that they have a *Responsibility to Protect* populations, which was articulated in paragraphs 138-139 of the World Summit Outcome Document:

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.

Responsibility to Protect based its principle on the underlying premise that sovereignty comes hand in hand with the responsibility to protect all populations. The principle is based on worshipping the norms and principles of international law. In order to prevent atrocity crimes and protect civilians, the R2P provides a framework for employing already existing measures (i.e. economic sanctions). The UN Secretary-General has termed the focused scope to the Responsibility to Protect as: “A narrow application to four crimes, but a deep approach to response, employing the wide array of prevention and protection instruments available to Member States, the United Nations system, regional and sub-regional organizations and civil society. “

Definition of Key Terms

Responsibility to protect – global political commitment endorsed by member states of the United Nations to prevent war crimes, genocide, crimes against humanity and ethnic cleansing

United Nations – an intergovernmental organization promoting international co-operations

Global Centre for the Responsibility to Protect – an international non-governmental organization conducting research and advocacy on mass atrocity prevention in support of the international norm of the Responsibility to Protect

Civil society organisations – all non-market and non-state organisations and structures in which people organise to pursue shared objectives and ideals

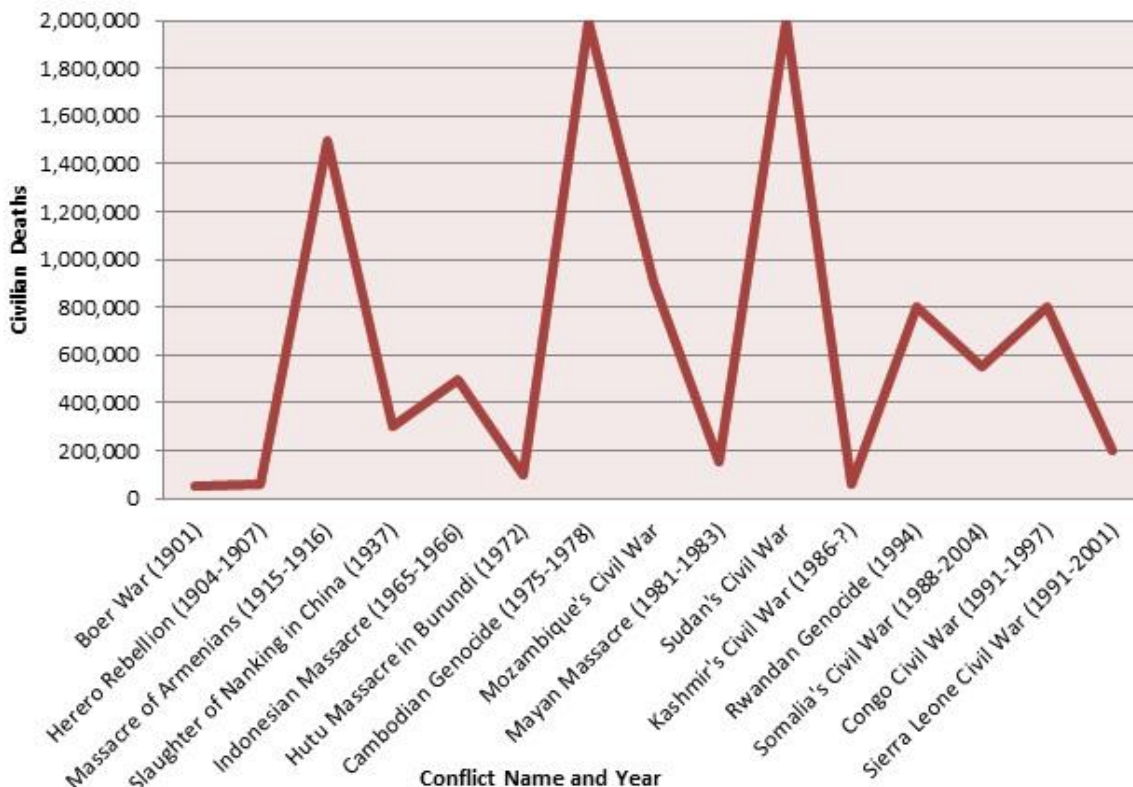
General Introduction into the Study of Responsibility to Protect

The UN Secretary-General, Ban Ki-Moon outlined a three-pillar approach for the operationalisation of R2P.

1. Pillar I: The protection responsibilities of the state
2. Pillar II: International assistance and capacity – building
3. Pillar III: Timely and decisive response

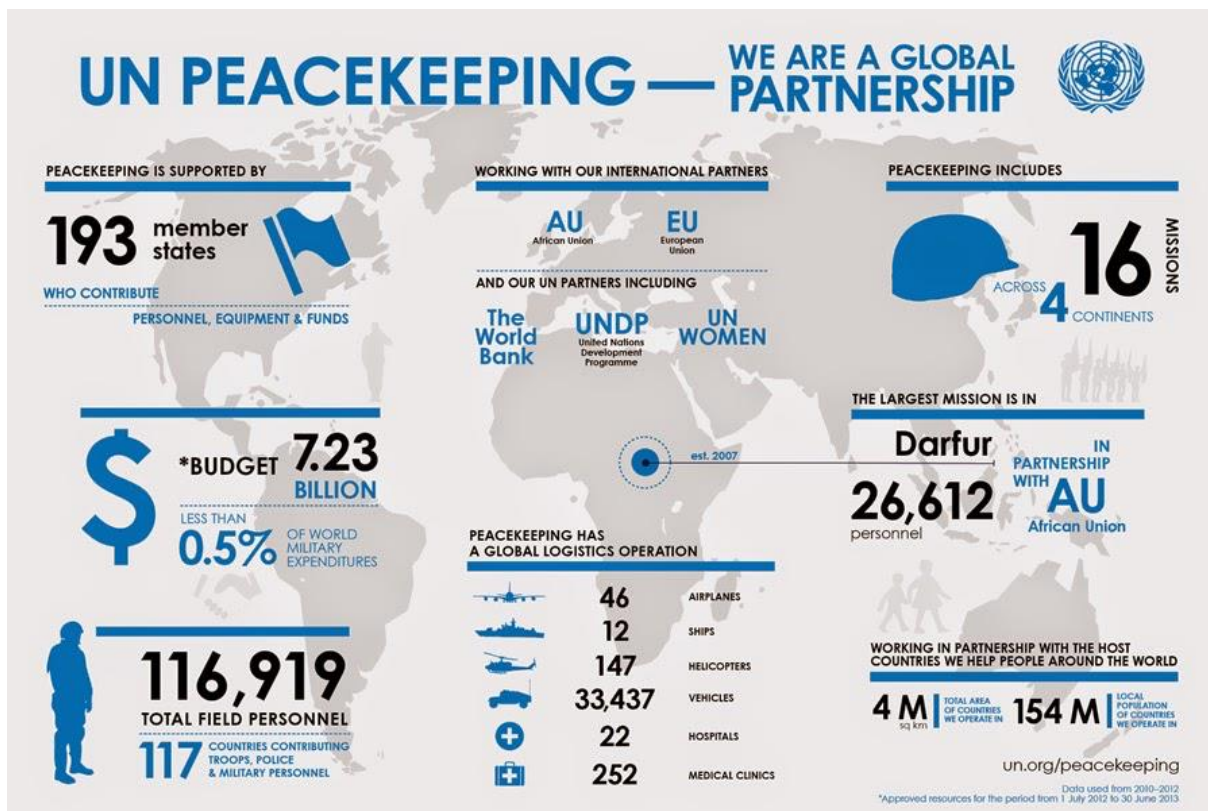
Pillar I notes that every state has the primary Responsibility to Protect its civilians from all four crimes. Pillar II asserts that the wider international community should assist states in meeting this responsibility. States who may be willing but are either too weak or incapable to uphold their responsibility may receive international support as a result of R2P. Pillar III holds that the international community must be prepared to take appropriate collective action in a timely and decisive manner, if a state is manifestly falling to protect its population. There have been many doubts about the urgency that occurred with the creation of the R2P as Humanitarian Intervention already existed. However, they differ greatly in many areas. Mainly, humanitarian intervention only refers to the use of military force, whereas R2P a preventive principle accentuating measures to stem the risk of one of the four crimes before they are threatened or occur. Use of force is taken as the last probable opportunity, when all non-coercive measures have failed. The question of military intervention under the third pillar of R2P remains controversial.

Civilian Casualties in Twenty-first Century Conflicts



Conflict Name and Year

Not including many smaller conflicts or holocaust deaths, deaths under Stalin (62 million), or deaths under Mao Zedong (10 million).



Historical context

1994 - Rwandan Genocide

1995- Srebrenica massacre

1990s – norm of the R2P was borne out as an outcome to the international community’s failure to respond to the tragedies.

1999 – Kosovo intervention, where traditional notions of sovereignty had been redefined.

2000- African Union incorporated the right to intervene a member state.

2000- Canadian government established International Commission on Intervention and State Sovereignty.

2001- Term “The Responsibility to Protect” is used for the first time by ICISS.

2005 – World Summit where R2P was unanimously adopted.

2009 – First comprehensive document from the UN Secretariat on the R2P was released, where the three-pillar approach is proposed.

Historical and Present Days Cases attached to R2P

Kenya 2007/2008

Kenya was swept by a wave of ethnic violence triggered by a disputed presidential election held on 27 December 2007. Mwah Kinaki was on 30 December declared and later sworn in as a president. The announcement of the results set off systematic and widespread violence, which caused death to more than 1000 people and displacement of over 500 000 civilians. Clashes targeted based on ethnics as they focused on civilians aligned with the two major political parties, the Party of National Unity and the Orange Democratic Movement. International actors rapidly responded to the inter-communal violence. French Foreign and European Affairs Minister Bernard Kouchner called the UN Security Council in January 2008 to react “in the name of the responsibility to protect” before it is too late and Kenya is turned into graveyard. On 31 December 2007, the UN Secretary-General Ban Ki-moon expressed his concern for ongoing violence and encouraged the population to remain calm. He also called for Kenyan security forces to show restraint. New African Union Chief Mediator, Kofi Annan, who was also UN Secretary-General was accepted by both the PNU and ODM. On 28 February 2008 agreement, which was a result of Mediation efforts, established Mwau Kibaki as a President. Moreover, three commissions were inaugurated: the Commission of Inquiry on Post-Election Violence, the Independent Review Commissions on General Elections and the Truth, Justice and Reconciliation Commission. This crisis was essential in proving the importance of the R2P as this coordinated and swift reaction was praised by Human Rights Watch as “a model of diplomatic action under Responsibility to Protect principles”.

Syria

Syria has been in a constant conflict over the last five years, which caused death of over 270 000 people, 6.6 million internally displaced persons and 4.8 million refugees. Numerous armed opposition groups have committed war crimes, violated IHL and targeted religious minorities for attack. The Islamic State of Iraq and Levant poses a direct threat to civilians as its fighters have carried out crimes against humanity, including mass killings and sexual enslavement in areas under their control. International Syria Support Group, European Union, the UN and the league of Arab states as well as other countries, collaborated within each other to stop these atrocities. The conclusion was made that, the full implementation of UN Security Council Resolution, which increased cessation of hostilities and the delivery of humanitarian aid, was compulsory to help those in need. The government, with support from its international allies, continues to utilize its military resources to retain power at all costs. Combined Syrian government and Russian airstrikes have enabled government forces to besiege 16 locations and regain significant territory previously lost to opposition forces. The fracturing and radicalization of the opposition compounds to the difficulty of achieving a negotiated political settlement. A direct threat is still actual due to the pose of ISIL. External political influence upon the Syrian government, via the UN and regional actors, remains weak. The UNSC has been unable to enforce compliance with its resolutions, with bitter divisions over Syria evident amongst the permanent members. United States, Iran, Turkey, Saudi Arabia and Russia remain essential to any negotiated settlement to the conflict.

Policy options

The United Nation was established in order to prevent armed conflicts using international dialog. Therefore, it is vital for the ICISS and R2P that the member states of the United Nations are willing to cooperate and support the county where the current problem occurs. However, some of the member states do not agree with the R2P and special interest should be devoted towards their opinions.

1. Countries that do not embrace the Responsibility to Protect:

Algeria – the R2P is not compatible with international law, it suggests that R2P should not be included in the Outcome document as it has no consensus support

China – advocates for the status – quo by hedging on the international community's responsibilities, requesting further discussion and deferring to the Security Council

India – the role of the international community is limited to encouraging states to use peaceful means, the failure of the Security Council to act is due to a lack of political will and not due to a lack of authority

Russia – no sufficient understanding of the concept of the R2P, the UN is capable of responding to crises under current situation, R2P undermines the Charter

Vietnam – R2P is a reincarnation of humanitarian intervention

2. Countries that do embrace the Responsibility to Protect:

Australia – urges leaders to strongly endorse R2P, future discussion of R2P should not be limited to the GA

Colombia – supports R2P

France –embraces language of R2P, great supporter, it highlights the international community's duty to step in through the Security Council, R2P must be robust, in favour of military usage, respect the issue of sovereignty, but believes that there must be limits on the scope of state sovereignty

Germany – the use of force must be carefully circumscribed, supports the elements of prevention and assistance to state in R2P

Mexico – emphasizes the concept, in favour of international assistance, development and capacity building

South Africa – R2P is very important to Africa, urges leaders to reflect on Srebrenica and Rwanda, the situations R2P addresses are not theoretical, but a reality in Africa

Sweden – strong support, R2P should address the population as whole, not just have text on the civilian population

United Kingdom – vital to internationally agreed framework to protect vulnerable, only in extreme cases use military force, fulfil responsibilities to weak on case-by-case basis

USA – strong supporter

Further research

This research paper has covered most of the international background concerning this issue. Each delegate should, however, do further research concerning:

- His country in general
- His country's position on this topic
- Is it engaged in the issue somehow?
- How should be the mass atrocities
- To what extent is the R2P beneficial?
- In what ways could be function of the R2P more effective?
- How to enforce and control laws regarding the topic?
- How to be aware in advance of potential violation of one of the four crimes?

Sources and links

- State of Civil Society- Responsibility to protect:
<http://www.globalr2p.org/media/files/responsibility-to-protect.pdf>
- United Nations Press Release:
<http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>
- Report of Secretary-General:
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677
- The Responsibility to Protect – ICISS:
<http://responsibilitytoprotect.org/ICISS%20Report.pdf>
- The Global Centre for the Responsibility to Protect : http://www.globalr2p.org/our_work/
- UNIRIC - The Responsibility to Protect: <http://www.unric.org/en/responsibility-to-protect?layout=default>