



GLOBAL PUBLIC POLICY
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R2P and the Protection of Civilians: South Africa's Perspective on Conflict Resolution

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RECOMMENDATIONS

- The government should communicate its position more clearly domestically and internationally to avoid the perception that it is opposed to R2P in principle. Getting support from domestic constituencies will strengthen its legitimacy and ability to influence policy at the global level.
- Mixed messages should be avoided. South Africa's position of taking the moral high ground in terms of consultation and co-operation with regional bodies can be interpreted as hypocritical when it takes actions such as sending troops to the CAR without an AU mandate.
- South Africa needs to advance strong alternative approaches to the use of force under pillar three, especially in cases where a negotiated solution seems unachievable.
- From a strategic position and given its limited resources, South Africa must give careful consideration to the position it takes on R2P, with a view to the obligations this could entail, particularly in Africa.

EXECUTIVE SUMMARY

This briefing provides an overview of the South African government's position on the protection of civilians within the context of the 'responsibility to protect' (R2P) framework. As South Africa lacks a clearly articulated policy on R2P, any discussion on its position is based on inferences drawn from actions taken in recent years. While South Africa was a supporter of R2P in the run-up to the 2005 UN World Summit, its conduct while serving as a non-permanent member of the UN Security Council (UNSC) raised questions about its continued commitment to the framework. South Africa is committed to the principle of the protection of civilians, although it favours a multi-layered, moderate approach to implementing R2P, focusing on conflict prevention and resolution through dialogue and engagement. Overall, the tensions and apparent contradictions in South Africa's position on R2P are consistent with the broader tensions in its foreign policy.

R2P: A BRIEF OVERVIEW

The notion of R2P has a long intellectual history and builds on the idea of humanitarian intervention. The term was first used in the International Commission on Intervention and State Sovereignty (ICISS) 2001 report, and was subsequently taken up in the UN. The three pillars of R2P are stipulated in the Outcome Document of the 2005 UN World Summit² and formulated in the Secretary-General's 2009 Report (A/63/677) on Implementing the Responsibility to Protect.³

- Every state has the responsibility to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing.
- The international community has a responsibility to encourage and assist states in exercising this responsibility.
- The international community has a responsibility to use appropriate diplomatic, humanitarian and other means to protect populations from these crimes. If a state is manifestly failing to protect its population, the international community must be prepared to take collective action to protect that population, in co-operation with regional organisations and in accordance with the UN Charter.⁴

There is little if any disagreement about the first and second pillars. The debate around R2P is predominantly centred on the implementation of the third pillar, namely the form the intervention by the international community should take and under what circumstances the use of force is justified.

SOUTH AFRICA AS A PROMOTER OF R2P

Before the R2P framework gained broad international acceptance in 2005, South Africa was active in negotiating the move from non-intervention to non-indifference, the latter regarded as a forerunner of R2P, in Africa. The country was instrumental in the inclusion of a number of articles in the AU's Constitutive Act, including Article 4(h), which refers to 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'.⁵ This was in contrast to the Organization of African Unity's emphasis on non-interference and respect for sovereignty. South Africa was pivotal in developing the AU's peace and security architecture, including the Peace and Security Council, which would bear primary responsibility for implementing the continent's version of R2P. South Africa was also instrumental in getting buy-in from other African states for the principle at the 2005 UN World Summit, and helped to link R2P to conflict prevention and resolution in Africa while it chaired the UNSC's Working Group on Conflict Prevention and Resolution in Africa in December 2008.⁶

SOUTH AFRICA'S APPROACH TO CONFLICT RESOLUTION

While South Africa has played an important role in the development of R2P, in practice its preference for consultation, mediation and dialogue is often criticised. The country's predisposition towards engagement is, however, in line with its broader approach to conflict resolution. South Africa sees R2P as inextricably linked to a broader approach to conflict resolution that includes prevention, resolution and post-conflict reconstruction and peacebuilding. This has its roots in South Africa's historical experience, with the country's own peaceful negotiated transition being the preferred model for addressing conflict.⁷

In particular, South Africa has been a vocal critic of the use of what it regards as a militarisation of the R2P framework – namely the use of force as a pretext for regime change. Having said that, South Africa is not, in principle, against all forms of intervention. It has supported R2P at the regional level, and its role in the AU-mandated missions in Darfur and Burundi shows that it is willing to participate in consent-based intervention, with a strong preference for a regional approach. A South African ambassador summarises the perceived inconsistency on R2P as follows: '[On] values we are clear: you can't kill civilians. But we have issues with the mechanisms and sequencing that the West prioritises.'⁸

While South Africa has been a proponent of R2P, its inability to address effectively situations such as the crisis in neighbouring Zimbabwe has raised questions about the sustainability of its position, with critics alleging that South Africa is paying little more than lip service to R2P. The positions South Africa took during its two terms (2007–2008, 2011–2012) as a non-permanent member of the UNSC are useful indicators of its overall position on R2P.

SOUTH AFRICA IN THE UNSC

During its first term as a non-permanent member of the UNSC, South Africa's controversial votes on Zimbabwe and Myanmar, justified on procedural objections, seemed to contradict its earlier position on the primacy of the UNSC with regard to R2P.⁹ Domestic critics such as Archbishop Desmond Tutu, however, claimed that South Africa's opposition to the

resolution was inconsistent with the country's history, and failed to protect the citizens of these states.¹⁰

The Libyan case can be seen as a turning point for South Africa in terms of its position on R2P. During its second term, South Africa supported Resolution 1973 (2011) calling for humanitarian intervention in Libya, contradicting the position of the AU Ad Hoc High Level Panel.¹¹ This highlighted the complexities of the multilateral arena, where states have diverging and often contradictory alliances that play out in different ways, depending on the issue at hand. South Africa's initial support for Resolution 1973 generated considerable controversy domestically – both within the ranks of the ANC and outside it. The government responded by condemning the NATO intervention, arguing that Western powers had used Resolution 1973 as a pretext for regime change. Towards the end of 2011, South Africa's ambassador to the UN, Baso Sangqu, articulated South Africa's reservations about R2P in a UN General Assembly debate:¹²

South Africa has registered its concerns publicly with the manner in which efforts employed by the Security Council to protect civilians have been exploited in the recent past ... Regime change, arming civilians and harming civilians cannot be justified in the name of protecting civilians and those entrusted with such responsibility must uphold their responsibility while protecting ...

Some scholars¹³ note that Libya showcased the tension between South Africa's support of the conflicting norms of sovereignty and non-intervention and humanitarian intervention to protect civilians.

The result of the Libyan case was that South Africa was now seen as having joined the ranks of R2P sceptics, including its BRICS partners. However, despite perceptions that South Africa afterwards consistently voted against R2P while serving on the UNSC, during the course of 2011 the country did vote in favour of UNSC resolutions invoking R2P and calling on the governments of Sudan, Côte d'Ivoire, Guinea-Bissau, the Central African Republic (CAR), Yemen, Libya, the Democratic Republic of the Congo and Burundi to uphold their responsibility to protect their citizens.¹⁴ It must be noted, however, that the resolutions supported all referred to pillar one and, in some cases, pillar two, but never pillar three.

This shows that South Africa is not against R2P in principle, but against resolutions sanctioning the use of force that are framed as R2P.

Regarding the apparent convergence between South Africa and other BRICS states – Russia and China in particular – around the use of force in aid of R2P, respect for sovereignty and disregard for external interference in the domestic affairs of a state, their motivations are arguably quite different. Some commentators¹⁵ also argue that South Africa's critique of R2P is more procedural than substantive. It supports the notion that sovereignty at times needs to be suspended in order to protect civilians. What it has a problem with is the selective application of the norm, and the tendency to use force for reasons that go beyond the mere protection of civilians. This builds on a historically informed scepticism about Western double standards and selective application of R2P and its intellectual predecessor, humanitarian intervention, when it comes to Africa. This is different from the Chinese and Russian insistence on non-interference, based predominantly on a view of sovereignty as the most important norm in international relations.

CONSTRAINTS ON SOUTH AFRICA'S R2P STANCE

South Africa operates in a complex multilateral setting, and its membership of a range of international and regional organisations, together with its multiple identities – it is an African state, a regional hegemon, a spokesperson for the developing world, a liberal democracy and good international citizen – all place different obligations on it.

While South Africa often justifies its preference for negotiated solutions to conflict rather than intervention as a matter of principle, there are also other, more pragmatic, reasons. Firstly, there is currently a lack of political will: the government's priority is meeting domestic developmental goals. Secondly, the country suffers from a serious lack of capacity to enforce R2P – it is not in a position to take on global responsibilities that will require it to channel resources into military operations. From a strategic position, South Africa also needs to be careful of the position it takes on R2P. It remains one of the most powerful states in Africa and

continuously emphasises the importance of regional responses to threats to peace and security. This, together with the probability that many, if not most, future humanitarian crises that might warrant an R2P response will be in Africa, South Africa cannot afford to be overly enthusiastic about supporting interventions on the basis of protecting human rights.

CONCLUSION

South Africa is committed to the principle of R2P and lobbied for it to be adopted at the UN World Summit in 2005 and be included in the AU's Constitutive Act. The country does, however, prefer a multi-layered, moderate approach to implementing R2P, focusing on conflict prevention and resolution through dialogue and negotiation. This does not mean that it is opposed to the use of force as a last resort, but it is concerned about the use of force being used as a pretext for regime change.

The tensions and apparent contradictions in South Africa's position on R2P are consistent with the broader tensions in its foreign policy. These include a constitutional commitment to promoting and protecting human rights, solidarity with African states, and a desire to reform what is regarded as an inequitable system of global governance, where principles such as R2P are inconsistently applied. The R2P debate thus goes to the heart of South Africa's foreign policy identity and priorities.

ENDNOTES

- 1 Karen Smith is a senior lecturer in the Department of Political Studies at the University of Cape Town.
- 2 UN General Assembly, *2005 World Summit Outcome: Resolution Adopted by the General Assembly*, 24 October 2005, A/RES/60/1, <http://www.refworld.org/docid/44168a910.html>.
- 3 See UN General Assembly, 'Implementing the Responsibility to Protect: Report of the Secretary-General', 12 January 2009, http://www.un.org/en/ga/search/view_doc.asp?symbol=A/63/677.
- 4 Office of the Special Adviser on the Prevention of Genocide, 'The Responsibility to Protect', 2015, <http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>.
- 5 Landsberg C, 'Pax South Africana and the Responsibility to Protect', *Global Responsibility to Protect*, 2, 2010, pp. 441–442; Geldenhuys D, 'South Africa: The idea-driven foreign policy of a regional power', in Flemes D (ed.), *Regional Leadership in the Global System: Ideas, Interests and Strategies of Regional Powers*. Farnham: Ashgate, 2010, p. 160.
- 6 Mabera F & T Dunne, 'South Africa and the Responsibility to Protect', *R2P IDEAS Brief*, 3, 6, 2013, p. 3.
- 7 Krosiak D, 'South Africa's implementation of its own peacekeeping model in Africa: A reality check', in Shillinger K (ed.), *Africa's Peacemaker? Lessons from South African Conflict Mediation*. Johannesburg: Jacana, 2009; Southall R (ed.), *South Africa's Role in Conflict Resolution and Peacekeeping in Africa*. Pretoria: Human Sciences Research Council, 2006.
- 8 Graham Maitland, quoted in Verhoeven H, Murthy CSR & RS de Oliveira, "'Our identity is our currency": South Africa, the responsibility to protect and the logic of African intervention', *Conflict, Security and Development*, 14, 4, 2014, pp. 509–534.
- 9 Aboagye F, 'South Africa and the R2P: More state sovereignty and regime security than human security?', in Brosig M (ed.), *The Responsibility to Protect – From Evasive Action to Reluctant Action? The Role of Global Middle Powers*. Johannesburg: Hans Seidel Foundation, Institute for Security Studies, Konrad Adenauer Stiftung & SAIIA, 2012, p. 33.
- 10 Quoted in Kagwanja P, 'Cry sovereignty: South Africa and the UN Security Council in a hegemonic world, 2007–2008', *International Journal of African Renaissance Studies*, 3, 1, 2008, p. 48.
- 11 Aboagye F, *op. cit.*, p. 38.
- 12 UN Security Council, 'Open Debate on Protection of Civilians', Record of the 6650th meeting, UN Doc. S/PV.6650, 9 November 2011, p. 22.
- 13 Mabera F & T Dunne, *op. cit.*
- 14 Stuenkel O, 'The BRICS and the future of R2P', *Global Responsibility to Protect*, 6, 2014, pp. 3–28.
- 15 Verhoeven H, Murthy CSR & RS de Oliveira, *op. cit.*, p. 511.

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