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THE IMPLEMENTATION OF RESPONSIBILITY TO PROTECT (R2P) IN CONFLICT ZONES

Pelaksanaan Tanggungjawab untuk Melindungi (R2P) di Zon Konflik

MOHD HEDZIR OMAR & NORAINI ZULKIFLI

ABSTRACT

Responsibility to Protect (R2P) emerged as a standard in response to the crime of mass atrocities and human rights violations in the 1990s. R2P is implemented in response to severe human rights crises such as those in Bosnia and Rwanda. The R2P principle aimed to replace the so-called current and somewhat contentious notion of humanitarian intervention and provide states with legal grounds for military action to safeguard human rights in countries where the government threatens these same freedoms. This new approach is based not only on crisis response but also on measures to avoid circumstances that make the commission of mass atrocity crimes easier and ultimate. This study has three objectives: 1) to understand R2P, 2) to examine the implementation of R2P in Conflict Zones, and 3) to analyse the legal basis of R2P. The research found that (1) the R2P is a physical manifestation of the international community's determination to uphold its responsibility to protect men, women and children at risk of genocide, ethnic cleansing, war crimes and crimes against humanity, (2) theoretically, R2P is a legitimate measure in ensuring the protection of the population, particularly those who are vulnerable, and (3) R2P is not bound by any relevant legal aspect, thus making its effectual implementation not as effective as it should be.

Keywords: atrocities; conflict zones; peacekeeping operations; Responsibility to Protect (R2P); United Nations

ABSTRAK

Pada tahun 1990an, tanggungjawab untuk melindungi (R2P) muncul sebagai piawai sebagai reaksi terhadap penduduk yang terancam bahaya. R2P telah dilaksanakan

sebagai tindak balas terhadap krisis hak asasi manusia yang utama seperti di Bosnia dan Rwanda. Prinsip R2P bertujuan untuk menggantikan konsep campur tangan kemanusiaan yang agak kontroversial dan memberikan alasan undang-undang kepada negara untuk melakukan tindakan ketenteraan bagi melindungi hak manusia di negara-negara di mana pemerintah yang berkuasa mengancam kebebasan. Pendekatan baru ini tidak hanya di dasarkan pada tanggapan krisis, tetapi juga untuk mengambil langkah-langkah bagi menghindari keadaan kekejaman besar-besaran daripada berlaku dengan sewenang-wenangnya. Kajian ini mempunyai tiga objektif iaitu 1) untuk memahami R2P, 2) untuk mengkaji pelaksanaan R2P di Zon Konflik, 3) untuk menganalisis dasar yang sah mengenai R2P, Kajian mendapati bahawa R2P adalah manifestasi fizikal dari masyarakat antarabangsa untuk menegakkan tanggungjawabnya bagi melindungi lelaki, wanita dan kanak-kanak yang berisiko menjadi mangsa pembunuhan beramai-ramai, pembersihan etnik, jenayah perang dan jenayah terhadap kemanusiaan, R2P secara teori adalah idea bernas dalam memastikan perlindungan yang disediakan untuk penduduk, terutama mereka yang terdedah risiko ancaman. Tetapi R2P tidak terikat dengan aspek undang-undang yang relevan, sehinggakan pelaksanaannya tidak efektif sebagaimana yang diinginkan.

Kata kunci: kekejaman; zon konflik; operasi pengaman; Tanggungjawab untuk Melindungi (R2P); Pertubuhan Bangsa Bangsa Bersatu

INTRODUCTION

Dag Hammarskjöld, a former UN Secretary-General, stated that “UN wasn’t created to take mankind into paradise, but rather, to save humanity from hell” (UNSG 2016). Likewise, UN peacekeepers are dedicated to defend men, women and children against ethnic cleansings, war crimes, genocide and crimes against humanity. The presence of peacekeepers thus determines death or life of the world’s most fragile population at a moment of universal erosion of civil life, human dignity and attacks to mankind’s standards of protection standards.

In history, crimes tarnishing the reputation of the UN have not stopped. Mass killings of civilians in Rwanda and Srebrenica undermined their founding principles shaking the international community in the 1990s. It was only two decades later, that effective progress in civilians’ protection was possible in these countries. The UN Security Council now recognises that the protection of civilians has a vital function in the peace building process. But a more robust, coherent and comprehensive approach is required to address international peace and security problems (UNSG 2016).

In most cases, peacekeepers have not been able to prevent atrocities. Rwanda and Srebrenica's inability to safeguard the population was not simply a failure of UN peacekeeping missions, but of UN operations. The UN Security Council peacekeepers should act to avoid these offenses based on the authorized mandates given. This can be achieved by executing R2P and by using the Atrocity Prevention Lens.

UNDERSTANDING OF R2P

R2P is an innovative standard to prevent and stop war crimes, genocide, crimes against humanity and ethnic cleansing (Paris 2014). The responsibility to protect populations against such offenses and violations should not set forth in the legislation but in domestic and international political participation. The R2P stipulates that:

1. The State is primarily accountable for defending its citizens from war crimes, ethnic cleansing, genocide, and crimes against humanity. This responsibility includes preventing such offenses and violations.
2. The international community supports and encourages the State's obligations to protect;
3. In order to protect populations against these crimes, the international community has to embrace proper political, compassionate and other nonviolent techniques. If a country fails to defend its population or is indeed the executor of a crime, the international community has to be prepared to take swift and positive action in accordance with the Charter of the UN and in collaboration with the relevant regional bodies. Such activities may be subject to the UN Security Council compliance, including collective use of force when necessary (*Global Centre for the Responsibility to Protect 2017*).

R2P is very limited and only covers four particular offenses and violations namely: genocide, crimes against humanity, war crimes and ethnic cleansing (Schabas 2018). The standard therefore does not tackle additional threats to human security, such as ordinary disasters, wellbeing crisis, deficiency or bribery. However, in all four crimes and violations, the term "mass atrocity" is frequently used.

GENOCIDE

After the crimes of the Holocaust, the Convention on the Prevention and Punishment of Crimes of Genocide was enacted by the Member States at the UN General Assembly on December 9, 1948. Article II provides descriptions of "genocide" as: acts committed with the intention to destroy wholly or partially a nation, ethnic, race or

religious group, including (*UN Office on Genocide Prevention and The Responsibility to Protect* (n.d.)):

1. Killing the group members;
2. Inflicting serious bodily or mental harm to the group members;
3. Deliberately imposing conditions of living on the group that are calculated to bring about physical destruction wholly or in part;
4. Imposing measures that are intended to prevent births within the group;
5. Transferring children of the group to another group using force.

CRIMES AGAINST HUMANITY

The Statute of Rome was enacted by the International Criminal Court on July 1, 2002, establishing the International Criminal Court (ICC 1998), an everlasting, global legal organisation capable of investigating and prosecuting crimes against humanity, genocide, and war crimes cases. Not every country has signed the Rome Statute, but Article VII defines offenses not in favour of mankind (do not require particular purposes as opposed to genocide) as:

Crimes against humanity refer to any of the following acts that are committed as part of an extensive or methodical attack on any civilian population, with knowledge or awareness of the attack:

1. Assassination;
2. Extermination;
3. Slavery;
4. Population banishment or forced relocation;
5. Breach of basic laws of global legislation, prison or any other serious deprivation of physical freedom;
6. Torture;
7. Sexual slavery, rape, forced pregnancy, compelled pregnancy, etc;
8. An act referred to in this paragraph or any crime in its jurisdiction in connection with any identifiable group or collective for an internationally accepted biased, cultural, nationwide, racial, civilizing, spiritual, sexual or additional cause;
9. Disappearance of persons by force;
10. The crime of Apartheid;
11. Additional inhumane act of the same nature causes serious pain or solemn bodily or physical wound.

WAR CRIMES

Four Geneva Conventions were enacted by the international community on 12 August, 1949 (ICRC (n.d)). These and the two supplementary protocols introduced in 1977 safeguard persons not engaged in war in times of war (ICRC 2010). The Convention

and Additional Protocols lay down common treatment under the law of humanity and define war crimes as actions undertaken in an armed dispute that violate the international humanitarian law and/or the human rights law. The list of offenses that constitute war crimes shall be long, assassination or ill-handling of any individual who isn't involved in the aggression, war prisoners, civilians, injured or ill, remedial or spiritual employees, and aid employees (*Global Centre for the Responsibility to Protect* 2017). It should be noted that R2P war crimes are restricted to offenses perpetrated systematically and extensively against civilian communities (General Assembly Security Council 2014).

ETHNIC CLEANSING

Ethnic purification under international law is not formally acknowledged as a separate crime (Perdek 2017), but it involves a focused policy intended through a particular racial or spiritual group to eliminate civilians from certain geographical regions, by violent and terrorist means, from other ethnic or religious groups. Ethnic purification is therefore included in crimes against humanity, including aggressive relocation or banishment of citizens. Secretary-General Ban Ki-Moon drew up a three pillar report on the execution of Responsibility to Protect in the 2009 approach (*Global Centre for the Responsibility to Protect* 2009).

TABLE 1. Three Pillar Approach

Pillar	Principle	Approach
One	The Protection Responsibilities of the State	States bear the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing.
Two	International Assistance and Capacity-Building	The international community has a responsibility to assist and encourage states in fulfilling their protection obligations.
Three	Timely and Decisive Response	If a state fails to protect its population from these crimes or in fact perpetrates them, the international community must respond in a timely and decisive manner, using appropriate diplomatic, economic, humanitarian and other peaceful means to protect populations. If peaceful means are inadequate, the international community must be prepared to take stronger actions, including collective enforcement measures under Chapter VII of the UN Charter.

Source: Global Centre for the Responsibility to Protect (2019)

MEASURES TO “PREVENT AND HALT MASS ATROCITIES”

The main objective of R2P is to avoid genocide, war crimes, ethnic cleansing and crimes against humanity (UN Office on Genocide Prevention and the Responsibility to Protect n.d). These crimes may occur during peace despite the form of command or the economic growth ranking. Local, domestic, regional and global players must therefore be prepared to identify factors which may show R2P offenses. The framework of analysis, was established by the United Nations Office on Genocide Prevention with RPD (which later became the Office of the Special Adviser on the Prevention of Genocide). An important research which outlined eight elements – including discrimination against minority organisations or incitement and the presence of illegal weapons, also identified in an important research (International Coalition for the Responsibility to Protect n.d).

Upstream avoidance includes governments’ actions in their own nations, such as creating policies, institutions and consolidating industries, which decrease the danger of mass abuse. Good governance, economic security, human rights and social actions are part of upstream preventive policies. Downstream avoidance includes responses to imminent threats of mass atrocities. Sub-regional and regional agreements and UN agencies may take political, economic, military or humanitarian measures. Meanwhile, downstream prevention actions include diplomatic, legal, early warning, military, inducements and sanction (Bellamy 2011).

In the absence of a government to stop massive atrocities and in the event of insufficient political, civilized, and other nonviolent resources the Security Council could allow combined use of violence to defend populations from mass violence. In compliance with the UN Charter, R2P aims to emphasise on the current limits (Bellamy 2011), concerning where and how to conduct an intervention which is frequently defined as humanitarian intervention, in order to avoid unlawful, unilateral or multilateral military action. However, there is no agreement regarding the added value of additional criteria which would lead or justify inaction in response to the R2P offenses and violations. The 2001 report of the ICISS suggested criteria, including four principles of care (Bellamy 2008) that are supposed to be assessed before authorisation of force; however, the Security Council of the United Nations or its Members have not taken these requirements into account in the UN.

Precautionary principles projected by the Report of ICISS:

1. “Right intention”: “The primary purpose of the intervention must be to halt or avert human suffering.”
2. “Last resort”: “Every non-military option for the prevention or peaceful resolution of the crisis [must be] explored, with reasonable grounds for believing lesser measures would not have succeeded.”

3. “Proportional means”: “The scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question.”
4. “Reasonable prospects”: “There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.”

In the report by ICISS, additional criteria were debated as well along with the ‘correct’ power, which required the UN Security Council as authority, which forces only may be involved if “wide loss of lives or ethnic cleansing” are threatened or imminently threatened.

PARTIES RESPONSIBLE TO IMPLEMENT R2P

A number of stakeholders from public officials to individual United Nations peacekeepers need to take action to implement R2P. The first party responsible for the implementation of R2P is the state (Foot 2011). It is the main duty of the State to defend and all organisations within the State must take responsibility, including the parliamentarians/policymakers, judges, leaders, human rights institutions and the security sector. A nation is also responsible for helping other countries to fulfil this obligation. This means that the R2P exists within the framework of cooperation among entities within a state, as well as other states.

The second party that should be involved in the implementation of R2P comprises the collective state organisations (UNGA 2009). At the provincial level, it can be an organisation like the Organization of American States, European Union, African Union, and the League of Arab States. At the sub-regional level this would comprise organisations such as the West African States Economic Community, Intergovernmental Authority on Development, Southeast Asian States Association, and Europe Organization for Security and Cooperation. All of these organisations often highlight human rights protection among their objectives. Thus, it is natural that they are somehow engaged in the implementation of R2P.

The third party responsible for R2P is of course the UN itself, and all the entities under it (*Global Centre for the Responsibility to Protect* 2017). This would include the United Nations General Assembly, the UN Security Council, the United Nations Human Rights Council, and the UN Secretariat, including the General Secretary, the Department of Political Affairs, the Peacekeeping Operations and the Office of the High Commissioner of Human Rights, the UN Humanitarian Affairs Coordinating Office, and the United Nations Refugee Agency. Each of these actors or parties would have to view the situation through the Atrocity Prevention Lens before

deciding on which measures need to be implemented to protect populations against offenses of mass atrocity.

ATROCITY PREVENTION LENS

The concept of the atrocity lens is to essentially create an analytical tool or policy method which operates within current procedures and mechanisms rather than replicating them (Bellamy 2008). In other words, it seeks to establish a seat at the policy table on atrocity avoidance. The idea is not to create a fresh table or have new offices or programmes, but instead to put this view into the current job. Thus, in normal times, in times outside of crises, somebody should analyse the atrocities of a country, someone should analyse the current programmes to see how these risks are affected, to make sure they do not have a negative effect, to see where programming can be tweaked to enhance its prevention and to become accessible to data from the field. These types of lens or offices should have immediate access to the top decision-makers in the organisation so that they can issue a warning. Nonetheless, warnings cannot be issued very often as such action would make it lose its urgency, but that option needs to be there (Bellamy 2011).

The Atrocity Prevention Lens is used to detect patterns of threats and conduct in protective acts (military, police and civil), and to implement approaches to address these patterns before crimes against atrocity happen. The Atrocity Prevention Lens provides a better comprehension of the wider political scene and its association with civilian threats in the context of peacekeeping. Heuristically, the Atrocity Prevention Lens enables peacekeepers to decipher whether a violent crime is present in scenarios where the armed conflict only affects fighters (*Global Centre for the Responsibility to Protect* 2018), the violence is against civilians or is a precursor of atrocities, and whether civilians are still at risk in the absence of an open armed conflict. Recognising such hazards and dynamics can help force commanders and industry commanders to understand how and when soldiers can be deployed, identify violent acts, such as a low-intensity attack against a specific ethnicity or certain vulnerable groups, such as women and children.

ATROCITY PREVENTION LENS TO HELP THE PEACEKEEPERS

R2P can contribute towards increasing the operational impact of peacekeepers in the performance of their Protection of Civilians (POC) responsibilities. First, it provides the peacekeepers with the understanding of the nature of the dangers. The security actors can get a broader knowledge of the threats to communities using the Atrocity Prevention Lens, which requires a distinct kind of reaction (Breakey 2012), through instruments such as a United Nations Framework for Analysis of Atrocity Crimes

established by the 'Bureau of Special Advisers on Genocide Prevention and the 'Responsibility to Protect'. Protection actors may build their knowledge about political and societal circumstances that could trigger or cause the probability of atrocities. Increasing awareness of possible triggers allows players to prepare themselves for possible enhanced privacy requirements before the start of widespread violence.

This lens also helps identify the vulnerabilities of some communities, including ethnic and religious minorities, and what factors may jeopardize them. The Atrocity Prevention Lens makes protective actors more aware of the specific hazards and needs of certain sectors of the society, such as women and children (Breakey 2012). For instance, women are exposed to targeted and systematic sexual abuse when participating in everyday activities such as timber collection, water collection, trading and/or religious gatherings. Protection actors can take easy measures to mitigate the danger of assault by increasing awareness and timing patrols in the surroundings of these communities' activities. This enhances the ability of such actors to safeguard women and children against opportunistic assaults as well as the wider risk of systemic mass atrocities.

While the POC focuses on immediate hazards to civilian communities and how immediate physical threats can be addressed, R2P assists players in reframing assessment and intelligence collection to acknowledge behavioural patterns that can precede mass atrocities (Hykai 2014). This long-term pattern identification enables security agents to know how vulnerabilities can escalate, how conflict escalation is generated and how civilians can be protected before it happens. In addition, as opposed to POC the Atrocity Prevention Lens recognises that even in the absence of active armed conflict threats and crimes can arise, which increases the importance of peace-time surveillance and community engagement work, as players can acknowledge or continuously monitor non-violent abuse in certain populations. By understanding that some conditions, such as election, such as election results disputes, may trigger large-scale atrocity crimes protection actors are able to increase their awareness of where and why crime might take place so that they can plan accordingly.

A better understanding of new threats results in an increased ability to behave and react before a scenario escalates; it provides possibilities to respond quickly and, in some instances, the possibility of taking preventative measures (Dorn 2010). In early response, peacekeepers are not only more likely to mitigate risks to civilians; they have a larger range of instruments available in comparison to a critical phase of the crisis (UN Peacekeeping 2017). This means the instruments may differ from those presently used by peacekeepers to defend populations from the impending danger of physical aggression in reaction to atrocities. Small steps such as increasing

patrols and the mission's presence in the community are some of the early action that can be taken. It may also include measures to remove the offensive instruments, such as implementing weapons embargoes and disarmament programmes, or initiating community-based participation programmes or reconciliation projects for local intercommunal complaints and crime prevention measures. If the missions transmit early alerts to the Headquarters, the UN Security Council may also initiate aforementioned mobilisation of resources or action to modify the mandate to fulfil the new requirements in the sector (*Global Centre for the Responsibility to Protect* 2014).

ROLES OF GOVERNMENT

The government's roles need to be implemented according to the following pillars. Pillar I, involves building social domestic resilience to mass atrocities by establishing a fair and comprehensive civilisation as well as by developing a policy that strengthens the Ruler's ability to react properly when a grievance occurs. These include actions to protect the human rights and the rights of minorities throughout legitimate and lawful protection, to ensure security responsiveness in the security sector, to provide access to justice, to create the necessary conditions for a reasonable allocation of possessions, to provide laws against hate and hate offenses, and to provide educational programmes that do not give priority to one group.

Pillar II is the responsibility for the development of these capabilities including providing economic and logistic assistance to States. This covers development assistance as well as exchanging best practices with domestic organisations and mechanisms to assist in the prevention of mass atrocities. While the states provide support, they must make sure that their prevention contributions do not distance one group from another or exacerbate current social divisions. This involves operations such as financial, logistic and economic support for a government to develop its ability to meet its Pillar II commitments which include aid development, capacity building support for public organisations and programmes, reforming the safety industry and establishing transitional justice, establishing hybrid courts and denying it.

Pillar III, comprises a range of measures to prevent violence from escalating into mass atrocities and implementing instruments to respond to the onset of atrocity crimes (Waxman 2009). Protection against further damage to communities include activities involving the use of the Good Office of the United Nations Secretary General and its legislature, diplomatic action, arbitration, targeted sanctions, weapons embargoes, fly zones, military and peace-keeping missions, permission

for the collection of information on crimes by human rights monitoring groups and establishment of international tribunals or providing them support.

The R2P is not only responsibility of nations and the global society, in responding to react to four mass crime atrocities. The UN Security Council's approval for peacekeeping missions is a way to react to circumstances where civilians are in danger of four offenses (Mikulaschek –n.d.). As such, the United Nations Security Council is accountable for helping nations to protect their people against those atrocities and it has done so in a number of ways in accordance with its pillars.

Under Pillar I, the Security Council, for example, stipulates "... recalling that the government of the DRC bears the primary responsibility to protect civilians within its territory and subject to its jurisdiction, including protection from crimes against humanity and war crimes" (Resolution 2348MONUSCO (DRC)) (UNSC 2017). MINUSMA (Mali), AMISOM (Somalia), UNMISS (South Sudan), UNAMID (Darfur) and MINUSCA (CAR) will also speak similar languages. The R2P preamble sets the foundation for a certain R2P topic in all operational laws; however, it does not enable peacekeepers to carry out special duties in the preamble of a decision or mandate (*Global Centre for the Responsibility to Protect* 2018).

Under Pillar II, the UNSC stipulates "... advising and assisting the Government of South Sudan, including military and police at national and local levels as appropriate, in fulfilling its responsibility to protect" (UNMISS mandate 2011, Resolution 1996) (UNMISS 2011). A similar text appears in MINUSMA's 2012 mandate (Resolution 2085, *Global Centre for the Responsibility to Protect* 2017). Under Pillar III, the UNSC's authorisation is embedded in Resolution 1975, that reiterates the main obligation of the State to protect populations while the mission is authorised (UNOCI) to "... use all necessary means to carry out its mandate to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment, including to prevent the use of heavy weapons against the civilian population," in reaction to human rights violations and abuses that could have resulted in crimes against humanity (*United Nations Security Council Resolutions-* n.d.).

THE ROLE OF NATIONAL AND CIVIL SOCIETY ORGANISATIONS (CSOs)

Promoting of R2P overlaps with several fields, including human rights; prevention of conflicts; legislative governance and rule; security; global justice; peace and peace-building; humanitarian assistance; women rights; and religious perspectives. Civil society organisations (CSOs) contribute in a broad spectrum of policies and projects to protect populations. This involves surveillance of prospective ground crises or distant

crises studies and projects to monitor social and conventional media (Puttick 2017). In specific, the mass crimes indicators were incitement, assault to minority groups as well as sex and gender violence. They have, moreover, alerted other actors of prospective and emerging disputes with early alerts and evaluations, including sensitive phases such as political transitions and elections, with domestic, regional and global early warning systems.

CSOs have also been involved in mediation, negotiation and dispute resolution, to promote nonviolent negotiations and crisis resolution among the disputing parties; they also support and participate in or conduct conflict mediation or solution attempts (Kvamme 2007). Furthermore, civil protection staff are trained in civil and military protection activities, including instruction on recognition of indices of mass atrocity, minimising civil deaths as well as preventing sexual violence and child threats in the case of armed conflict. The CSOs also assess R2P indices and analyse previous lessons learned and best practices by reporting crises that improve prevention policies (*Global Centre for the Responsibility to Protect* 2010).

Perhaps the biggest contribution by CSOs under the shared responsibilities of R2P is their assistance in post-trauma recovery, where the community's needs assessments are carried out for development, reconstruction and conciliation policies, separately or in cooperation with the civil society, the government and intergovernmental agencies (*Global Centre for the Responsibility to Protect* 2017). CSOs facilitate and support the post-crisis peace and development process, and emphasise the importance of ensuring equity in reconciliation efforts between minorities, women and other vulnerable groups (*Global Centre for the Responsibility to Protect* 2017). CSOs promote and improve the national and regional justice systems by tracking the job of judicial authorities and by offering legal aid. They also advocate stronger institutions to avoid R2P crime and violations namely by getting politicians in their statements refer to the prevention and the protection of communities from mass crimes by pushing for legislations to be adopted that guarantees the minorities equal rights, and strengthening or implementing national and regional policies, and structures to stop mass crimes and by promoting the governments' signature of the International Union on the deterrence of mass crime.

In retrospect, the role of CSOs is to help local communities in preventing and protecting their activities, to assist local actors in identifying and preventing threats of R2P offenses and breaches and to promote and replicate such attempts wherever necessary (*International Coalition for the Responsibility to Protect*- n.d.). They have been instrumental in encouraging peace building and conflict avoidance, building democracy and humanitarian aid. The function of CSOs is evolving as the political context evolves. They are now faced with three main problems: varying

interpretations of ‘civil society,’ the lack of a unified voice of civil society and inner governance issues.

THE LEGAL BASIS OF R2P

Although R2P is not an independent legal framework, R2P is founded on existing international law as a principle (Halt 2012). States are included in the Convention on Genocide, which makes the Member States responsible for genocide prevention and punishment of offenses in their responsibilities when dealing with genocide crime. The Geneva Conventions and the Additional Protocol includes the obligation of States to regard and guarantee compliance with International Humanitarian Law (IHL) and their responsibilities under IHL (ICRC 2010). These obligations are related to the responsibility of the R2P for war crimes. Though the Rome Statute of the International Criminal Court recognises and defines international crime, there is no agreement or Treaty that defines the Member States responsibilities in relation to crimes against humanity, even for example torture and slavery as they have their own conventions (Jessie 2004).

The primary owners of R2P customs are States (Breakey 2012). First of all, the protection of the populations under their competence is the responsibility of the States. States also have a role in helping other States meet their responsibilities in protecting their populations. The Secretary General states that four methods may be used to encourage States to meet their responsibility and to help them carry out their duties, as well as to assist them in their capacity to protect and aid stressed states in the face of conflicts and crises. Action can also be made if nations clearly fail to avoid their responsibilities, such as enforcing sanctions or employing “UN Security Council”-authorised military force.

Furthermore, the International Community, through the UN, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect populations (and they may) take collective action through the Security Council (UNGAOR 2005). In this regard, the ‘global community’ refers to States that interact via the UN. However, the definition of the ‘global community’ is not decided, and although it obviously refers to States, it can also be applicable to the means by which states are engaged, as well as non-state actors, NGOs, and civils. Although it is unlikely that these non-state actors would hold “legal” global law responsibilities, there is powerful evidence that a “moral” obligation exists.

If States do not prohibit R2P offenses from being committed and do not intervene to avoid further R2P offenses, States’ ‘Responsibility for Protection’ fails (Australian Red Cross- n.d). In most cases, if States commit such international

crimes, they are liable for punishing those accountable through their internal legal structure or other mechanisms such as the International Criminal Court. In order to prosecute R2P offenses, the international community should take action to safeguard its responsibilities and assist other countries. Global societies have to respond. Political, humanitarian and peaceful resources such as the right of human controls can be used to safeguard people.

EFFECTIVENESS OF R2P

It has been more than a decade since the UN endorsed R2P. In its most basic sense, R2P reflects an expression of the international community's obligations when a government or the state does not safeguard its citizens from war crimes, genocide, and ethnic cleansing. Despite the commendation in its theoretical perspective, R2P is not without scepticism. According to Stein in Lavender (2016), R2P is nearing obsolete, if it is not yet dead. This argument, according to Stein, is because there has not really been any real situation where R2P is invoked. There has been strong calls for R2P to be involved in situation of civil wars and genocides, including in situations where governments execute atrocities on their own populations, and yet this has not happened. This can be seen everywhere in the world - Syria, Yemen, the Central African Republic and North Korea are a few examples, where the sense of fear and insecurity surround the lives of millions of people on a daily basis.

Since the Syrian conflict started in 2011, the toll of claimed lives was at least 260,000 by 2016 alone and 11 million individuals were displaced, crying for the critical assistance they so desperately need (*BBC News* 2016). The situation has been aggravated through the appearance of actors like non-state organisations such as ISIL and rapid technological advancements. This is still happening, while the rest of the world is considering their answer to such grave humanitarian calls, wondering if answering would fulfil their respective geostrategic interests. These are but some of the challenges encountered by R2P - its practical implementation against the theoretical context. Yet, it cannot be said that R2P has no effect at all. R2P is an attempt by the human race to call to action instead of passively watching as bystanders. It is a reminder, albeit a grim one, to the international community to not just turn a blind eye on states or governments who are unable to protect their own citizens from mass atrocities. The international community is jointly responsible for States inability or reluctance to do so. While there are scepticism and optimism regarding R2P, the most basic underlying question is, how effective has the R2P been throughout these 14 years since its inception in 2005, particularly in addressing conflict zones and in relation to how it has impacted human security in the afflicted areas?

DEVELOPMENT OF R2P

The 10th anniversary of the R2P in 2015 was marked with grim reminders (*Global Centre for the Responsibility to Protect*- n.d.). Its inception, by the UN, is laced with remembrance of atrocities that have fallen into the sphere of questionable thoughts, of whether the world could only watch as countless people fall victims to violence, particularly in the form of war crimes, genocide, crimes against humanity and ethnic cleansing. The Khmer Rouge atrocities, the Armenian genocide and the Srebrenica incident constitute the foundation on which the R2P was conceptualised. Yet, they have not garnered enough momentum to stop or prevent the prolonged insecure environment in Iraq, Syria, South Sudan, and Sudan, to name a few. In its more than 70 years of existence, the UN's effectiveness to secure peace and stability in the whole world can still be questioned, and the effectiveness of the R2P is tied to that.

Thus, the R2P anniversary provided the UN with a chance to re-evaluate the efforts at the domestic, regional and international level in arresting and avoiding mass atrocities, offences and genocide. It was an opportunity for the UN to avow a renewed vision which may look over ambitious, but would serve as a way to propel R2P into the direction that it is supposed to be. With many conflicts still ongoing, the only option available for the UN regarding R2P was to intensify collective efforts to prevent and protect civilians from the crimes that have been listed. Thus, during the anniversary, the UN member States were given the possibility to deepen their global commitment towards R2P, ensuring that it would eventually become an international norm. The Member States' choices included the nomination of a National R2P Focal Point (*The Stanley Foundation* 2015).

In addition, UN also requested member countries to support the United Nations General Assembly, the Human Rights Council and the Security Council resolutions to reaffirm the United Nations' obligation to R2P, in order to prevent mass atrocities and genocide. The countries were entreated to participate in the UN Security Council's Open Debate on Genocide Prevention, adopt a Resolution and publicly support the action Plan of Human Rights. The United Nations Secretary-General urged the Secretariat to serve as a major instrument for timely responses to future mass atrocities, and to promote multilateral initiatives aimed at deterring genocide, war crimes, and racial cleansing crimes. The Global Centre for the Responsibility to Protect in particular, urged the five permanent UN Security Council members, in tribute to the United Nations 70th anniversary to make a public commitment towards the Declaration of Principles (*Global Centre for the Responsibility to Protect* 2015).

In the following decade after R2P's inception, many aspects of the doctrine were reached through great consensus, as Jennifer Welsh, the United Nations Special

Adviser explained (Report of the Secretary-General 2015). Nevertheless, doctrine references are becoming increasingly normal: not less than 30 UNSC resolutions plus six presidency statements on the R2P were adopted by the end of 2015. As of now, informal interactive discussions and formal discussions are carried out annually at the UN General Assembly. At the same time, the AU and the EU have endorsed the term (Responsibility to Protect 2019). It was suggested that the R2P principle should be widely accepted as a code of conduct for nations and global organisations and capacity building resources should be placed for the prevention, identification and reaction to R2P offenses. The discussions on the applicability of R2P in such cases sometimes seem to end up threatening the principle. These discussions, however, also improve its definition.

R2P IN CONFLICT AREAS AND HUMAN SECURITY

Thus far, the R2P has seen its share of successes and failures. Table 2 shows some of these cases:

TABLE 2. Examples of R2P Failures and Successes

Failures	Successes
Darfur	Côte D’Ivoire
Sri Lanka	Libya
Myanmar	
Libya	
Yemen	
Syria	

Source: Compiled by the Authors

FAILURES

Among the factors that contribute to the failures of the R2P are the states own refusal to adhere to the R2P principle. There is no legal framework in which the state can be punished. There are only laws on crimes that can be used to convict individuals even though there is no guarantee that there would be any justice. It seems that there are certain legal aspects which are not covered by the R2P principle, or laws on war crimes. Other factors include the lack of enthusiasm by the responsible parties in implementing R2P during certain conflicts, or the over-enthusiasm in implementing the R2P.

1. DARFUR

In Darfur, the UN and AU attempts to tackle the crisis have been unsuccessful. The presence of R2P managed to contain the atrocities for a few years. However, it changed in 2011 with the government of South Sudan, which made some changes in the international policy regarding the nation. As a consequence, it led to political and inter-tribal conflicts, which caused a bloody battle to occur just two years after the country's independence. Numerous civilian lives were tragically lost, despite the protection of the UN peacekeepers. The conflict subsided temporarily, forced by the African neighbours' fragile peace treaty in 2015. There was a promise to halt the fighting at least until the return of rebel Vice-President Riek Machar to the capital, Juba, in April 2016. But three months later, fighting once again broke out in the capital. This happened right in front of the eyes of the UN peacekeeping personnel and raised the question of how well the R2P fit in the political framework of the state in conflict.

2. SRI LANKA

In May 2009 Sri Lanka's lengthy civil war reached a horrendous peak. The Tamil rebels showed their power against the majority Sinhalese government. In the final months of the battle, and above all, during the last hours of the battle during which many civilians were taken hostage by the rebel leaders and tens of thousands of civilians and rebel fighters were murdered. That led to the implementation of a new UN policy on human rights by the UNSG Ban Ki-Moon, but this attempt was unsuccessful at persuading critics to pledge authority to the UN (Chesterman et al 2016). However, in the case of Sri Lanka, there was a problem with the R2P principle: there was disagreement on whether the purpose had been fulfilled. Even though the military forces had 150,000 civilians, some original promoters disagreed about the essential question of the applicability of the doctrine (Thakur 2009).

3. MYANMAR

Cyclone Nargis, which ravaged Myanmar at the beginning of May 2008, provides interesting courses on how to prevent forceful aid action. On the day after Cyclone landed, French Foreign Minister Bernard Kouchner, a humanitarian activist of lengthy standing, requested R2P to be applied in such a manner that force was used causing an extremely defensive position of the military administration of Myanmar, which significantly limited the international aid permitted. The Association of South East Asian Nations (ASEAN) argued to Yangon's officials that providing and accepting the urgently required humanitarian help should have nothing to do with sovereignty or

encouraging a debate on the use of force. Myanmar's government caved in much more readily as it could see threats by former colonial powers from the imprecations of valued ASEAN partners. This situation was a warning against a loose invoking of R2P (Badescu 2010). Russia was likewise challenged in its efforts to call for R2P on the grounds of the military activity in South Ossetia. The outcome was a clearer understanding of the scope of the standard around what Jennifer Welsh called a "tight but profound" approach (Welsh 2015).

4. LIBYA

Libya presents a unique case where the R2P saw both failure and success. The failure started manifesting after the capture of Muammar Ghaddafi. Events on the ground were moving fast, yet NATO air strikes continued throughout the summer, even though the Ghaddafi regime was routed and far beyond Tripoli, after a reverse power balance around Benghazi. During the summer, air strikes continued. In fact, it was a French aircraft that stopped a convoy on 20 October, 2011, causing Ghaddafi to flee and hide in a place where the people of Libya pulled out and murdered him. This surprised those who hesitated about NATO's intervention and resulted (SCR 2016, 27 October 2011) in the lifting of the license for the application of force in Libya a week later. President Obama's subsequent observations, which criticized France and Britain's interventions and failures in Libya followed an end of military activities showing great concern after the chaos in Libya (Pouligny et al. 2007).

5. SYRIA

When the domestic turmoil in 2011 became a full-fledged civilian conflict in Syria in 2012, the Council thought that, in addition to combating terrorist forces there, external action should not be permitted. Interestingly, despite the self-evident existence of war offences and other prospective causes, the Council prevented invocation of R2P - apparently quite intentionally - in this context. In that respect, on SCR 2165 of 24 June 2014, Russia quietly abandoned its demand for first approval, in Damascus, of any external access to offer aid to Syria. That said, Russia quietly gave up its emphasis in the UNSC Resolutions on Syria and in the notorious shift of position. Nevertheless, concerns and evaluation of Syria's geostrategic conflicts have shown that if some significant conflicts in the world become worse, the scenario will make it very difficult to fight heavily armed terrorist movements such as the Islamic State which controls huge civilian populations and a broad variety of militancy operations in Moscow and Washington.

SUCCESS

The R2P has been successful in a few cases, though its overall effectiveness can be questioned. However, its success can sometimes be an equally dismaying failure, like in the case of Libya.

1. LIBYA

In 2011, Libyan President Muammar Ghaddafi threatened to exterminate the people of his government in the town of Benghazi in the west (Hehir 2013). The Council expressed its determination to ensure the protection of the civil population, provision of humanitarian assistance and the protection of the humanitarian personnel in its resolution of 17 March, 1973, with only five abstentions (Russia, China, Brazil, India and Germany), authorising all actions needed to safeguard civilians in Libya except for the occupation forces, and implementing the previously adopted arms embargo as well as imposing the no-fly zone and reinforcing the current sanction system. Several nations, led mainly by France and the UK volunteered, with Washington playing a critical role in the need for specific capacity to conduct military action under the NATO flag.

2. CÔTE D'IVOIRE

The Council invoked R2P and its nucleus fundamentals in Côte D'Ivoire (Global Centre for the Responsibility to Protect- n.d). This was the case when certain local political and security players were sanctioned in 2010 as well as once more when the law allowed the use of force, when former President Laurent Gbagbo, now on trial in The Hague, was arrested and subsequently charged by the ICC (United Nations Security Council 2011).

DISCUSSION

In the past, the UN's reputation was tarnished by the fact that mass atrocities had not been stopped such as the ones in Rwanda and Srebrenica that undermined its founding principles. Over the last two decades, considerable progress has been made since Rwanda and Srebrenica to guarantee that peacekeepers are more efficient in protecting civilians. The mandates of the United Nations Security Council now recognise that peacekeeping is essential to restore peace and safeguard civilians from such offenses. Nevertheless, emerging international peace and security issues require a stronger, more consistent and integrated strategy in different phases of the conflicts.

R2P became a standard to respond to the 1990's genocides. They were intended as an operational and political answer to "Never Again." This new strategy would not only be focused on crisis response but would also take steps to avoid situations that enable and eventually facilitate and contribute to the perpetration of such atrocities. All players should take responsibility, including the responsibility for holding offenders accountable, creating reconstruction and rapprochement procedures and avoiding the recurrence of violence, beyond the imminent danger to individuals.

R2P seems like a legitimate and a good idea to ensure protection of the population, particularly those vulnerable - women, children, the elderly and civilians in times of conflict. It may look like an answer to the issues of hostilities and violence that accompany conflicts like war, which tend to victimise the innocents. Though it may be recent, it acts to complement and even at times, tower above the existing mechanisms that address such matters, like the International Humanitarian Law (IHL). The field covers, in terms of responsibility all sorts of policymakers and implementers, from the UN to the States and even CSOs and NGOs. While R2P itself is not a principle, it is one of the basis of the current global law. The Convention on the Prevention and Punishment of Genocides lays down the responsibility of states in the areas of genocide. The Geneva Convention and the supplementary protocols mention the obligations of States in respect to the IHL and in ensuring compliance. Nevertheless, R2P is not bound by the relevant legal aspect. Although the Rome Statute of the International Criminal Court defines global criminality extensively, it does not have its own Convention or Treaty. In addition, states are liable for offenses against humanity even though crimes like torture and slavery have conventions of their own. The most important duty bearers under R2P are the states. The fact that the international community works with the UN can represent a large gap in R2P, as this could contribute to making it inefficient.

The strategy of the R2P is limited but profound. These characteristics make it both efficient and inefficient. It is inefficient because it is only confined to four specific crimes: genocide, crimes against humanity, war crimes and ethnic cleansing. However, sometimes conflicts are not considered in need of R2P, despite showing all the characteristics. This raises the question of whether the Western powers which are prevalent in the UN, only support the notion of implementing R2P in certain areas because they have certain interests. Additionally, there is the doubt, that perhaps there is a certain bloc in the UN itself, which is trying to discredit and thwart the successful materialisation of R2P. On the other hand, R2P's effectiveness lies in the fact that it provides a broad variety of instruments, such as diplomatic, financial, political and humanitarian policies at a variety of levels (global, regional, national and local), that will facilitate the prevention and reaction to mass crimes merely because it concentrates on a limited number of functions. However, it not easy to

draw the line between the efficiency and inefficiency of the R2P in safeguarding human lives from war or conflict related crimes. Even deciding on whether R2P should be introduced is not simple because it is at the junction of legislation, politics and standards to consider when and how force can be used in humanitarian action.

CONCLUSION

As identified by the finding, the R2P, as illustrated by the UN peacekeepers for example, is a physical demonstration of its commitment to maintaining its accountability for the protection of men, women and children at risk from war crimes, ethnic cleansing, genocide and crimes against humanity. The existence of peacekeepers can make the difference between life and death for the most fragile people in the world at a moment when civil and human dignity is eroded. R2P is a recent prevention and protection standard of war crimes, crimes against humanity, genocide and ethnic cleansing. It has an extremely restricted scope and includes only four specific crimes and violations. In circumstances of forcible action to deter or end mass crimes, the implementation of R2P is apparently largely based on political will. R2P is a statute which is non-legal, but a political obligation to guide national and international treaties to safeguard individuals from such offenses and violations.

The R2P doctrines have transformed the global comprehension of ‘sovereignty’ from the research perspective – a challenge to Westphalian views and non-intervention norms. It rearranged rearranged the repertoire of humanitarian action, which emphasised the notion of accountability, which sovereign states are accountable to prevent and promote among other States to safeguard people against preventable events. The R2P doctrine, which reaffirms the dedication of the United Nations to human rights, is considerably symbolic. However, it is questionable whether it has succeeded in reaching its goals. The doctrine is an example of UN bureaucracy that is inadequate and inefficient. The doctrine has achieved little for human rights because it is notoriously ineffective. The committee has no power and its organisational structures are undermined. In addition the R2P doctrine is mainly military, particularly in the initial ICISS study from 2001, undermining its goal of separating accountability from interference. Moreover, the openly ambiguous military language points to interference instead of seeking alternative, less comprehensive measures to protect civilians from violations of human rights.

The R2P Doctrine is clearly limited by failure, owing to an absence of concrete engagement by the international community, to effectively defend civilians from gross violations of human rights. One of the mainly remarkable components of the R2P doctrine appears to be the divide involving commitment and certainty. The 2001 study by ICISS reflects explicitly its goals and intent following Rwanda’s atrocities, in

which the global community was unable to intervene. Rwandan countries no longer have the principle of no intervention that gives global accountability to defend where it is reluctant or unable to safeguard its civilians. However, the Security Council's capacity to react rapidly to cases of escalating violations is clearly divergent since since the commissioning of the report, as was the case for Darfur. Although there was an escalation in conflict for many years, no effort was made to quickly end the catastrophes in Darfur.

It was only after the worst of the humanitarian crimes had happened that the UN Security Council began to consider a suitable and proportionate global reaction. In addition to preventing a clear increase in violence violence from happening, they opted for improper and complacent bureaucratic measures as a means of protecting civilians when they lastly took action in 2004. In 2006 the UN encountered the government of Sudan and signed cessation of fire agreements. While the United Nations has been efficient in achieving peace on paper, the truth is the contrary. The Council failed to react properly and defend Sudanese civilians against human rights' violations. This instance shows how the R2P doctrine is limited. Inexorably, the beneficial values of the R2P include the promotion of human rights, but without real engagement by the international community. But the doctrine itself is a significant commitment to human rights on the part of the UN. The UN systems of human rights are also progressively involved in supporting and supporting R2P.

The Human Rights Council has conducted a separate event to consider the human rights of R2P and the Secretary-General has lately developed and promoted an initiative to put human rights at the centre of the United Nation's activities called the "Human Rights Up Front Project". In contrast to the concept of universal human rights and crimes against humanity, R2P is far from achieving the international standard. Furthermore, some components of civil society will always oppose the use of force, regardless of the value of the cause. Civil society's active encouragement will be crucial to this. There is still a lot to do before R2P becomes popular and get adopted. Until the acceptance of is R2P accomplished, the world must continue to depend on other instruments. The question of human rights has been successfully and strongly placed on the agenda of the UN. In this regard, one must acknowledge the doctrine as an ideological document which endorses human rights.

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Mohd Hedzri Omar,
Department of Strategic Studies
Faculty of Defence Studies and Management
National Defence University of Malaysia
Kem Sungai Besi
57000 Kuala Lumpur
Email: hedzri3585@rmafatc.net

Noraini Zulkifli, PhD (corresponding author)
Department of Strategic Studies
Faculty of Defence Studies and Management
Universiti Pertahanan Nasional Malaysia
Kem Sungai Besi
57000 Kuala Lumpur
Malaysia
Email: noraini@upnm.edu.my