

# International Policymaking: The Case of the Norm of the Responsibility to Protect

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# International Policymaking

## The Case of the Norm of the Responsibility to Protect (R2D)

*The norm of the Responsibility to Protect has received increasing international attention in the last few years. In summary Responsibility to Protect refers to a concept that arose in the late 1990s in Canada which emphasizes the responsibility that governments and the international community have to protect their population (Bellamy, 2009). Thus, it is a concept that attempts to redefine sovereignty from its traditional basis on rights to one based on duties and responsibilities (Brunnee & Toope, 2006). The importance of the Responsibility to Protect as a concept is that it is an attempt to shape global governance at the highest level. Therefore, it is an example of policymaking at the global level and serves as a good case study of how a concept arises, can be transformed into a norm, and ultimately is institutionalized in international law. There is a final step which involves the operationalization of the norm and this is the stage in which R2D can be found at the moment. This paper is divided into two main sections. The first section provides a brief history of the development of the concept and its transformation into a norm. A second section provides an analysis of R2D in terms of the main participants in policymaking, some of the outputs of the policy, and finally a discussion on the outcome.*

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## **International Policymaking: The Case of the Norm of the Responsibility to Protect**

### **Introduction**

The norm of the Responsibility to Protect has received increasing international attention in the last few years. In summary, Responsibility to Protect refers to a concept that arose in the late 1990s in Canada which emphasizes the responsibility that governments and the international community have to protect their population (Bellamy, 2009). Thus, it is a concept that attempts to redefine sovereignty from its traditional basis on rights to one based on duties and responsibilities (Brunnee & Toope, 2006). The importance of the Responsibility to Protect as a concept is that it is an attempt to shape global governance at the highest level. Therefore, it is an example of policymaking at the global level and serves as a good case study of how a concept arises, can be transformed into a norm, and ultimately is institutionalized in international law. There is a final step which involves the operationalization of the norm and this is the stage in which R2D can be found at the moment.

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analysis of R2D in terms of the main participants in policymaking, some of the outputs of the policy, and finally a discussion on the outcome.

### **Brief History of R2D**

Philosophically the principles behind R2D can be traced back to Ancient Greece and Church Canon Law, however the more proximate origin of the norm can be traced back to the breakup of Yugoslavia after the end of the Cold War (Bellamy, 2009; Brunnee & Toope, 2006; Feigenblatt, 2007b). The Humanitarian crisis brought about by the breakup of Yugoslavia and the realization that some of the violence was inflicted by the state on its own population brought the issue of humanitarian intervention to the international agenda (Khong, 2006). Prominent academics and practitioners contended that traditional security was obsolete in the post Cold War period and that non-traditional threats such as those related to the environment, trans-national organized crime, and terrorism could not be tackled nor understood through traditional security theories (Bellamy, 2009; Brunnee & Toope, 2006; Garcia, 2009; Gomez, 2008; Khong, 2006; McCormick, 2005). This realization was followed by a fruitful period in terms of theory proliferation which saw the rise of Human Security and of Comprehensive Security among other theories. Alternative Security paradigms stressed the importance of achieving a holistic security that would take into consideration the needs of the population and of the individual rather than just the security of the state apparatus and the protection of territorial borders (Feigenblatt, 2009a; Gary King, 2001; Mack, 2005).

In addition to that, the sharp increase in intrastate rather than interstate conflicts provided ample evidence of the importance of new threats in the post-Cold War period (Cox, 2008; David Carment, 2009; Dore, 1997). As a way to provide a forum to discuss the related issues of

intervention and its relationship to sovereignty, Canada established the International Commission on Intervention and International Sovereignty in 2001 (Bellamy, 2009). The Commission brought together the most prominent academics and practitioners in the field of security and development. Few reports have had the effect on the international community that the one released by the ICCI had. The final report recommended among other things to redefine sovereignty as responsibility rather than as a right. Furthermore it clearly stated that prevention and early warning should be used by the international community in addition to humanitarian intervention and post-conflict peacebuilding (Brunnee & Toope, 2006). In order to give clarity to the concept and to make its implementation easier, the report set the criteria for intervention to be when a government is unable or unwilling to prevent a great loss of life in its population (Brunnee & Toope, 2006).

The Secretary-General of the United Nations reacted to the report by establishing the High-level Panel on Threats, Challenges and Change to discuss the concept of R2D in 2004. Its report was similar to the one released by the ICCS but it toned down the right to intervene and also stressed the importance of the Security Council in terms of authorizing intervention (Brunnee & Toope, 2006). The report also redefined the criteria for intervention from great loss of life to crimes against humanity. Finally, the report and the Secretary-General recommended the General Assembly and the Security Council to issue a declaration accepting the norm of R2D (Council, 2006).

Important negotiations took place in 2005 which lead to the adoption of the 2005 United Nations Summit Outcome Document (Brunnee & Toope, 2006). This document shifted the emphasis away from international responsibility and towards the responsibility of individual

states. International crimes were identified as the criteria to be used in order to determine the suitability of humanitarian intervention as a justifiable option. The document urged the establishment of the Human Rights Council but did not agree on its characteristics or jurisdiction and established the Peacebuilding Commission with only a post-conflict role rather than also including prevention (Brunnee & Toope, 2006).

## **Analysis**

### **Participants:**

A vast array of stakeholders were involved in the policy process that legitimized the norm of the Responsibility to Protect. Norm entrepreneurs such as Canada, academics, NGOs, and some African Governments propelled the norm to the forefront of the international agenda (Bhattacharjee, 2007). The role of the Secretary General, Kofi Anan, was also pivotal in making the concept palatable to the Security Council and the General Assembly. In terms of decision makers, the member states of the Security Council and the General Assembly had the formal authority to adopt the norm at the international level (Weiss, 2009). However, it should be noted that the norm was already put into practice by global civil society even before it was accepted by the United Nations (Glenn Hook, 2005). This shows how NGOs and other civil society organizations have considerable power to skip a step and directly apply a concept in their work. Taking into consideration that states are losing some of their power to non-state actors, especially in the developing world, this shows how policymaking at the global level has a two track structure (Feigenblatt, 2009b).

In other words, there are two tracks to policymaking at the global level: one involves official decision makers such as states and intergovernmental organizations, and a second one is composed of global civil society and other non-state actors (Chandler, 2009). Globalization has increased the resources and importance of the second track and sometimes relegated the first track to a reactive role of adapting to new developments on the ground, such as the norm of the Responsibility to Protect (Dingwerth, 2008; Friedman, 2000; Fukuyama, 1992; Kessler, 2009; Kollman, 2008; Williams, 2009).

While all actors were important throughout the policymaking process, some were more important than others in the different stages. Norm entrepreneurs such as NGOs and the Canadian government were especially important in the early stages. The semi-official International Commission on Intervention and International Sovereignty was crucial in getting the norm included in the official international agenda. Kofi Annan, the Secretary-General of the United Nations at the time, played an important role in adapting the norm so as to make it acceptable for a majority of the member states and thus successfully secure its adoption as part of the norms guiding International Law and UN practice. Needless to say the policy suffered considerable changes during this process, and the ultimate result was that it was watered down so as to gain the support of important members of the Security Council and recalcitrant members of the General Assembly (Council, 2006; Saul, 2006).

### **Outputs:**

The three most important outputs of the R2D policy were the outcome document of the 2005 United Nations Summit, the establishment of the Peacebuilding Commission, and the

agreement on the need to establish the Human Rights Council (Bellamy, 2009; Brunnee & Toope, 2006). The effects of those outputs are hard to measure but their influence on the activities of the United Nations and related international NGOs is considerable. Their main effect was that they legitimized the concept in the eyes of the international community and encouraged UN agencies and NGOs to adopt it as part of their policies. More research is needed in order to measure some of the direct outputs of the R2D international policy.

**Outcome:**

Determining the outcome of an international norm is always a very tricky exercise. However, some generalizations can be made in terms of the overall outcome of R2D. It weakened the concept of non-intervention in international law, sovereignty was redefined as responsibility rather than as a right, and it empowered the international community and related humanitarian and development organizations in terms of their justification to intervene in crises involving intrastate strife (Bellamy, 2009; Brunnee & Toope, 2006; Feigenblatt, 2007a; Khong, 2006; Mack, 2005). In other words it filled the gap in the Geneva Conventions in terms of International Humanitarian Law dealing with intrastate conflict and the rights and duties of the international community in those situations (Khong, 2006). Opponents of the concept have also brought to the fore some of the negative outcomes of R2D. By weakening the norm of non-intervention and sovereignty, R2D has created a way to justify military intervention and forced regime change by the great powers (Saul, 2006). In this respect, it can be argued that the governments of developing countries have been weakened relative to those of the great powers.

Since the resources necessary to undertake a military intervention are concentrated in the developed Global North, R2D opens the way for the North to interfere in the internal affairs of weak countries in the South. It can be assumed that the governments of the great powers are not always guided by the same altruistic values as global civil society and its humanitarian and development organizations. Thus, the virulent concept of national interest can be cloaked in the language of R2D and humanitarianism to further neo-realist and institutional-liberal goals of powerful countries in the developed world (Feigenblatt, 2007a). At this point in time it is difficult to judge the overall outcome of R2D in terms of advantages and disadvantages. Nevertheless, the norm has clearly strengthened the role of global civil society and of development-oriented middle powers in dealing with international crises. The Security Council has been proven to be largely ineffective in dealing with post-Cold War security threats in comparison with global civil society. However, there is some truth to the criticism regarding the possible co-optation of the concept by the great powers in order to further a narrow national interest. The lack of action in terms of the events in Myanmar is a clear case in point. Crimes against humanity there have been well documented, but only middle powers and NGOs have attempted to help the affected population while the United States and other great powers limit their intervention to largely ineffective economic sanctions and empty rhetoric (Falco, 2003; Green, 2008; JICA, 2007; Neher, 2002).

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