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R2P @10: what lessons for South Africa and Africa?

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Introduction

Global Insight aims to provide members of the policy community with concise but trenchant analyses of topical issues. Comments and suggestions are invited.

2015 marks ten years since more than 150 world states endorsed the principle of the Responsibility to protect (R2P) at the 2005 World Summit. Paragraphs 138 and 139 of the 2005 World Summit Outcome Document¹ noted that 'each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity,' and that in view of this responsibility, the international community was 'prepared to take collective action, in a timely and decisive manner.' The concept of 'R2P' emerged from the 2001 Report of the International Commission on Intervention and State Sovereignty (ICISS) which sought to provide a consensus-driven alternative to humanitarian intervention whilst incorporating the notion of sovereignty as responsibility.² R2P is not novel to the African continent given that prominent statesmen and scholars have played crucial roles in its cascade and broad universal acceptance.

South Africa has embraced the concept as a key component of the wider continental goal of a Pax Africana³ and engagement on the issue can be derived from policy statements particularly at the regional and multilateral levels. This policy brief seeks to review the status of South Africa's position on a decade-old R2P and puts forward recommendations on how the emerging norm can attain more traction in the country's public debate arenas.

South Africa's engagement on R2P: patterns of continuity and change

South Africa's position on R2P is widely reflective of the central themes in its foreign policy; inter alia the African agenda, support for multilateralism and multilateral governance reform, the principle of Ubuntu and a commitment to promote universal values including human rights, democracy and international justice.⁴

The experience of R2P in South Africa's stream of history is one that dates back to the transformation of the OAU to the AU. Testament to its role as norm entrepreneur, South Africa was at the forefront in overseeing the adoption of the 2000 Constitutive Act of the AU which embraced a rhetorical shift from a culture of non-interference to one of non-indifference, a far cry from the OAU's tenacious advancement of anti-imperialism and non-indifference.⁵ South Africa's normative crusading began as far back as 1998 in what has come to be known as the 'Mandela doctrine' which asserted that 'Africa has a right and a duty to intervene to root out tyranny...we must all accept that we cannot abuse the concept of national sovereignty to deny the rest of the continent the right and duty to intervene when behind those sovereign boundaries, people are being slaughtered to protect tyranny.'⁶ Mbeki followed suit in the footsteps of his revered predecessor in propagating a Pax South Africana premised on a preference for political dialogue, negotiations and quiet diplomacy in continental peace and security affairs.

Additionally, Mbeki's brainchild, the African Renaissance brought together a neo-liberal agenda and a Pan-Africanist notion of sovereignty as responsibility.⁷

South Africa was instrumental in negotiating the endorsement of what was tantamount to an African conceptualization of R2P, namely Article 4(h) of the AU constitutive Act which provided for 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.'⁸ The change in normative posture of the AU's security culture paved the way for the formation of the African Peace and Security Architecture (APSA), a mechanism composed of separate structures to implement the peace and security agenda of the AU. The APSA can be taken as the AU's infrastructural manifestation of R2P given the powers of intervention provided for by the CA and the PSC Protocol and the similarities between the norms underpinning the APSA and R2P. According to Ekiyor⁹, although the AU uses the phrase 'right to intervene' and not 'responsibility to protect', there are similarities between R2P and the AU's collective right of intervention. The norms underpinning the AU's peace and security regime are similar to R2P. Both R2P and the PSC Protocol uphold the sovereignty and territorial integrity of member states but emphasize the notion of sovereignty as responsibility. Also, in line with R2P, the AU maintains that military intervention should be a last resort after exhaustion of all non-military options.¹⁰

South Africa's support for R2P can also be drawn from its tenures as a non-permanent member on the UN Security Council where its commitment to the African agenda faced its ultimate crucible. During the first term, 2007-2008, South Africa's foreign policy faced virulent criticisms especially with respect to its negative votes in crucial resolutions on passing sanctions against Zimbabwe and Myanmar. The vote against the draft resolutions was hailed by many as a contradiction of South Africa's identity as a champion of human rights.

The second term saw South Africa vote in favour of Resolution 1973 which authorised intervention in Libya and later, South Africa's inauspicious reneger on the intervention amidst international blowback from allegations of mission creep and regime change agenda that culminated in the ouster of Gaddafi.¹¹ Nonetheless, it was under South Africa's chairing of the UNSC in 2012 that Resolution 2033 was adopted which called for enhanced cooperation between the UNSC and sub-regional organisations, particularly the African Union (AU), in peace and security matters.¹²

Closely linked to this is the formation of the African Capacity for Immediate Response to crisis (ACIRC). Largely in part due to South Africa's shovelling, ACIRC was formed in 2013 to serve as a military capacity with high reactivity to respond swiftly to emergency situations upon political decisions to intervene in conflict situations within the continent.¹³

The endorsement of Resolution 2033 and formation of ACIRC serve to highlight South Africa's commitment to the Common Africa Position on the proposed Reform of the UN, also known as the Ezulwini consensus, which maintained that the Security Council and General Assembly are often removed from the hotspots of African conflicts and crises and may not fully appreciate the complexity of crisis situations on ground zero. As such it was proposed that regional organizations close to conflict zones be empowered to intervene with the approval of the UN and in some urgent cases UN approval could be sought *ex post facto*.¹⁴ Arguably in a bid to move away from perceptions of acting as a meddling hegemon, South Africa has placed a high premium on regional organisations and the prospective roles of these institutions as legitimate sites for the normative development and operationalization of R2P.

An additional layer to South Africa's discourse on R2P is the peace-security-development nexus which interrogates the linkages between peace and security and development.

It is Pretoria's policy that sustainable peace can only be achieved by emphasizing socio-economic development and addressing the structural drivers of conflict including poverty, inequality, discrimination and bad governance.¹⁵ Intuitively, South Africa views R2P as a process and part of 'a broader conflict resolution package that should include prevention, management, containment and post-conflict peacebuilding.'¹⁶

Post-Libya, there has been disquiet and a more relaxed approach towards its norm entrepreneurship role as far as R2P is concerned. As an emerging power, South Africa's approach has often been in line with those of other emerging powers, notably its counterparts in the BRICS (Brazil, Russia, India, China and South Africa) grouping, which advance the preventive aspects of R2P and are apprehensive about the misuse and abuse of R2P to advance the realpolitik of powerful actors. The ongoing impasse in the UNSC around the Syrian Civil war revealed South Africa's voting patterns sided with its BRICS partners which negated any form of 'external interference' in the Syrian conflict.¹⁷

Recent statements in the 2015 UNGA informal dialogue on R2P indicated South Africa's continued support for the political norm and its apprehension about the injudicious use of military force in spite of a whole range of available diplomatic, political and humanitarian recourse.¹⁸ In spite of the similarity of South Africa's stance with other emerging powers' misgivings about the use of force in R2P situations, especially in the aftermath of the Libyan interevention, the positions of other emerging powers such as Brazil, China and India on R2P are informed by a range of divergent political, strategic and historical angles.¹⁹ The thread of anti-imperialism and countering of selective application of the principle by Western powers should not necessarily be taken as a sign of 'normative convergence' with Russian and Chinese critiques of R2P but as indication that the critique of

R2P by the 'Rest' is essentially a procedural contestation rather than a substantive one.²⁰

In conclusion, the inconsistencies and sometimes contradictory manner which has characterised South Africa's position on R2P is a reflection of the broader perennial inconsistencies in the implementation of its foreign policy which has often been labelled as schizophrenic and all-over-the-place.²¹ Typical of emerging powers, South Africa has not been immune from constraints on its internationalist aspirations including domestic challenges of glaring inequality, stalled economic growth, poor service delivery and high unemployment rates. Moreover, South Africa's peacekeeping capabilities are being stretched across the continent whilst being undermined by a shortfall in military infrastructure and skilled personnel.²² Cases such as Zimbabwe, Côte d'Ivoire, Libya, Central African Republic attest to the lingering tensions in South Africa's foreign policy narrative particularly in the interaction of its African agenda with its desire to promote values such as human rights and democracy and the projection of national interests vis-à-vis the legitimacy of South Africa's claims to continental leadership.²³

South Africa's position on R2P remains inadvertently embedded within the value-driven, identity-laden contours of its foreign policy. The influence of dynamics such as historical and political contexts, a multi-faceted identity and nuanced interests cannot be absent from the discourse on South Africa and R2P.

A decade later, what lessons for (South) Africa's R2P 'safari'?²⁴

In spite of claims that there is little public debate on R2P, a recent forum on South Africa and R2P held in July 2015 in Pretoria is a positive indication of growing appetite to engage on R2P especially at the level of government. As South Africa seeks to enhance its global and regional leadership profile,

several pertinent lessons can be drawn out with respect to the R2P agenda:

1. The common refrain of South Africa's foreign policy implementers and decision-makers that 'our identity is our currency'²⁵ has sometimes turned out to be the very abattoir of its foreign policy priorities. An ethical foreign policy comes loaded with high expectations and criticisms will abound when these lofty ideals are not met.

2. The highs and lows of normative crusading are reflective of the broader foreign policy challenges at the level of implementation. If fundamental disparities are addressed, the result will be a more consistent narrative of R2P. Successful localization at the regional and continental level will be driven by political will and reinvigorated engagement on protection debates from the domestic level.²⁶

3. South Africa has often borne the lion's share of peacekeeping duties in various missions across the continent which has led to leadership fatigue in peace and security interventions. There is a glaring need to focus on capacity-building in regional and sub-regional organisations if burden-sharing is to become a reality in continental peace enforcement mechanisms and institutions. Equally important is the need to focus on policy coherence at both the policy and strategic levels in order to operationalize and sustain effective functioning of delayed mechanisms such as the African Standby Force.²⁷

4. International justice is a crucial component of the battle against impunity and mass atrocities and a key ingredient on the 'war on war.'²⁸ Given that the ICC is the 'legal arm of the R2P',²⁹ South Africa's solidarity

with African states on the issue of non-cooperation with the ICC is at loggerheads with its foreign policy principles among which is the upholding of international justice in Africa. In a recent meeting of its National Governing Council (NGC), the ANC resolved to withdraw South Africa's membership of the ICC.³⁰ The battle against impunity and mass atrocities in Africa will benefit immensely from a strategic relationship between the ICC and R2P as allied concepts in the protection-prosecution agenda. Nowhere is this more relevant than in Africa which has seen the bulk of referrals to the ICC.

5. The overlap of mass atrocity crimes and acts of terrorism has brought to the fore debates around the interaction of R2P with other intermestic agendas such as the counter-terrorism and post-2015 development agenda. The indiscriminate killings pervaded by extremist groups in West Africa, the Horn of Africa and the Middle East have blurred the distinction between acts of terrorism and crimes against humanity. As such more needs to be done to explore the linkages between countering terrorism and extremism as the first step in mass atrocity prevention.³¹

A second salient agenda for the protection debate is the Sustainable Development Goals, endorsed at the UN Sustainable Development Summit September 25–27, 2015. Goal 16 captured the firm belief of peaceful and inclusive societies as preconditions for sustainable development. Although it may be difficult to pin-point a clear-cut connection between SDGs and R2P, Evans³² makes a valid point with reference to R2P as a preventive framework noting that:

'It needs to be acknowledged, in talking about this dimension of R2P, that at least when one is talking about prevention in the long-term structural senses described above, aiming at stopping the original

occurrence and subsequent recurrence of catastrophe by addressing underlying causes, the R2P mission is for the most part indistinguishable from two or three others – the *conflict prevention mission*, the *general human rights violation-avoidance mission*, and to some extent the *development mission* as well. But the point that matters here is that while structural prevention may not be an exclusive R2P concern, it is unquestionably R2P core business, and we ignore it at our peril.'

Conclusion and Policy recommendations

Having discussed the deep roots of South Africa's engagement in the mass atrocity protection agenda, it is apparent that South Africa's position on R2P is largely informed by its self-perceived standing in the international order as a continental leader, bridge-builder and norm entrepreneur. Dovetailing this assertion is the point that South Africa's prominent role in the African peace and security architecture is a function of its stated interests including the centrality of the African agenda; multilateralism, South–South solidarity and the quest for a South Pax Africana premised on the lofty notion of 'identity is our currency.' The following recommendations are crucial in enhancing the discourse of R2P in South Africa and Africa writ large.

1. South Africa has an indispensable role to play in the advancement of R2P. Government should look into the appointment of a R2P focal point to join the Global Network of R2P Focal Points, which draws together national R2P focal points from over 60 countries. R2P focal points are senior government officials tasked with coordinating mass atrocity prevention efforts.

2. In the African context, the implementation of R2P can be enhanced through strengthening of regional organisations and examination of the level of institutionalisation of R2P in the various structures. One way of doing this is the re-iteration of the notion that every African is his brother's keeper and renewed commitment in pursuit of a Pax Africana.

3. The ICC has an important role to play in the prosecution-protection agenda. A resolution of the impasse between Africa and the ICC is imminent in ensuring that perpetrators of atrocity crimes are prosecuted and that the ICC is not doomed to be politically dead in Africa.

4. Measures should be taken to ensure that the relationship between the AUPSC and the UNSC are built around principles of complementarity, subsidiarity and comparative advantage. There should be less burden-shifting and more burden-sharing when it comes to protection from mass atrocities.

5. Africa and South Africa should not be caught up in old debates about sovereignty but should focus more on working with the rest of the international community towards realising effective and responsible protection. The contribution of civil society, academia, think tanks and NGOs should not be overlooked in national debates on protection and R2P.

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