

Reconciling R2P with IDP Protection

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Introduction

The concept of the responsibility to protect (R2P) developed in large measure from efforts to design an international system to protect internally displaced persons (IDPs).

The explosion of civil wars emanating from and following the Cold War brought into view millions of persons inside their own countries who were uprooted from their homes and in need of international protection and assistance. Many had little or no access to food, medicine or shelter and were vulnerable to assault, sexual violence, and all manner of human rights abuse. When first counted in 1982, 1.2 million IDPs could be found in 11 countries; by 1995, the number had surged to 20 to 25 million.¹

The international system, however, set up after the Second World War, focused almost exclusively on refugees – persons who fled *across* borders to escape persecution. The 1951 Refugee Convention and the UN High Commissioner for Refugees (UNHCR) provided international protection to people who were *outside* their countries of origin and deprived of the protection of their own governments. As UNICEF's Executive Director observed, 'The world has established a minimum safety net for refugees,' but 'This is not yet the case with respect to internally displaced populations.'²

In the displaced persons camps set up after the Second World War in Europe, the UN Relief and Rehabilitation Administration, a predecessor of UNHCR, protected *both* refugees and IDPs. But during the Cold War, borders became sacrosanct and concepts of non-interference in internal affairs overrode most efforts to protect people inside their countries.³ During the Biafra civil war in the 1960s, the High Commissioner for Refugees restricted help to IDPs with the explanation

¹ Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement* (Washington, DC: Brookings Institution Press, 1998), p. 3.

² James P. Grant, 'Refugees, Internally Displaced and the Poor: An Evolving Ethos of Responsibility,' address at the Round Table on the Papal Document, UNICEF, 9 March 1993.

³ To be sure, the International Committee of the Red Cross had a special mandate to protect civilians in armed conflicts and beginning in the 1970s could explicitly act in non-international armed conflicts. But often it was denied entry and did not easily act in conflicts below the threshold of civil wars. UNHCR also began in the 1970s on a select basis to assist people displaced inside their own countries at the request of the General Assembly or Secretary-General. But by and large deference to traditional notions of sovereignty prohibited an international role with IDPs for much of the 20th century.

that: ‘my Office is not in a position to deal with situations affecting nationals who find themselves within a territory of their country.’⁴

It was not until the 1990s that this gap in treatment was challenged and the international community began in a concerted way to try to assist and protect people uprooted inside their countries. UN Secretary-General Javier Perez de Cuellar pointed the way in 1991 with these words: ‘We are clearly witnessing what is probably an irresistible shift in public attitudes towards the belief that the defense of the oppressed in the name of morality should prevail over frontiers and legal documents.’⁵ Concepts of human security, sovereignty as responsibility and the responsibility to protect developed in large measure in response to the need of IDPs and other affected civilians for protection from the gross violations of human rights perpetrated in civil wars and internal strife.

This article examines the origin of R2P from the perspective of IDP protection and identifies the problems that arise in applying the concept to displaced persons. It then offers suggestions for reconciling R2P with IDPs so that the concept may benefit displaced persons, as was intended.

International Protection for IDPs

A complex mix of motivations produced the broader international approach that seeks to protect and assist people uprooted within their own countries. The growing number of IDPs was a key consideration as was the risk that conflict and displacement in one country could spill over borders and disrupt regional and international stability. International preoccupation with preventing refugee flows also lent support to protecting people inside their countries. So too did the Cold War’s end, which facilitated access and was accompanied by an erosion in traditional notions of sovereignty. From 1991 on, Security Council resolutions began to demand access to IDPs and other affected populations, and sometimes authorised the establishment of relief corridors and cross-border operations or the use of force to reach IDPs and others in need.⁶

The international response to IDP emergencies, however, initially focused on providing food, medicine and shelter to the displaced. In 1989, UN Resident Coordinators were assigned the task of coordinating ‘assistance’ to IDPs in the field. But with the displacement of Kurds, Bosnians and Somalis, it became clear that security was as overriding a priority as food. In the former Yugoslavia, IDPs told UNHCR,

We do not need food, we are not starving to death. We are being persecuted and we prefer to be hungry for a week than not to sleep every night, in fear of being beaten, raped, or killed.⁷

IDPs began to look to the international community for protection when their states collapsed or when their governments proved unable or unwilling to provide them with elemental security.

⁴ Adam Lichtenheld, *From Exclusion to Expansion: Internally Displaced People and the Evolution of the International Refugee Rights Regime*, Spring 2008 (unpublished Senior Honors Thesis, University of Wisconsin, on file with author).

⁵ Javier Perez de Cuellar, as quoted in Cohen and Deng, *Masses in Flight*, p. 1.

⁶ For a discussion of the reasons why IDPs came onto the international agenda, see *ibid*, pp. 3-5.

⁷ UNHCR, Information Notes on former Yugoslavia, 1/94, January 1994, p. ii, cited in Erin D. Mooney, ‘Presence, ergo Protection? UNPROFOR, UNHCR and the ICRC in Croatia and Bosnia and Herzegovina,’ *International Journal of Refugee Law* 7/3: 430 (1995).

The Refugee Policy Group (RPG), a small think tank in Washington DC, took the lead in pointing out that United Nations mechanisms to coordinate assistance to IDPs would prove ineffective unless there were comparable ‘measures to protect the human rights of those displaced.’⁸ The assumption that because IDPs were within the borders of their countries their governments would protect them was proving erroneous. Before a special meeting of delegates of the UN Commission on Human Rights in 1990, RPG argued that when governments do not have the willingness or ability to protect their displaced populations, international involvement becomes essential:

The fact that they are displaced internally does not mean that the international community does not have a major *responsibility to protect* them [emphasis added].⁹

In 1991, RPG convened the first international conference on human rights protection for internally displaced persons. Its letter of invitation affirmed, ‘Although recently the United Nations has begun to address the relief needs of internally displaced people, the international community has been slow to recognize that they also need human rights protection.’¹⁰ The meeting called for an international system to provide protection to the displaced when their governments were unwilling or unable to do so.¹¹ The debates over whether the international community had a responsibility to protect people inside their countries originated in large measure from the gap in the international system that provided *international* protection primarily to refugees and left IDPs to the care of their own governments. The need of IDPs for protection when caught up in civil wars, forced relocations and serious human rights abuse precipitated the *breakdown* in traditional ways of thinking about sovereignty and humanitarian action. It also triggered operational changes in the field. Sadako Ogata, the High Commissioner of Refugees, wrote in her memoirs that she asked herself:

Should we follow the legal dictate of not exercising our mandate inside the border and thereby refrain from helping those prevented from crossing or should we stand more on realistic humanitarian grounds and extend whatever support we could?¹²

Ogata chose the humanitarian course and UNHCR, despite its refugee mandate, began to protect displaced Kurds inside Iraq in the safe haven created by a US-led coalition, in the wake of the Gulf War; and in the former Yugoslavia UNHCR became the lead agency on the ground for refugees, IDPs and other affected populations.

⁸ See Roberta Cohen, Refugee Policy Group, ‘U.N. Human Rights Bodies Should Deal with the Internally Displaced,’ Statement before delegates to the UN Commission on Human Rights, organised by the Quaker UN Office and the World Council of Churches, Geneva, 7 February 1990. See also Roberta Cohen and Jacques Cuenod, *Improving Institutional Arrangements for the Internally Displaced* (Washington DC: The Brookings Institution-Refugee Policy Group Project on Internal Displacement, October 1995), pp. 6-7; and Thomas Weiss and David A. Korn, *Internal Displacement: Conceptualization and its Consequences* (Abingdon and New York: Routledge, 2006), pp. 11-29.

⁹ Cohen, *ibid.*

¹⁰ Refugee Policy Group, Letter of Invitation, 15 March 1991.

¹¹ Roberta Cohen, ‘Human Rights Protection for Internally Displaced Persons,’ Refugee Policy Group, June, 1991; and Refugee Policy Group, ‘Human Rights Protection for Internally Displaced Persons: An International Conference,’ 24-25 June 1991.

¹² Sadako Ogata, *The Turbulent Decade* (New York: W.W. Norton & Company, 2005), p. 38.

Mrs. Ogata's decision was supported by many UNHCR staff who found it unconscionable not to provide some protection to IDPs. Sergio Vieira de Mello of UNHCR, for example, who went on to become the UN's Emergency Relief Coordinator called upon the Security Council 'to alleviate the suffering of innocent people throughout the world irrespective of their location.'¹³ Kamel Morjane, when he became Deputy High Commissioner, asserted that it was 'neither ethical nor practical to distinguish between human beings because of a border they may or may not have crossed.'¹⁴ Others at UNHCR however feared that greater involvement with IDPs would threaten the institution of asylum, undermine refugee protection and lead the agency into too challenging a course in trying to protect people inside their countries.¹⁵

UNHCR and other humanitarian organisations called for a conceptual and legal foundation on which to base their growing involvement with IDPs. For refugee protection, UNHCR could rely on the Refugee Convention, but for IDPs no comparable document existed.

Sovereignty as Responsibility and the Guiding Principles on Internal Displacement

It fell to Francis M. Deng, who became Representative of the Secretary-General on IDPs in 1992, to undertake the work of developing the conceptual and legal framework for the international protection of IDPs. Deng put forward the concept of sovereignty as responsibility as the most appropriate protection framework for people displaced inside their countries. The concept arose from work he and other scholars had done on Africa at the Brookings Institution¹⁶ and also from work done by RPG on the protection of IDPs.¹⁷

The concept posits primary responsibility for the welfare and safety of IDPs with their governments. However, when governments are unable to fulfill their responsibilities, they should request and accept offers of aid from the international community. If they refuse or deliberately obstruct access and put large numbers at risk, the international community has a right and even a responsibility to take a series of calibrated actions. These range from 'diplomatic demarches to political pressures, sanctions, or, as a last resort, military intervention.' State failure to provide protection and life-supporting assistance 'legitimized the involvement of the international community.'¹⁸

¹³ UN Office for the Coordination of Humanitarian Affairs, 'Briefing of the Security Council on emergency situations outside the Federal Republic of Yugoslavia by Under-Secretary-General Sergio Vieira de Mello,' 3 June 1999.

¹⁴ Kamel Morjane, *ICVA Talk Back*, Vol. 7-2, Geneva, 30 March 2005.

¹⁵ See 'Should UNHCR become a "displacement agency"?' *The State of the World's Refugees* (UNHCR: Oxford University Press, 2006), pp. 166-167.

¹⁶ See Francis M. Deng, *Protecting the Dispossessed* (Washington DC: Brookings Institution), 1993, pp. 14-20; and Deng et al, *Sovereignty as Responsibility: Conflict Management in Africa* (Washington DC: Brookings Institution, 1996), pp. 2-19, 27-33.

¹⁷ See Cohen, 'Human Rights Protection for Internally Displaced Persons,' pp. 16-19, which says that 'Sovereignty carries with it a responsibility on the part of governments to protect their citizens,' and discusses the human rights and humanitarian contributions to this concept; and Roberta Cohen, 'Statement to International Journalists Round Table on Human Rights and the United Nations,' United Nations, New York, 14-16 October 1991, which says that 'sovereignty implies humanitarian and human rights obligations by governments to the persons residing on their territories.'

¹⁸ Cohen and Deng, *Masses in Flight*, p. 7.

The Guiding Principles on Internal Displacement, introduced by Deng into the UN in 1998,¹⁹ are based on the concept of sovereignty as responsibility. They set forth the rights of IDPs and the responsibilities of governments and international organisations toward these populations. They affirm that primary responsibility for displaced populations rests with their governments (Principles 3, 25); but if governments are unable to provide life-supporting protection and assistance, they are expected to request assistance from the international community. In such cases, offers of aid shall not be regarded ‘as an unfriendly act or an interference in a State’s internal affairs’ (Principle 25); nor shall offers of aid be ‘arbitrarily withheld’ when the authorities concerned are ‘unable or unwilling’ to provide the required assistance. The Principles do not *explicitly* state that international aid can be provided without the consent of the affected country but according to Deng and the author, the

...obligation imposed on states by humanitarian and human rights law to refrain from refusing reasonable offers of international assistance makes it difficult to dispute the existence of a duty to accept such offers.²⁰

The Principles further emphasise that in providing assistance, international humanitarian organisations should pay attention to the ‘protection needs and human rights’ of IDPs and take ‘measures’ in this regard (Principle 27). IDPs therefore must have access not only to material assistance from the international community but also to protection from violence and abuse when governments fail to provide these to its citizens.

Challenges of R2P’s Application to IDPs

When R2P was adopted by the UN General Assembly in 2005, it was generally expected that the concept would enhance security for IDPs since the concept of sovereignty as responsibility was recognised as its antecedent,²¹ and IDPs were so often the victims of R2P related crimes.

Like its antecedent, R2P places primary responsibility on the state to protect its population and calls on the international community to support states in discharging that responsibility. But if states fail in that obligation, responsibility shifts to the international community. There is an international responsibility to take ‘collective action’ when people are threatened by genocide, crimes against humanity, war crimes, and ethnic cleansing. Such action can include ‘diplomatic, humanitarian, and other peaceful means,’ to be followed if necessary by the use of force on a case by case basis under Chapter VII of the UN Charter.²²

R2P’s application to IDPs, however, has proved problematic. The reasons are varied:

¹⁹ UN Commission on Human Rights, The Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

²⁰ Cohen and Deng, *Masses in Flight*, p. 277.

²¹ See Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington DC: Brookings Institution Press, 2008), pp. 35-7.

²² UN General Assembly, World Summit Outcome 2005, Resolution A/RES/60/1, 24 October 2005 available at <http://www.un.org/summit2005/documents.html>

Limited application. To begin with, many states are wary of invoking R2P. The result is that the concept has been applied to only *one* case since its adoption. In early 2008 UN Secretary-General Ban Ki-moon characterised the post-election ethnic clashes in Kenya as R2P and took diplomatic and political steps to address the violence. By the time he acted, however, not only had 1,500 people died but up to 600,000 had been forcibly displaced. The application of R2P did not thus succeed as a preventive measure. Nonetheless, Ban's linkage of R2P to the situation underscored that the violence and displacement were being viewed seriously. The Secretary-General warned Kenya's leaders that they 'could be held accountable for violations of international law committed at their instigation' and urged them 'to call publicly for an end to the violence and to statements inciting violence.'²³ Ban then sought to implement R2P by supporting Kofi Annan's political mediation, the involvement of the African Union and the use of political pressure by the US and other Western governments. These collective efforts ultimately led to a halt in the violence and forced displacement. According to Annan, his own success as a peace-broker in Kenya 'owed something to the existence of R2P as a moral instrument.'²⁴

Yet R2P's effectiveness in Kenya can not easily be replicated. For one, the Kenyan authorities accepted, to some extent even welcomed, regional and international involvement so that the objection of intervention in internal affairs hardly arose. Second, R2P's application did not involve sanctions or military intervention which meant that the Secretary-General could invoke R2P 'without the explicit authorization of the Security Council.'²⁵ This bypassing of the Council ensured that members of the Permanent Five (P5) did not move to obstruct the application of R2P.²⁶

Other situations have been more prohibitive. In the case of Burma, for example, in 2007, Western governments drew attention in the Security Council to the massive attacks by the military on civilians in ethnic minority areas in which systematic rape, abuse of prisoners and forced displacement were being carried out. However, both China and Russia made clear that they would oppose any collective action against the junta on the grounds that the situation did not constitute a threat to international peace and security.²⁷

In the case of Darfur, China at the behest of Sudan blocked any reference to R2P in the Security Council Resolution authorising an African Union-UN force to protect IDPs and other civilians.²⁸ Although several hundred thousand Darfurians had died in 2003-4 and more than two million had been pushed into squalid IDP camps, the umbrella of R2P was denied them.

²³ UN General Assembly, Report of the UN Secretary-General, *Implementing the responsibility to protect*, A/63/677, 12 January 2009, para. 55.

²⁴ 'An Idea whose Time has Come and Gone?' *The Economist*, 23 July 2009.

²⁵ Report of the UN Secretary-General, *Implementing the responsibility to protect*, para. 51

²⁶ It was nonetheless difficult to achieve Council support for some of the steps taken, see Remarks of Susan E. Rice, US Ambassador to the UN, USUN Press Release #126, 15 June 2009.

²⁷ See Jurgen Haacke, 'Myanmar, the Responsibility to Protect, and the Need for Practical Assistance,' *Global Responsibility to Protect*, 1/2: 179-181 (2009).

²⁸ UN Security Council Resolution 1769, 31 July 2007 superseded Resolution 1706, 31 August 2006, which in preambular para. 2 did mention R2P when it authorised a Chapter VII force. See Roberta Cohen, 'Will Security Council Resolution 1769 Make a Difference in Darfur?' Brookings Institution, 9 August 2007.

In his report to the General Assembly in 2009, the Secretary-General regretted the ‘failure’ of the international community to stem the massive violence and displacements in Darfur, the Democratic Republic of the Congo (DRC) and Somalia, pointing out that this ‘has undermined public confidence in the United Nations and our collective espousal of the principles relating to the responsibility to protect.’²⁹

In the case of Sri Lanka, neither the Secretary-General nor the Security Council invoked R2P when the Sri Lankan military cornered tens of thousands of Tamil IDPs in a no fire zone in 2009 and began shelling and bombarding them. UN officials predicted ‘a bloodbath’, but it was left to NGOs to remind the international community that the fight against ‘terrorists’, in this case the LTTE (Liberation Tigers of Tamil Eelam), did not ‘absolve’ states of their responsibility to protect their citizens or the international community of its responsibility to react.³⁰ It is conceivable that at an early stage R2P might have worked preventively and achieved some protection for civilians, but it was never applied in deference to the Sri Lankan government’s ‘war on terror’. Even in the post-conflict period, there was no reference to R2P when the Sri Lankan government interned hundreds of thousands of IDPs behind barbed wire in overcrowded camps and restricted access to them by humanitarian organisations.³¹

The failure to apply R2P to any situation other than Kenya has meant that IDPs at this point in time can not readily look to this new concept for protection.

Narrowness of Application. When R2P was applied to the crisis in Kenya, its focus was narrow, responding mainly to the emergency phase of halting mass displacement. Yet in the *aftermath* of the violence, displaced people also suffered heavily. By most accounts, the government arbitrarily closed the camps irrespective of whether or not areas of return were sufficiently secure. IDPs were just ‘dumped’, said one leading UN expert,³² and even today thousands remain in temporary settlements and transit sites without proper shelter, medicine and food. There also was a lack of planning for those who did not wish to return, and inadequate compensation for destroyed homes and property.³³ Moreover, ‘...the causes of the displacement are yet to be addressed conclusively, and tensions between communities remain high in areas such as the Rift Valley.’³⁴

²⁹ See Report of the UN Secretary-General, *Implementing the responsibility to protect*, para. 55.

³⁰ See Global Centre for the Responsibility to Protect, ‘Open Letter to the Security Council on the situation in Sri Lanka,’ 15 April 2009, James Traub, ‘At Risk in Sri Lanka’s War,’ *Washington Post*, 22 April 2009; and ‘Amnesty International Urges UN to Publicize Civilian Casualty Figures,’ *Press Release*, 29 May 2009.

³¹ See Amnesty International, *ibid*; Rhys Blakely, ‘Death toll is 1,400 a week at IDPs camp in Sri Lanka,’ *The Times*, London, 10 July 2009; and Lydia Polgreen, ‘Displaced by War, Many Tamils Languish in Sri Lankan Camps,’ *New York Times*, 13 July 2009.

³² Interview of author, 2 June 2009.

³³ Jacqueline Klopp and Nuur Mohamud Sheekh, ‘Can the Guiding Principles make a difference in Kenya?’, *Forced Migration Review*, December 2008, pp. 19-20. See also Tom Odula, ‘Official: Kenya’s postelection aid program failed,’ *Washington Post*, 7 December 2009; and IDP Action, Statement on World Refugee Day, 20 June 2009.

³⁴ Internal Displacement Monitoring Centre, *Global Overview of Trends and Developments in 2008*, April 2009, p. 43. See also Jeffrey Gettleman, ‘Under Wraps, Kenya’s Bill For Bloodshed Nears Payment,’ *New York Times*, 16 July 2009.

Under R2P, the international community is supposed to help states ‘build capacity to protect their populations.’ The concept includes an international ‘responsibility to rebuild.’³⁵ The UN Peacebuilding Commission to its credit did in 2008 fund a small community volunteer program in the Rift Valley to provide food, sanitation and medical essentials to IDPs and help prepare the groundwork for some returns.³⁶ But the application of R2P to Kenya did not appear to encompass an overall strategy for protecting IDPs after they were uprooted, so that safety and sustainability could be assured in all areas of return or integration. The Kenya National Commission for Human Rights has charged the government with violating the Guiding Principles on Internal Displacement, and the Commission of Inquiry into Post-Election Violence in Kenya has called for the adoption of a national IDP policy based on the Guiding Principles.³⁷

The Sidelining of the Guiding Principles on Internal Displacement. The Secretary-General’s report on implementing R2P makes no mention of the Guiding Principles even though in the one case where R2P was applied, civil society organisations and Kenya’s national human rights commission called for the application of the Principles. The UN legal office reportedly removed the reference from the text on the grounds that the Principles are not ‘hard law’. Not only is this shortsighted and a bad precedent for R2P, but it is at variance with the resolutions of the General Assembly, Commission on Human Rights and Human Rights Council. They all call for the promotion and implementation of the Principles and regularly refer to them as an ‘important tool’ and ‘standard’ for the protection of IDPs;³⁸ further, the World Summit Outcome document recognises the Principles as ‘an important international framework for the protection of IDPs.’³⁹ At least 20 states have adopted laws or policies based on the Principles and they should be encouraged to implement their provisions. John Holmes, UN Under-Secretary-General for Humanitarian Affairs, provided just that in calling for the implementation of the Principles and affirming that ‘the Guiding Principles have become the accepted international standard for IDPs’ and ‘a watershed event in protecting IDPs.’⁴⁰ When R2P is applied, the promotion of the Principles must be part and parcel of the protection of IDPs.

Exclusion of Disaster IDPs. In a speech in Berlin in 2008, the UN Secretary-General warned that ‘Extending the principle [of R2P] to cover other calamities, such as HIV/AIDS, climate change, or response to natural disasters, would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility.’⁴¹ By the stroke of a pen the Secretary-General thus ruled out of R2P’s potential protection the millions of persons expected to be uprooted by disasters and climate change. The exclusion is said to accord with the World Summit Outcome document which omits natural disasters from the R2P formulation even though the ICISS report upon which R2P was based recommended as a criteria for R2P’s application,

³⁵ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 2001, available at www.iciss-ciise.gc.ca

³⁶ UN Peacebuilding Fund, Bulletin No. 5, January 2009, p. 2.

³⁷ Klopp and Sheekh, ‘Can the Guiding Principles make a difference in Kenya?’

³⁸ See for example General Assembly Resolution 56/154, 19 December 2001; UN Commission on Human Rights Resolution 2003/51, 23 April 2003; and General Assembly Resolution A/RES/62/153, 6 March 2008.

³⁹ UN General Assembly, World Summit Outcome 2005, para. 132.

⁴⁰ John Holmes, ‘Foreword,’ *Forced Migration Review*, December 2008, p. 3.

⁴¹ Ban Ki-moon, Address of the UN Secretary General at event on Responsible Sovereignty: International Cooperation for a Changed World, Berlin, 15 July 2008.

...overwhelming natural or environmental catastrophes, *where the state concerned is either unwilling or unable to cope, or call for assistance, and significant loss of life is occurring or threatened* [emphasis added].⁴²

The Secretary-General's Special Adviser Edward Luck reinforced this exclusion with the argument that R2P could only be triggered if 'murder or extermination committed as part of "a widespread or systematic attack" against the civilian population' were to take place.⁴³ However, if, in the context of a natural disaster, a government were to deliberately cause serious injury to the physical and mental health of massive numbers of the civilian population through blatant neglect, its action (or inaction) could well be said to constitute an attack on that population as postulated by Luck. Indeed, the Burmese government's 'reckless indifference' toward the victims of Cyclone Nargis in 2008 made it possible to argue that it was intentionally causing suffering on a massive scale and possibly crimes against humanity.⁴⁴ Former Canadian Foreign Minister Lloyd Axworthy argued that Burma's 'actively impeding the timely arrival of assistance and medications to more than one million people' should have invoked R2P: 'What is the moral distinction between closing the door of rescuing people from death by machete and closing the door of life-saving aid?'⁴⁵

When the definition of IDPs was first debated in the 1990s, similar controversies arose. Those opposed to the inclusion of disaster victims argued that this would broaden the concept and make it less meaningful. Disaster IDPs were said not to have the same protection needs as those uprooted by conflict. However, the majority pointed out that governments sometimes responded to disasters by persecuting or neglecting certain groups on political or ethnic grounds. In Ethiopia, in the mid 1980s, the Derg, under the pretext of responding to a natural disaster, forcibly and brutally relocated hundreds of thousands of highland Tigreans whom it considered political opponents into lowland malaria-infested areas; large numbers died as a result. In Sudan, the government refused to declare a state of emergency or request international aid during drought-related famines until it was forced to by the international community because of the widespread sickness and death.⁴⁶

A number of scholars, moreover, have pointed out that the mere invoking of R2P can prove valuable to protecting those at risk. Its mention at the time of Cyclone Nargis reportedly made the Burmese government more responsive to the victims and the international community more actively engaged.⁴⁷

⁴² ICISS, *The Responsibility to Protect*, p. 33.

⁴³ Edward C. Luck, Testimony before Subcommittee on International Development, Foreign Assistance, Economic Affairs and International Environmental Protection, Committee on Foreign Relations, U.S. Senate, 17 June 2008. Under the Rome Statute of the International Criminal Court, adopted in Rome, Italy on 27 July 1998 (entered into force 2 July 2002), inhumane acts 'intentionally causing great suffering, or serious injury to body or to mental or physical health' are included under crimes against humanity when committed as part of 'a widespread or systematic attack directed against any civilian population.'

⁴⁴ Gareth Evans, 'Facing Up to Our Responsibilities,' *The Guardian*, 12 May 2008. See also Roberta Cohen, 'The Burma Cyclone and the Responsibility to Protect,' *Global Responsibility to Protect*, 1/2: 253-257 (2009).

⁴⁵ Lloyd Axworthy and Allen Rock, 'Responsibility to Protect? Yes,' *Globe and Mail*, 9 May 2008.

⁴⁶ Cohen and Deng, *Masses in Flight*, p. 16.

⁴⁷ Haacke, 'Myanmar, the Responsibility to Protect, and the Need for Practical Assistance,' p. 169.

Tensions between human rights and humanitarian protection of IDPs. R2P's emphasis on human rights protection has at times created tensions with humanitarian programs for IDPs. When French Foreign Minister Bernard Kouchner called for R2P's application during Cyclone Nargis, and French, British and US warships neared Burma's coast, UN Emergency Relief Coordinator Holmes strongly protested against any form of coercion to protect the IDPs as this could undermine international and regional efforts to bring in humanitarian aid. Military force, he did not believe 'would be helpful to the people we are actually trying to help.'⁴⁸ R2P was even opposed as an umbrella for the *non-military* actions taken by the Secretary-General, the UN and the Association of Southeast Asian Nations (ASEAN). It was argued that negotiation and cooperation with the authorities without reference to R2P was the most effective means of gaining access to affected areas. Similarly, in Darfur, humanitarian aid workers have opposed coercive military action under the R2P label on the grounds that it could lead to the expulsion of their assistance programs for IDPs.⁴⁹

For the Executive Director of Médecins Sans Frontières USA, Nicholas de Torrente, the integration of humanitarian aid into broader political and security frameworks risks politicising and jeopardising relief operations. It also identifies aid workers with one side of a conflict and can expose them to attacks.⁵⁰ Many humanitarian aid workers have expressed difficulty as well with the very concept of 'protection,' arguing that going beyond delivering food, medicine and shelter could lead to denial of access, the expulsion of staff and interfere with relationships with governments on humanitarian and development issues. Other aid workers, however, consider protection essential to their work, and argue that when genocide and atrocity crimes are being committed, neutrality is not an option.

The extent to which R2P will encourage humanitarian organisations to engage more actively in protecting the physical safety and human rights of IDPs caught up in humanitarian emergencies remains to be seen. Nor is it clear whether UN human rights bodies will move beyond monitoring to play more of an actual protection role in the field.

Another area of tension between human rights protection and humanitarian operations is in the pursuit of international criminal justice. The Secretary-General's 2009 report affirms that the International Criminal Court (ICC) and the United Nations-assisted tribunals 'have added an essential tool for implementing the responsibility to protect.'⁵¹ Yet when the ICC issued an arrest warrant for Sudanese President Omar al-Bashir for having committed crimes against humanity against IDPs and other affected civilians in Darfur, the Sudanese government put more than one million IDPs at risk. It expelled from the IDP camps thirteen international humanitarian NGOs and closed three local NGOs, affecting vital humanitarian services for more than one million people. For humanitarian advocates in Darfur, the pursuit of justice could not have been more ill timed and some supported Security Council deferral in exchange for the readmission of the humanitarian workers. For human rights advocates, however, the arrest warrant constituted the long awaited culmination of an investigation into international crimes in Darfur that had been

⁴⁸ World Federalist Movement Institute for Global Policy, 'The Responsibility to Protect and its Application,' 9 May 2009.

⁴⁹ See Julie Flint, 'In Sudan, Help Comes From Above,' *New York Times*, 6 July 2007; and 'Aid Held Hostage,' MSF Foundation, October 2006.

⁵⁰ Statement of Nicholas de Torrente, Northwestern University Conference on Human Rights, 22 January 2009.

⁵¹ Report of the UN Secretary-General, *Implementing the Responsibility to Protect*, para. 18.

authorised by the Security Council.⁵² The clash demonstrates how ICC decisions implementing R2P could undermine humanitarian field operations in certain instances.

R2P's equation with military action. Although the Secretary-General regularly has repeated that R2P 'could involve any of the whole range of UN tools, whether pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII, and/or collaboration with regional and sub-regional arrangements under Chapter VIII,' R2P is often equated by governments and the non-governmental community with military action. This misinterpretation of R2P can affect the protection of IDPs because it reinforces the view that efforts at protection really mean intervention under the cloak of humanitarian assistance. Such confounding of R2P with coercive action can be a setback to what has been achieved thus far for IDPs.⁵³ Indeed, it has taken more than a decade for governments and the international community to accept that they have responsibilities for the assistance and protection of IDPs and that national and international involvement does not constitute infringement of their sovereignty. From 1992 to 2004, Deng worked tirelessly to persuade governments that concern for IDPs was not a pretext for international political or military involvement. Indeed, the concept of 'sovereignty as responsibility' was intended to allay governmental fears about international programs for IDPs. Deng's 'farewell' letter to the Secretary-General underscored this:

The main principle that guided me in my work on the mandate has been to balance between allaying the fears of Governments about national sovereignty while impressing upon them the compelling humanitarian and human rights concerns of the international community with the plight of the internally displaced.⁵⁴

Walter Kälin, the UN's current Representative of the Secretary-General on the Human Rights of IDPs, has carefully avoided linking internal displacement to military intervention when setting forth protection strategies for IDPs so as not to compound humanitarian and human rights crises.

Limited confidence in military action. Although R2P may often be equated with military action, the results of such action for IDPs have been limited. Security Council resolutions have increasingly authorised UN peacekeepers to assume protection responsibilities for IDPs and other affected populations in internal conflict situations. The responsibilities have ranged from ensuring humanitarian access, protecting IDPs in and around camps, deterring sexual violence, ensuring the protection of humanitarian staff, creating conditions for safe and dignified returns,

⁵² See Eric Reeves, 'Darfur, an ICC arrest warrant, and the humanitarian imperative,' *Boston Globe*, 13 March 2009; and Democracy Now, 'Human Rights Watch's Richard Dicker and Scholar, Mediator Alex de Waal, Debate International Criminal Court Indictment of Sudanese President for Mass Killings in Darfur,' http://www.democracynow.org/2009/3/6/hrws_richard_dicker_and_scholar_mediator. In Uganda, the initial reaction of the Lord's Resistance Army to ICC indictments in 2005 was to increase the intensity of its attacks on civilians and humanitarian workers, see Jacqueline Geis and Alex Mundt, 'When To Indict? The Impact of Timing of International Criminal Indictments on Peace Processes and Humanitarian Action,' Brookings-Bern-Project on Internal Displacement, February 2009, p. 7.

⁵³ See Erin D. Mooney, 'The Guiding Principles and the Responsibility to Protect,' *Forced Migration Review*, December 2008, pp. 11-13, which points out that while there is a compatibility and shared lineage between the two concepts, in certain circumstances, 'explicitly linking R2P to internal displacement and the [Guiding] Principles could risk confounding the latter with intervention in internal affairs and undermine the wide acceptance of the Principles that has been so carefully cultivated over the past decade.'

⁵⁴ Letter from Francis M. Deng to Kofi Annan, 10 November 2004, quoted in Weiss and Korn, *Internal Displacement: Conceptualization and its consequences*, p. 50.

and accompanying IDPs home. Whether in the Balkans, Rwanda, the DRC, Darfur, Sierra Leone or a host of other countries, peacekeepers have been charged with providing protection to displaced persons and in many instances they have enhanced security for them.⁵⁵ But peacekeeping missions have also proved a great disappointment to those in need of protection. Missions have often been thwarted by host country interference with their operations, insufficient numbers of troops and equipment, insufficiently trained forces, and ambiguous mandates that do not fully allow for robust protection. In some cases, peacekeepers even have become involved in abusing IDP populations, especially women and girls they are expected to protect. As a result, IDP advocates have become more cautious about looking to peacekeeping missions as a panacea for protection. Even where robust military force has been applied, as in Kosovo when NATO took unilateral action, the intervention was not able to prevent mass killings, rapes and deportations. Preoccupation with preventing NATO casualties resulted in no ground troops being introduced and reliance on air strikes from 15,000 feet, which at times hit caravans and trains carrying IDPs. To be sure, all Serb forces were eventually forced to withdraw, but the military strategy failed to prevent many of the immediate atrocities against IDPs and other civilians.⁵⁶

International interventions have also been slow in coming. Because the UN has not yet developed the rapid response military capacity needed to protect IDPs and other civilians in unfolding emergencies, it must start from scratch each time. In Darfur, after more than two years the UN has still not been able to deploy 26,000 troops and police while needed equipment like helicopters is still lacking. In the DRC, it took more than a month for the UN to authorize 3,000 additional troops to deal with accelerated violence in North Kivu and many more months to actually deploy the force. The mandate and conduct of the UN Mission in the DRC (MONUC) are also questionable when it comes to IDP protection. MONUC has been authorised to assist the government to create a safe environment, but government troops have been responsible for much of the displacement and sexual violence affecting IDPs and other civilians.⁵⁷

The Way Forward

There are a number of steps that can be taken to better reconcile the protection needs of IDPs with R2P. Before identifying them, however, it is important to reiterate that the concept may in fact be applied in very few cases because there is little or no consensus on how to operationalise R2P. Nonetheless, an in-depth study of the Kenya case would be helpful to evaluate the factors that contributed to the positive results as well as to identify what failed to be achieved. IDP concerns for example were not taken into account as fully as they should have been. Indeed, strategies can be gleaned from the Kenya experience that better reconcile R2P with IDP protection.

⁵⁵ See William G. O'Neill, *A New Challenge for Peacekeepers: The Internally Displaced*, Brookings-SAIS Project on Internal Displacement, April 2004, pp. 6-7, 8-9, 24-39; and William G. O'Neill and Violette Cassis, *Protecting Two Million Internally Displaced: The Successes and Shortcomings of the African Union in Darfur*, Brookings-Bern Project on Internal Displacement, November 2005.

⁵⁶ Roberta Cohen and David A. Korn, 'Failing the Internally Displaced,' *Forced Migration Review*, August 1999, pp. 12-13.

⁵⁷ Mary Beth Sheridan, 'Clinton to Visit E. Congo,' and Stephanie McCrummen, 'Congo Women Treated as Spoils of War,' *Washington Post*, 11 August 2009.

First, when R2P is applied, the special protection needs of IDPs should be made an integral part of the strategy. Displaced people after all are often among the principal victims of crimes against humanity, ethnic cleansing and war crimes. In most emergencies they are found to suffer higher mortality rates than the general population and are more vulnerable to physical attack, disease, sexual assault and abduction.⁵⁸ The Office of the Secretary-General should consult with international and non-governmental organisations engaged in IDP protection to ensure that any application of R2P incorporates the full range of their needs.

Second, the meaning of IDP protection should be made clear when R2P is applied. In the absence of an international treaty or dedicated agency like UNHCR to define protection for IDPs, the UN's Inter-Agency Standing Committee (IASC), composed of the major international humanitarian, human rights and development organisations, assumed the task in 1999. The IASC protection policy for IDPs, based on the Guiding Principles, defines protection as encompassing 'all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (human rights, humanitarian and refugee law).'⁵⁹ More simply put, IDP protection is interpreted as defending the physical security of IDPs, providing them with the basic necessities of life and promoting the enjoyment of their fundamental economic, social cultural, civil and political rights.⁶⁰ The policy calls for international monitoring and reporting of protection problems, assertive advocacy for the rights of IDPs and efforts to strengthen community initiatives. Any application of R2P should be guided by this policy and the documents developed for its implementation.⁶¹

Third, applying R2P to IDPs must go beyond the emergency phase and encompass prevention, protection and capacity building. The IDP protection policy encompasses preventive actions to diminish the risk of displacement, measures to assure protection and assistance during displacement, and the integration of protection concerns into return or resettlement programs. In Kenya, preventive efforts might have served to save lives and head off mass displacement. The intense ethnic tensions preceding the 2007 election should have acted as an alert to the international community to plan for possible involvement. Once the violence and displacement occurred, the scope of involvement should have gone beyond emergency needs and encompassed safe and sustainable solutions. As Kälin has repeatedly reminded the international community, 'Forced displacement is not a passing event in peoples' lives. It is a devastating transformation.'⁶² Between half and three-quarters of all major refugee and IDP situations last

⁵⁸ Erin D. Mooney, 'The Concept of Internal Displacement and the Case for Internally Displaced Persons as A Category of Concern,' *Refugee Survey Quarterly*, 24/3: 15-18 (2005).

⁵⁹ Inter-Agency Standing Committee, Protection of Internally Displaced Persons, Policy Paper no. 2, Geneva, October 2000, p. 4.

⁶⁰ See UN Economic and Social Council, Commission on Human Rights, 'Report of the Representative of the Secretary-General on the human rights of internally displaced persons,' Walter Kälin, E/CN.4/2005/84, 12 December 2004, para. 42.

⁶¹ See Roberta Cohen and Francis M. Deng, 'Mass displacement caused by conflict and onesided violence: national and international responses,' *SIPRI Yearbook 2009* (New York: Oxford University Press, 2009), pp. 28-9.

⁶² Walter Kälin, 'Strengthening the rights of internally displaced persons,' Statement at Conference on Ten Years of Guiding Principles on Internal Displacement, Achievements and Future Challenges, Oslo, 16 October 2008.

five years or more, whether in camps or urban centers, and the need of the displaced for international attention after the emergency is over often remains acute.⁶³

Fourth, any application of R2P must include reinforcement of the national responsibility to protect IDPs. A report defining the benchmarks of national responsibility was presented by Kälın to the UN in 2005.⁶⁴ These include: 1) preventive steps, in particular early-warning and rapid response mechanisms to protect populations under threat; 2) campaigns that build national solidarity around the displaced so as to counteract the ethnic, racial and ideological stigmas to which IDPs are often subject; 3) the adoption of national laws and policies to uphold the rights of the displaced based on the Guiding Principles on Internal Displacement; 4) the designation of state offices to carry out the laws and policies; 5) the allocation of adequate national resources; 6) the finding of solutions for the displaced that include safe and sustainable returns, integration where they currently reside or relocation in another part of the country; 7) assistance with property restitution or compensation and the establishment of mechanisms to settle disputes; and 8) the introduction of reconciliation measures to bring rival ethnic groups together.

Fifth, the promotion of the Guiding Principles on Internal Displacement must be a part of an R2P strategy. The Secretary-General and the entire UN system need to stand behind and promote the implementation of the Principles in R2P situations. To help states shape laws and policies based on the Principles, Kälın has developed a manual for law and policy makers,⁶⁵ which should be disseminated by the UN. A focus on the Principles will help reinforce the efforts of IDP associations and civil society organisations to hold their governments accountable to these standards. Support also should be given to regional organisations that develop normative frameworks based on the Principles. The African Union, for example, has adopted a legally binding convention on internal displacement while the Great Lakes region of Africa already has a legally binding protocol on IDPs requiring states to make the Guiding Principles part of their domestic law.⁶⁶ In R2P situations, regional bodies should be expected to promote national efforts in line with the Principles.

Sixth, the UN Peacebuilding Commission should ensure that IDP needs are integrated into recovery plans when R2P is applied. The Commission's program in Kenya in the Rift Valley is to be commended but it is too small an effort and does not extensively encompass the sustainability of IDP returns or the grievances of the different ethnic groups, in particular their disputes over property, land and power sharing, which lie at the root of the conflict and

⁶³ Elizabeth Ferris, 'Durable solutions for IDPs in protracted situations: a work in progress,' 1 June 2007, Background paper prepared for the Expert Seminar on Protracted IDP Situations, UNHCR and Brookings-Bern Project on Internal Displacement, Geneva, 21-22 June 2007, p. 25.

⁶⁴ Brookings-Bern Project on Internal Displacement, *Addressing Internal Displacement: A Framework for National Responsibility*, April 2005 (the Foreword acknowledges Erin Mooney as author), available at http://www.brookings.edu/projects/idp/20050401_nrframework.aspx

⁶⁵ Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, October 2008, available at http://www.brookings.edu/papers/2008/1016_internal_displacement.aspx

⁶⁶ For AU Convention for the Protection and Assistance of IDPs in Africa, 22 October 2009, see <http://www.africa-union.org/root/ar/index/AU-IDP%20Convention%20Assembly%20-%20Final%20-%2010.23%20pm%2023%20Oct.doc>; for Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons, 30 November 2006, see http://www.brookings.edu/projects/idp/Laws-and-Policies/~/_media/Files/Projects/IDP/Laws%20and%20Policies/Great%20Lakes/GreatLakes_IDPprotocol_2006.pdf

displacement. The Commission's 2009 'strategic framework' for the Central African Republic is more instructive. It recognises that post-conflict recovery should include the reintegration of displaced people and calls for 'a strategy for internal displacement,' covering all phases of displacement – prevention, protection and sustainable solutions.⁶⁷ This strategic framework should be applied more regularly, especially in R2P situations when large numbers of IDPs and returning refugees are involved.⁶⁸

Seventh, flexibility must be shown in applying R2P when it comes to natural disasters. Cyclone Nargis could well have been a case for applying R2P, although most observers concluded from hindsight that R2P would not have produced the access and cooperation that was achieved with the Burmese government. Nonetheless, it would be a mistake to make this cyclone the litmus test of response to all future situations where crimes against humanity might be committed within the context of a disaster. The peremptory exclusion of *all* disaster survivors from the umbrella of R2P protection may need to be revisited in cases where governments refuse to assume their protection responsibilities and commit mass atrocities against the survivors.

Eighth, addressing IDP protection effectively will require strengthened international and regional institutions that can be relied upon when R2P is applied. Although institutional arrangements for IDPs have improved over the past decade, many weaknesses persist. In the area of advocacy and policy, the UN basically relies on the Representative of the UN Secretary-General for the Human Rights of IDPs, a single individual, to raise awareness to the problem globally and promote adherence to the Guiding Principles. Although Kälin's efforts have been unremitting, he is an unpaid part-time volunteer who has to set aside time from his teaching and also find the resources for his activities. The Office of the UN High Commissioner for Human Rights (OHCHR) to which his mandate is officially tied provides only minimal support. In fact its approach is a model of mindless bureaucracy: it treats the IDP mandate the same way it does all other *rapporteurs* who report to the Human Rights Council. Yet many of the others prepare studies of single countries' human rights records or report on thematic issues like counterterrorism, whereas the Representative of the Secretary-General has to respond to the needs of more than 25 million persons throughout the world uprooted from their homes in destitute, life threatening conditions and mobilize national, regional and international efforts to protect them. Commenting on this inexplicable inadequacy, two leading experts wrote, 'Even for a seasoned UN observer, it is hard to understand how this theater has lasted so long.'⁶⁹ The need for a full-time Representative with sufficient staff and resources is long overdue.

In the field, institutional arrangements must also be strengthened. In 2005, the UN Office for the Coordination of Humanitarian Affairs (OCHA) signed an agreement with the different UN agencies to divide up responsibilities for IDPs. In the area of protection, UNHCR assumed the lead coordinating role. However, its in-house capacity to deal with IDPs is weak. To be sure, it increased the number of IDPs its overall programs reached, but it has yet to set up a corps of IDP protection officers, to expand its presence in the field where IDPs are in danger, and to undertake

⁶⁷ UN General Assembly/Security Council, Draft Strategic Framework for Peacebuilding in the Central African Republic 2009-2011, PBC/3/CAF/L.1, 23 March 2009 (limited distribution).

⁶⁸ See Walter Kälin, 'Durable Solutions for internally displaced persons: an essential dimension of peace-building,' Statement before the UN Peacebuilding Commission, Working Group on Lessons Learned, 13 March 2008.

⁶⁹ Weiss and Korn, *Internal Displacement: Conceptualization and its consequences*, p. 123.

proactive advocacy with governments and non-state actors on behalf of IDP security.⁷⁰ Resources are insufficient for IDP protection and agency staff is divided over extensively altering the nature of the agency. Some prefer to make IDPs an ‘add-on’ to the work of a refugee agency rather than an integral part of its protection programs. However, if the gap between refugee and IDP protection persists, the UN may have to consider other options, including the creation of a new office more willing and able to extend protection to IDPs.

At the regional level, strengthened institutional capacity will also be needed so that organisations like the African Union, the South African Development Community, the Organization of American States and the Organization for Security and Cooperation in Europe can effectively contribute to the international protection of displaced populations.⁷¹

Ninth, in applying R2P, greater efforts will need to be made to reconcile human rights with humanitarian objectives. Consulting with IDPs should be an essential part of this process, given the impact of both human rights and humanitarian objectives on their lives. In Sudan, for example, IDPs and refugees interviewed were reported to be in favor of the ICC indictment of Bashir, the humanitarian cost notwithstanding.⁷² At the same time, better planning and timing of potentially conflicting human rights and humanitarian programs has been recommended to reduce the tension,⁷³ as has stronger UN leadership. A 2004 UN evaluation urged senior officials to give greater support to personnel in the field who raised protection concerns and called for a more ‘principled approach,’ with better ‘coordination, planning and strategizing’ among UN offices where protection is concerned.⁷⁴

Tenth, dialogue with insurgent groups should be encouraged as a form of protection for IDPs. Large numbers of IDPs and other civilians are often under insurgent control.⁷⁵ While the Secretary-General’s report calls for military assistance to help states deal with armed insurgencies, it does not suggest direct measures for dealing with the insurgents themselves. For Jan Egeland, the former UN Under-Secretary-General for Humanitarian Affairs, negotiations with non-state actors are ‘a humanitarian necessity’ that can bring relief aid to beleaguered communities, lessen abuse of civilians and maintain ceasefires.⁷⁶

⁷⁰ See Cohen and Deng, ‘Mass displacement caused by conflicts and one-sided violence,’ pp. 29-30, 35.

⁷¹ See Statement of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Dr. Walter Kälin, 39th Ordinary Session of the African Commission on Human and Peoples’ Rights, Banjul, 12 May 2006, available at www.brookings.edu/fp/projects/idp/RSG_stmt_ACHPR_052006.pdf

⁷² See ‘The Reaction to the Arrest Warrant against Sudanese President Al-Bashir,’ *Refugee Rights News*, 5/2 (April 2009); Nicholas D. Kristof, ‘Watching Darfuris Die,’ *New York Times*, 7 March 2009; and Eric Reeves, ‘Darfur and International Justice,’ *Dissent*, Summer 2009, p. 17.

⁷³ See Geis and Mundt, ‘When to Indict?’ pp. 13-18.

⁷⁴ Simon Bagshaw and Diane Paul, *Protect or Neglect: Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, UN Office for the Coordination of Humanitarian Affairs and Brookings-SAIS Project on Internal Displacement, 2004, pp. 5-7.

⁷⁵ See Greta Zeender, ‘Engaging Armed Non-State Actors on Internally Displaced Persons Protection,’ *Refugee Survey Quarterly*, 24/3: 96-111 (2005).

⁷⁶ See Gerard McHugh and Manuel Bessler, *Humanitarian Negotiations with Armed Groups; A Manual for Practitioners* (New York: UN Office for the Coordination of Humanitarian Affairs, January 2006); and Jan Egeland, *A Billion Lives: An Eyewitness Report from the Frontlines of Humanity* (New York: Simon & Schuster, 2008), pp. 57-8, 203, 209, 214.

Eleventh, efforts should be made to dispel the notion that human rights protection through R2P means first and foremost military intervention. Prevention, the weakest link in protecting civilians, should be strengthened by building state capacity to withstand internal crises and avert displacement as well by engaging UN offices, governments and regional bodies to take concerted action, ranging from diplomacy to preventive deployment.⁷⁷ Applying R2P regularly to situations where military intervention is *not* involved, as was the case in Kenya, could also help to demonstrate the broad range of measures R2P encompasses. Some have called this ‘R2P-Plus’ and contend that the focus on ‘humanitarian assistance and conflict prevention without any semblance of armed intervention’ could ‘augur well for the advancement of R2P.’⁷⁸

Finally, an effective international protection capacity should be developed when strong measures are called for. The creation of an international protection capacity able to rapidly deploy well-trained military and police forces with clear and strong mandates, adequate numbers and sufficient equipment has thus far eluded the international community. Yet when military or police action is called for, IDP protection will depend upon those elements being in place. Military operations, moreover, will not be meaningful for IDPs if these operations themselves produce widespread rape, displacement and abuse. ‘Peacekeeping plus’ or peacekeeping that effectively protects civilians is what is required.⁷⁹

⁷⁷ See, for example, Gayle E. Smith et al, *The Price of Prevention: Getting Ahead of Global Crises* (Center for American Progress and Enough, Washington, DC, November 2008); and David Hamburg, *Preventing Genocide: Practical Steps Toward Early Detection and Effective Action* (Paradigm: Boulder, Co, 2008), pp. 98-262.

⁷⁸ Mely Caballero-Anthony and Belinda Chng, ‘Cyclones and Humanitarian Crises; Pushing the Limits of R2P in Southeast Asia,’ *Global Responsibility to Protect*, 1/2: 135-155 (2009), p. 145; see also Brian Barbour and Brian Gorlick, ‘Embracing the “Responsibility to Protect”’: A Repertoire of Measures Including Asylum for Potential Victims,’ *International Journal of Refugee Law*, 20/4: 533-566 (2008).

⁷⁹ Evans, *The Responsibility to Protect*, pp. 120-125, 214.

Conclusion

The historically close relationship between providing protection to IDPs and the concept of R2P has created the expectation that R2P by definition will prove beneficial to IDPs. However, it can not be assumed that R2P will automatically provide greater protection for IDPs. There may be situations where R2P's application compounds their problems, creates more displacement and falls short of helping them. It is therefore essential to continue to explore the relationship between R2P and IDP protection and make sure that R2P strategies are carefully designed to fit the needs of IDPs. R2P after all is a new concept that needs to be tried out and carefully tailored to IDP concerns so as to ensure that genuine protection is provided.