

## WHO HAS THE AUTHORITY TO IMPLEMENT THE RESPONSIBILITY TO PROTECT?

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*Introduction.* The world was unprepared for the wave of humanitarian crises that took place in the 1990's. The rapid succession of catastrophes just in the space of 12 months from 1992-93 in Bosnia, Rwanda and Somalia left the international community paralyzed by uncertainty and debate about whether it had a right to intervene to protect the victims of ethnic cleansing, genocide or famine. Some drew from these experiences the lesson that the UN is irrelevant. When further conflict seemed inevitable in 1999 over Kosovo, the international community bypassed the UN in favor of a succession of other actors, first through the EU and ultimately through NATO.

The idea of the responsibility to protect (R2P) has grown from the assumption that "it is only a matter of time before reports again emerge of massacres, mass starvation, rape and ethnic cleansing" and that the rules need to be clarified to avoid the incoherent response of the 1990's.<sup>1</sup> The concept of R2P targets the most commonly cited objection to intervention: that it is a violation of sovereignty. The objection only goes so far, the R2P literature says. "The state has the right to conduct its activities undisturbed from the outside when it acts as the original agent to meet the needs of its citizens," Deng *et al* write, "But that right is not license."<sup>2</sup> The global response of outrage to genocide in Darfur in 2003-2004 and outpouring of support after humanitarian crises struck Myanmar in 2008 and Sichuan, China in the same year show that this idea is gaining ground. But it is notable that despite growing acceptance of the idea that somebody ought to intervene in humanitarian crises, the question of who has the authority to do so left over from the 1990's remains unresolved. The UN failed to intervene in Darfur and Sri Lanka in this decade for the same reason it did in Rwanda and Bosnia in the last: because people questioned whether it had the authority to do

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<sup>1</sup> Gareth Evans and Mohamed Sahnoun, "The Responsibility to Protect," *Foreign Affairs*, November 2002 - December, 2002, 99.

<sup>2</sup> Francis Mading Deng, *Sovereignty as Responsibility : Conflict Management in Africa* (Washington, DC: Brookings Institution, 1996), xviii.

so. At the same time, the role of regional organizations like the EU and NATO remains poorly defined.

The purpose of this paper is to search for the locus of the international community's authority to exercise the responsibility to protect. It will look at existing organizations at the regional and global level in answer to this question. A final section will consider whether a new structure is needed to effectively carry out the responsibility to protect.

### *What kind of protection?*

At the outset, it is worthwhile to note that the responsibility to protect has rapidly evolved in recent years from a broad notion to one that is considerably constrained. The current working definition of what the responsibility to protect covers can be found in paragraphs 138 and 139 of the 2005 UN World Summit Outcome Document. The document is a landmark because it establishes that "each individual State has the responsibility to protect its populations," and that the international community shares the same responsibility. In order to obtain consensus on this, however, the document had to limit what the responsibility to protect covers. Only four specific threats are mentioned in the document: genocide, war crimes, ethnic cleansing and crimes against humanity. Of these, three have a delimited meaning under international law; the only exception is ethnic cleansing.<sup>3</sup> The language of the 2005 Summit was clearly meant as a starting point for building consensus on the responsibility to protect, but for now that consensus is still fragile. There is, of course, a good deal more than just these four crimes to protect against in today's world. Global warming, HIV/AIDS and terrorism, not to mention devastating poverty, all threaten large parts of the globe and deserve the attention of states and the international community. But the four crimes listed in the document are a good starting point for the present task of examining authority, because they represent the highest level of threat posed by the failure of states to protect that needs attention. If there is sufficient authority to address genocide and other heinous crimes, it will shed light on the authority to deal with other needs as well.

### *States and R2P*

It is important to note that the question of authority when it comes to R2P starts with individual states. In most cases, this is stating the obvious. As Gareth Evans and Mohamed Sahnoun write, protecting individuals has become the "minimum content of good international citizenship" for states,<sup>4</sup> especially with regard to the four crimes listed above. It has long been the case that states that allow or engage in genocide or ethnic cleansing are generally shunned in the international system, if not universally. But paragraph 138 of the Summit

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<sup>3</sup> Ban-Ki Moon, *Implementing the Responsibility to Protect* (New York: United Nations, [2009]).

<sup>4</sup> Evans and Sahnoun, *The Responsibility to Protect*, 99.

Document marked a significant shift because, for the first time, it disallowed states responsible for crimes against their people to hide behind the shield of sovereignty, as has happened in the past. In response to criticism, the answer was always that the problem was an “internal matter” and did not concern anyone else. But the growing acceptance of the norm of sovereignty as responsibility as formulated in the report of the International Commission on Intervention and State Sovereignty (ICISS)<sup>5</sup> erodes the validity of those claims, opening the way for outside intervention when states fail to live up to their own obligations.

From a practical and legal perspective, the consensus is clear that when states do fail to protect and intervention is required, the authority to intervene does not rest solely on other individual states. In other words, each state is individually responsible only for ensuring human protection within its own borders. Some aspects of international law make this less than clear. For instance, the Contracting Parties to the Convention on the Prevention and Punishment of Genocide, in Article 1, “undertake to prevent and punish genocide” without reference to a framework or mechanism for doing so in the immediate context. Article 8 does allow that the parties “may” work through the UN to prevent or suppress genocide, but they are not obligated to do so. This lack of clarity as to means has led some to call for powerful nations such as the United States to intervene unilaterally to stop genocide. In response to genocide in Sudan, for instance, the US Congress adopted a resolution asking President George W. Bush to “seriously” consider “unilateral intervention to stop [the] genocide in Darfur, should the United Nations Security Council fail to act.”<sup>6</sup> There are some who vigorously defend the idea of unilateral intervention, seeing it as the only moral option when the international community as a whole shows it is incapable of stopping an atrocity.<sup>7</sup> But few powerful nations now have the stomach for unilateral intervention in the wake of the United States’ 2003 invasion of Iraq. The legitimacy of unilateral action has been deeply undermined by that event.<sup>8</sup>

### *Regional Organizations and R2P*

The 2005 World Summit does not leave much room for regional organizations to exercise R2P. The structure of the Summit Document indicates two primary loci of the responsibility to protect in two individual paragraphs: individual states, and the UN. The Document only allows that the UN may work “in cooperation with relevant regional organizations as appropriate” in

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<sup>5</sup> International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, [2001]), 8.

<sup>6</sup> *Declaring Genocide in Darfur*, HR 467, (2004): , <http://www.govrecords.org/hconres-467-rfs-declaring-genocide-in-darfur-sudan.html> (accessed 5/17/2009).

<sup>7</sup> Samuel Vincent Jones, “Darfur, the Authority of the Law, and Unilateral Humanitarian Intervention,” *University of Toledo Law Review* 39 (2007).

<sup>8</sup> Cf. Alex J. Bellamy, *Responsibility to Protect Or Trojan Horse? the Crisis in Darfur and Humanitarian Intervention After Iraq*, Vol. 19, 2005, 31(23).

responding to serious crimes. The Document does not lay out an independent role for regional organizations except under the UN's oversight. The Security Council makes this more explicit in Resolution 1631, adopted in 2005 in response to the World Summit, saying that regional organizations "can usefully complement the work of the [UN] organization in maintaining international peace and security," but that "such contribution must be made in accordance with Chapter VIII of the UN Charter."<sup>9</sup> Under Chapter VIII, the only clearly outlined primary responsibility of regional organizations is in settling "local disputes."<sup>10</sup> They may only intervene to engage in "enforcement" as the Security Council chooses to "utilize" them.<sup>11</sup> Despite the limited role Resolution 1631 sets out for regional organizations, it is significant because it grafts them into the new framework for adapting the traditional institutions aimed at the maintenance of international peace and security to the new role of preventing genocide and other crimes.

While the UN has set about designating a subsidiary role for regional organizations when it comes to R2P, the reality is that many such organizations have already been establishing for themselves the primary authority to intervene as well. The process has been uneven, however, because of varying degrees of regionalization and different needs from one part of the globe to the next. It is impossible to exhaustively document this process within the confines of this paper, but a discussion of developments in three exemplary organizations should serve to illustrate this point: the African Union, the European Union, and NATO. These are far from the only regional organizations that have begun exercising aspects of the responsibility to protect. The Association of Southeast Asian Nations (ASEAN), for instance, has established a stronger role for itself in responding to the economic crisis of 1997 and to pandemic threats from SARS in 2002. The Pacific Islands Forum is another regional organization that has undertaken efforts to ensure human protection in dealing with environmental threats.<sup>12</sup> But the present discussion will be limited to the AU, EU and NATO because they have taken the clearest steps in establishing authority to intervene in situations where human security is threatened at the highest level by genocide and other serious crimes.

The African Union has established an unusual degree of authority for itself to ensure human protection in its Constitutive Act, which went into force in 2001. Article 4(h) establishes the principle of "the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave

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<sup>9</sup> U.N. Security Council, 5282<sup>nd</sup> Meeting. "Resolution 1631 (2005) Cooperation between the United Nations and regional organizations in maintaining international peace and security" (S/RES/1631). 17 October 2005. Available: [http://www.un.org/Docs/sc/unsc\\_resolutions05.htm](http://www.un.org/Docs/sc/unsc_resolutions05.htm) [5/19/2009].

<sup>10</sup> *Charter of the United Nations*, (New York: United Nations Department of Public Information, 2006), Art. 52 para. 2-3.

<sup>11</sup> *Ibid.*, Art. 53 para. 1.

<sup>12</sup> United Nations University-Comparative Regional Integration Studies, *Delivering Human Security through multi-level Governance* (Bruges, Belgium: UNU-CRIS, 2009), 60.

circumstances, namely war crimes, genocide and crimes against humanity.”<sup>13</sup> This clear-cut authority to intervene is the first of its kind in any regional organization, new or old. It should come as no surprise that it came first to the African Union, given that the theoretical framework of the responsibility to protect had its origins in specific attempts to address the profound and widespread conflicts endemic to Africa. Under an additional Protocol on Amendments to the Constitutive Act adopted in 2003 but not yet in force, the principle in Article 4(h) is expanded to any “serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council.”<sup>14</sup> Once ratified, the amended version would give the AU broader nominal legitimacy than even the UN Security Council has to intervene for human protection purposes, since the international community has not reached a consensus on intervention beyond the four crimes named in the 2005 World Summit document. Even as it stands in the original document the authority of the AU expressed in Article 4(h) is impossible to square with the structure of the UN, which requires the AU to operate only under the command of the Security Council. The competing claims of the AU and the UN for the right to intervene to stop genocide could create a dangerous potential for deadlock, or for the legitimacy of both claims to be placed into question.

In practice, however, the situation has played out differently because both the AU and UN still lack sufficient effectiveness to challenge each other. A useful case that illustrates this point is that of Sudan in 2004. In that instance, both the AU and the UN expressed concern about the violence in Darfur and the Sudanese government’s disregard for the safety of civilians that had led to estimated death tolls between of 73,700 and 172,154.<sup>15</sup> The AU and UN both had members resolved to intervene to protect civilians. In the UN Security Council the most prominent of those members was the Philippines, but it faced opposition from the more powerful permanent members Russia and China. The result of this discord was Resolution 1556, passed in July 2004, which paid homage to the principle of Sudan’s “responsibility to protect its people,” and invoked Chapter VII, but not for any specific action to stop the killing. At the same time, the African Union had been engaged in similar debates, but lacking the obstructionism of the UN Security Council, quickly established an intention to send 3000 troops to protect civilians. When the government in Khartoum responded defiantly to the proposed intervention, the AU again accomplished what the UN likely could not have by negotiating a narrower mandate for civilian protection that would still allow the deployment of troops. The Sudanese government had made it clear it would give no such quarter to the UN. Ultimately, however, the AU mission in

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<sup>13</sup> *Constitutive Act of the African Union*, 2000, [http://www.au2002.gov.za/docs/key\\_oau/au\\_act.htm](http://www.au2002.gov.za/docs/key_oau/au_act.htm) (accessed 5/17/2009).

<sup>14</sup> Ben Kioko, "The Right of Intervention Under the African Union's Constitutive Act: From Non-Interference to Non-Intervention," *International Review of the Red Cross* 85, no. 852 (2003), 807.

<sup>15</sup> Bellamy, *Responsibility to Protect Or Trojan Horse?*, 31.

Sudan (AMIS) withered because of an overwhelming lack of resources and troops (less than half the mandated 3,300 troops were mustered).<sup>16</sup> One assessment of the AU's "chaotic" deployment concluded that its efforts showed the Union is still a "mere child that has not even learned to walk on its own."<sup>17</sup>

While the AU has sought to clarify its jurisdiction to ensure human protection while lacking institutional capacity to follow through, the reverse has been true for the European Union. On the ground, the EU has been considerably expanding its reach to exercise the responsibility to protect. It has done so first of all close to home, in Bosnia-Herzegovina by taking over responsibility from NATO for police protection in 2003 and by launching Operation Concordia in Macedonia the same year in a preventive intervention.<sup>18</sup> In these instances, the EU can certainly legitimately be said to be working "in cooperation" with the UN in accordance with Resolution 1631. But the lines of authority are significantly less clear in Kosovo, where the responsibility to oversee reconstruction and provide protection still technically resides with the UN under Security Council Resolution 1244. The resolution establishing the UN Mission in Kosovo (UNMIK) is carefully worded to assure Serbia's "territorial integrity," a clause demanded by Russia under threat of veto. At the same time, the majority of the EU has long offered tacit support for the idea of Kosovo's independence and being placed on track for EU membership. The conflict between these approaches is not exactly between UNMIK and the EU; it was the UN Special Envoy Marti Ahtisaari who laid out a plan for the EU to take over UNMIK's responsibility in 2007, which has now started to happen under the new EU agency in Kosovo known as EULEX. Nevertheless, Russia and Serbia still object strenuously to the abandonment of Resolution 1244 and to the majority of the EU's recognition of Kosovo's unilateral declaration of independence in 2008. These objections are quickly dismissed by some who see Kosovo's independence as having been inevitable, particularly with the EU making plans to expand its presence throughout the Western Balkans. But it is worth noting that the case of Kosovo raises questions about what happens when the UN and a strong regional organization differ over how best to exercise the responsibility to protect, or in this case, rebuild, which is a component of the same authority.

This question is not just related to legacy conflicts like those of the Western Balkans, but those that are ongoing as well, even beyond the EU's own borders. An effort has been underway this decade in the EU to put together a Common Security and Defense Policy (CSDP), which includes a rapid reaction force to intervene in places where human security is threatened anywhere in the world. But even as a final agreement on a CSDP has stalled, the EU has already begun

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<sup>16</sup> Ibid.

<sup>17</sup> Waranya Moni, "The UN Report on Darfur: What Role for the AU? - UN Security Council - Global Policy Forum," <http://www.globalpolicy.org/security/issues/sudan/2005/0210aurole.htm> (accessed 5/17/2009, 2009).

<sup>18</sup> Thomas G. Weiss, *Overcoming the Security Council Reform Impasse: The Implausible Versus the Plausible* (New York: Friedrich-Ebert Stiftung, [2005]).

engaging a rapid reaction force in some conflicts with the UN's direct approval. In 2003, for instance, the EU launched a short-term mission called Operation Artemis to the town of Bunia in the Democratic Republic of the Congo. The mission's stated purpose arguably falls under the category of the responsibility to protect, since it was aimed at "contribut[ing] to the stabilization of the security conditions"<sup>19</sup> that had been threatening the lives of individuals. Operation Artemis was certainly not a direct challenge to the UN's authority in handling the crisis; the EU played only a minor, temporary role compared with the United Nations Organization Mission in Congo (MONUC) and was given a clear mandate under Security Council Resolution 1484 in accordance with Chapter VIII. Nevertheless, the EU's engagement in these out-of-area operations (including a similar effort undertaken in 2004 for Haiti as well)<sup>20</sup> raises difficult questions about how far the "regional organizations" specified in Chapter VIII may legitimately reach.

Still more poorly defined are outright military alliances such as NATO. Like the EU, NATO's role has expanded in the past decade, raising its own unique set of problems when it comes to the exercise of authority to ensure human protection. The issue is that there is still a great deal of uncertainty about how best to use force in responding to crises under an R2P framework. The ICISS report notes that "external military intervention for humanitarian protection purposes has been controversial both when it has happened—as in Somalia, Bosnia and Kosovo—and when it has failed to happen, as in Rwanda."<sup>21</sup> This controversy has translated into a high level of distrust for NATO, an organization that is primarily a vehicle for military operations. NATO's two most notable forays beyond its own area were the bombing campaign it undertook against Serbia in 1999 in response to threats against Kosovo, and its participation in the post-invasion war in Afghanistan in 2003. In both cases, the international mandate for NATO's action was far from clear. In the case of Kosovo, it acted without Security Council authorization only after the EU had tried and failed to end the conflict. In Afghanistan, NATO formally took charge of the fighting a full two years after the US invasion. In both instances, NATO was only brought in after other others had tried and failed on their own. This does not give a clear idea of what NATO's role for the future will be. It has clearly outgrown its original purpose as a US-directed counterweight to the USSR in Europe. But its continued close association with US interests and persistent antagonistic relationship with Russia cast doubt on the question of whether it has sufficient legitimacy to carry out R2P missions. Although NATO lacks the adequate authority to act in the name of the international community in exercising the responsibility to protect, there would

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<sup>19</sup> U.N. Security Council, 4764<sup>th</sup> Meeting. "Resolution 1484 (2003) The Situation Concerning the Democratic Republic of the Congo" (S/RES/1484). 30 May 2003. Available: [http://www.un.org/Docs/sc/unsc\\_resolutions03.html](http://www.un.org/Docs/sc/unsc_resolutions03.html) [5/19/2009].

<sup>20</sup> Ibid.

<sup>21</sup> ICISS, *The Responsibility to Protect*, vii.

be a significant advantage if it could be somehow integrated, because it has access to tremendous resources.

### *The United Nations and R2P*

The 2005 Summit Document is a good starting point for examining the UN's authority to exercise the responsibility to protect. Paragraphs 138 and 139 of the Document are a first formal step toward retooling the machinery of the United Nations, which is geared toward prevention of state-level conflict, to enable it to address human protection issues such as genocide as well. As noted earlier, the 1948 Convention on Genocide is ambiguous on the question of where the authority to deal with genocide lies. The 2005 Document marks a significant change by decisively identifying the UN Security Council as the center of the international community's authority to respond to genocide and other crimes, where it had hitherto only held authority against traditional threats to international peace and security. The Security Council, in turn, has begun to recognize its own authority to ensure human protection as well, for instance, in Resolution 1674, in which it "reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document" and recognizes that "development, peace and security [the Security Council's primary responsibility under Article 24 of the UN Charter] and human rights are interlinked and mutually reinforcing."<sup>22</sup> Despite these milestones in establishing the UN's own authority to ensure human protection, however, there are still two significant structural barriers to the exercise of that authority.

The first is the fact that the UN is not itself an agent capable of staging interventions. Technically, the Summit Document is only a pledge by the signatory states ("we") to exercise the responsibility to protect. The UN's power lies instead in its capacity to corral individual member states into collective action in response to a humanitarian crisis. For this reason, it makes less sense to describe the UN as *having* authority to intervene than as being able to *grant* authority to intervene, as the Document says, "on a case by case basis." There are, of course, UN-sponsored missions that engage in all levels of human protection, from mediation to peacekeeping to reconstruction. But these missions are wholly dependent on the Security Council for authorization, and on individual member states for resources and leadership.

The arrangement of the Security Council is in itself a second structural barrier to when it comes to exercising authority. The Security Council is the ultimate purveyor of authority for interventions to ensure human protection. Under the UN Charter, the only legitimate way for any actor to intervene is through the powers granted under Chapter VII to the Security Council.

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<sup>22</sup> U.N. Security Council, 5430<sup>th</sup> Meeting. "Resolution 1674 (2006) Protection of Civilians in Armed Conflict" (S/RES/1674). 28 April 2006. Available: [http://www.un.org/Docs/sc/unsc\\_resolutions06.htm](http://www.un.org/Docs/sc/unsc_resolutions06.htm) [5/19/2009].



Unfortunately, the Security Council is prone to obstructionism thanks to the veto power of its permanent members. In practice, the Security Council has had a very inconsistent record in reliably using Chapter VII in time to prevent humanitarian atrocities. The past two decades have shown that all the authority in the world to intervene (which the Security Council arguably has the ability to grant) does not mean much without the structural capacity to come to an agreement to use it.

The linchpin of the entire R2P framework is a carefully calibrated balance between the authority of individual states to ensure protection and that of the international community. According to the theoretical R2P framework, it is important to recognize that states are the *primary* guarantors of protection, and that the international community only has authority to intervene as a *secondary* alternative. The Summit Document fails to make this distinction; instead it notes that the international community “also” has simultaneous authority to ensure protection by intervention. This cruder formulation reflects the disjointed state of R2P authority today. The one missing crucial piece that would enable better balance between the authority of states and the international community is an effective mechanism for making the determination when states have failed their responsibility so that the international community can step in. For now, the Security Council is still fundamentally unreliable when it comes to making these determinations.

#### *A new organization?*

Given the Security Council’s inability to effectively wield its authority to intervene, the immediate question that arises is how best to improve the situation. Could the Security Council be replaced by a new agency that is better suited to the needs of the 21<sup>st</sup> century? The prospect is certainly appealing. The Council is in many ways an anachronism, reflecting the balance of power from the end of the Second World War, which has changed dramatically in the generations since then. Its reason for existence is to prevent a type of war that belongs to the last century. Indeed, as noted above, one of the greatest barriers to effectively stopping today’s conflicts is the structural problems of the Security Council itself. By scrapping the Council and starting all over, it would be possible to place the ultimate authority for human protection interventions in an agency that is better able to act on its own to make quick determinations in response to crises.

Unfortunately, despite its many drawbacks, the idea of replacing the Security Council with some other agency is all but impossible. The event that prompted the UN’s creation was the almost complete collapse of the global order following the Second World War. Barring a similar catastrophe, the UN system, including the Security Council, has too much inertia to be completely dismantled at this point. The best time to do so likely would have been immediately after the Soviet Union’s collapse in 1991, but that chance is now long past. Rather than viewing this as a lost opportunity, however, one might see the

UN's survival of the 1991 upheaval as a testament to its stability. Unlike a hopelessly ineffectual organization that needs to be completely replaced, as the League of Nations was, there is an expectation now that the UN is here to stay.

Aside from historical parallels, the reality is that too many of the world's strongest nations still benefit from their position under the current arrangements of the UN. It is true that there are new strong countries that are excluded from permanent Security Council membership, but the reality is that the US, Britain and France are also still among the world's most powerful countries. In order to replace the Security Council's current configuration, it would be necessary for these three countries to benefit at least as much, if not more, from the new arrangement. But that would defeat the purpose of any new organization's existence.

If the UN cannot be replaced, it will have to be reformed. This has long been a topic of considerable interest, but although there have been many proposals and attempts to change the UN to make it more effective, the results have been disappointing. The expansion of the Security Council in 1965 from 11 to 15 members was a rare success in attempting to amend the Charter. Even this small modification, however was only possible, because it did not threaten the balance of power between the First and Second world in the Security Council, or indeed attempt to alter the more problematic permanent seats in the Council at all.<sup>23</sup>

Since 1965, the focus of reform proposals has been primarily on these permanent seats or some attempt to constrain their veto power. But in pursuing either of these reforms, even ones that do not require a two thirds vote in the General Assembly to modify the Charter such as voluntary abstention from use of the veto in certain instances, the Council has fallen into a characteristic deadlock. One can only conclude that there is little chance of substantial reform of the Security Council, let alone replacing it, short of a catastrophic event.

#### *The best alternative: go regional*

Short of attempting to restructure the Security Council, there are some smaller steps that could help to establish a more effective line of authority for the international community to ensure human protection. The first is clarifying the role of powerful regional organizations, particularly the EU. Although the EU has much to offer in terms of resources, it does not have sufficient legitimacy to act on its own as the world's policeman beyond its own jurisdiction. To help define the role of regional organizations, the General Assembly could put together a protocol that distinguishes where and under what circumstances regional organizations can legitimately contribute to interventions. It could do this as part of its commitment to "continue consideration" of the responsibility to protect under paragraph 139 of the Summit Document.

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<sup>23</sup> Weiss, *Overcoming the Security Council Reform Impasse*, 6.

A second step would be to further empower regional organizations so that they are prepared ahead of time to intervene if necessary to prevent genocide and other similar crimes. As discussed earlier, the international community only resorted to using NATO without Security Council authorization in Kosovo because the EU had already tried and failed to respond effectively. Regional organizations have a great advantage over the UN because they can establish rapid reaction forces ahead of time to have ready in event of a crisis, which the UN has never been able to get enough consensus to be able to do. Having a regionally directed force prepared ahead of time won't eliminate all of the political intrigue of the Security Council, but it will certainly make it much easier for Russia or China to accept than the prospect of scrambling to former colonial powers for donated troops, as often happens now. We have already discussed the effectiveness of this approach in the African Union's case; all that is really lacking is sufficient resources to expand this capability.

One final step would be to recognize the varying levels of regionalization across the globe, and work to establish some baseline of authority for regional organizations that still lack sufficient capacity to exercise the responsibility to protect. The goal would be for the Security Council to be able to adopt a consistent strategy of turning first to regional organizations when humanitarian crises threaten, to act more quickly and with greater sensitivity to local needs than the UN can. There would need to be a standard for testing their capability to intervene effectively beforehand, however, to ensure that they can be counted on if the need were to arise.

### *Conclusion*

This overview has made it evident that there is still no clear single authority that has the capacity to reliably intervene to ensure human protection, even in the direst instances when genocide, war crimes, ethnic cleansing or crimes against humanity threaten. Although the UN Security Council ostensibly has this authority according to the UN Charter, other regional organizations have claimed it as well, either in word or in deed. Rather than viewing this as a threat, the Security Council could see the growth of strong regional organizations as opportunity to overcome some of its own internal limitations. In order for the UN and regional organizations to work together effectively, however, it will first be necessary to more clearly delineate the tiers of the international community's authority structure, recognizing that individual states are the primary guarantors of human protection, and the UN (acting through regional organizations or otherwise) is only a secondary guarantor. Broad international consensus on this understanding is still presently lacking, but it is what will be needed in order for the international community to more clearly exercise its responsibility to protect in dealing with future crises.

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