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ENFORCING THE RESPONSIBILITY TO PROTECT: THE ROLE OF PARLIAMENT IN SAFEGUARDING CIVILIANS' LIVES

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Introduction

The IPU, the global organization of parliaments, works for peace and cooperation among peoples and for the firm establishment of representative democracy;[1] as such, it has identified *Enforcing the responsibility to protect: the role of parliament in safeguarding civilians' lives* as a current issue of urgent concern.

The "responsibility to protect" concept was endorsed by 191 countries in a resolution (A/RES/60/1) adopted at the United Nations World Summit in 2005. It refers to the responsibility of every State to safeguard its population from genocide, war crimes, ethnic cleansing and crimes against humanity. If a State fails to protect its citizens – meaning that it is no longer upholding its responsibility as a sovereign nation – and peaceful measures have failed, the international community has a responsibility to take corrective measures, with military action being the last resort.

The concept's proper and effective operationalization and implementation have often fallen short of the resolution adopted at the World Summit. This observation has been borne out by events in Egypt, Côte d'Ivoire and Libya, and the ambiguous responses to them. It is evident that parliaments – as assembled by a body such as the IPU – should express themselves on the issue. We should inquire whether our governments have "abdicated" their responsibility as expressed at the 2005 World Summit. We should be upfront and ask whether we have done enough to avert atrocities. We should ask ourselves what our role is in such situations and we should adopt resolutions regarding that role.

Ambiguous implementation and concepts underlying the responsibility to protect

Whether one calls it reluctance, unwillingness or indifference[2] on the part of the international community to enforce the responsibility to protect, the fact remains that governments are often found lacking in this regard. The purpose of this report is therefore, first, to consider the role of government with regard to the responsibility to protect, and secondly, to investigate what parliaments should do to ensure its implementation. We believe that the problem is not a lack of policy or direction in terms of what needs to be done in the case of mass atrocities, but rather reluctance - for lack of a better word – to get involved or to decide which course of action to take. What we require is an enforcement mechanism or a similar tool to enable governments to act or decide which option to explore to enforce the responsibility to

protect. Therefore, while the policy is in place, and governments have agreed to it, its timely, consistent and objective implementation in practice is what we believe is lacking.

Having such an enforcement mechanism will help us not only to give effect to our decision to utilize the concept of responsibility to protect as decided at the World Summit in 2005, but also to avoid the recurrence of mass atrocities as witnessed in Rwanda and Srebrenica, to name but a few. As South Africans, we attach high importance to the protection of civilians during and after armed conflict. In addition to upholding global instruments and declarations such as the 1949 Geneva Conventions and their Additional Protocols, the Universal Declaration of Human Rights and the Millennium Development Declaration (which calls inter alia for the promotion of peace, security and human rights), South Africa recognizes that the protection of civilians is by its very nature primarily the responsibility of individual States, which are sovereign.[3]

Since the protection of civilians has become more complex as the concept has evolved, as witness recent cases and United Nations resolutions, it is our firm belief that the responsibility to protect doctrine should be approached in a collective and holistic manner ensuring the necessary political support and other resources.[4] This will facilitate not only a more predictable humanitarian response to complex emergencies, but also a secure environment for the protection of civilians. For us as the global community, it will support our efforts to prevent and stop the deliberate targeting of civilians, which is often accompanied by the indiscriminate use of force, gender-based violence, forced displacement and lack of safety and access for humanitarian personnel, all which have a detrimental effect on civilians.[5]

In recognizing the responsibility to protect as a **means of mobilization** for timely action in a worst-case scenario, we are also aware that it is not, and should not be viewed as, a panacea for all issues related to human security.[6] While failure to prevent conflicts and security disasters is often attributed to a lack of political will,[7] what is usually really lacking is full recognition of the world's increasing interdependence and the implications thereof. In this sense, violent conflict is a threat, not only within the country in which it occurs, but far beyond.[8]

In responding to the question of why we need the responsibility to protect, we are reminded of the world saying, "**Never again**"[9] after every mass atrocity. But the reality is that such crimes are unfortunately being visited on innocent civilians on an all too regular basis.[10] Evans justifiably asks how many more times we will exclaim, "Never again", having done so after the Holocaust, the Cambodian genocide, the Rwandan genocide, the Srebrenica massacre, and the mass killings in Darfur. "Are we indeed really capable as an international community to stop nation-states murdering their own people? How many more times will we look back wondering, how we could have let it all happen?"[11]

Incrementalism, critique and criteria for intervention

While recognizing the challenges we face in operationalizing and implementing the responsibility to protect, we would do well to remember Brazil's statement: "No issue can be more deserving of the attention of the Security Council than the need to protect civilians in situations of armed conflict."[12] It is our firm belief that people should come first – something we South Africans refer to as *batho pele* – and we therefore hold that the responsibility to protect can help us provide civilians with effective protection in situations of armed conflict.

However, this should be based on a solid understanding of the various aspects of the responsibility to protect. The first is the ***responsibility to prevent***, which entails a duty to address the root causes of internal conflicts and other man-made catastrophes. The second, the

responsibility to react, entails responding to serious humanitarian crises with appropriate measures,[13] which may include coercive measures such as sanctions and international prosecution, and, in extreme cases, military intervention.[14] The third, the *responsibility to rebuild,* entails providing full assistance for recovery, reconstruction and reconciliation, particularly after a military intervention, and addressing the causes of the humanitarian crisis the intervention was designed to halt or avert.[15] Military action should only be deployed as a last resort, after all the consequences have been comprehensively and carefully analysed.[16] This is because the use of force always carries the risk of unintended casualties and instability, something we have unfortunately witnessed all too often and to our collective shame.

South Africa's support for the responsibility to protect is premised not only on its Ubuntu-oriented foreign policy, but also on its support for the African Peer Review Mechanism (APRM). This is a system introduced by the African Union to improve governance with a view to achieving political stability and socio-economic development in Africa.[17] We are, however, also fully aware of the **arguments** of those who do not necessarily agree with the concept. Sceptics believe that it is too easily misused, a cover for imperialism, even an incentive to kill. Others feel that the concept is too narrow in scope in that it allows the international community to intervene only if one of the following four crimes has been committed: genocide, war crimes, crimes against humanity or ethnic cleansing. This means that it is not applicable to HIV/AIDS, climate change, natural disasters, etc. One concern often cited is that the responsibility to protect can be used by major Western countries to legitimize intervention in other States' domestic affairs. This is especially true because the five permanent members of the United Nations Security Council[18] can exercise their veto whenever they are affected politically, economically or strategically. The use of military intervention has always been controversial, and some believe it can be utilized for regime-change purposes.[19] In this regard, the case of Libya did not work in favour of the concept's proponents.

The **Libya case** has turned a spotlight on the rationale for, the scope and end result of military intervention. In this respect, we would do well to remember the 2001 Report of the International Commission on Intervention and State Sovereignty (ICISS). According to the Report, any form of military intervention predicated on the responsibility to protect should meet the following **six criteria** in order to be justified as an extraordinary measure of intervention:

- right authority: the most appropriate body to authorize military intervention for human protection purposes is the United Nations Security Council;
- right intention: the primary purpose of the intervention, whatever other motives intervening States may have, must be to halt or avert human suffering;
- just cause: in order for military intervention to be warranted, serious and irreparable harm must be occurring to human beings, or be imminently likely to occur;
- last resort: military intervention can only be justified when every non-military option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing lesser measures would not have succeeded;
- proportional means: the duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective;
- reasonable prospects: there must be a reasonable chance of halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.[20]

It remains an open question whether these criteria were adhered to in the Libya case. This uncertainty has prompted many people to oppose military intervention, and more recently

Security Council resolutions on the Syrian conflict,[21,22] especially in terms of right intention and proportional means.

A human rights focus

We should not lose sight of the fact that the responsibility to protect concept was intended to provide a framework for humanitarian intervention in restricted circumstances, not to create an alternative framework for **human rights protection**. The UN Human Rights Council was set up in 2006 to provide a stronger and more effective organization, but there remains a need to enforce human rights standards beyond domestic jurisdictions, and greater emphasis should perhaps therefore be placed on supporting national mechanisms for the promotion of human rights. Furthermore, a democratic system should respect human rights and be premised on the rule of law. We therefore agree that a democratic system is best suited to uphold freedom of expression, equal opportunities for all and equal treatment for all sectors of society.[23]

Some of the best practices in this regard relate to independent government watchdogs such as human rights commissions, which should be endowed with constitutional powers, resources and capacity for the promotion and protection of human rights. While many countries have progressive constitutions that endeavour to promote and protect basic human rights, in practice these rights are trampled through acts such as extrajudicial executions, the killing of judges, unlawful detentions, and police torture.

It is this mismatch between theory and practice that is often the starting point for widespread abuses that eventually lead citizens to revolt against their governments, which in turn can lead to mass atrocities. It is therefore our firm belief that, in addressing such situations, the tenets of democracy embodied in the dictum, "Government by the people, for the people", should be kept uppermost in mind. The implementation of democratic tenets not only promotes and safeguards peace and security, it also ensures national resources are likely to be used for the people's benefit and in the national interest.[24]

The United Nations and the responsibility to protect

The United Nations Charter establishes the Security Council as one of the main international bodies with primary responsibility for the maintenance of world peace and security.[25] Former UN Secretary-General Kofi Annan was instrumental in developing the responsibility to protect concept, notably when he asked **when** the international community must intervene for humanitarian purposes. The answer, in part, was when State sovereignty has to yield to protection against the most egregious violations of humanitarian and international law, including genocide, ethnic cleansing and crimes against humanity. He further stated: "It cannot be right, when the international community is faced with genocide or massive human rights abuses, for the United Nations to stand by and let them unfold to the end."[26]

The United Nations has adopted numerous resolutions on the responsibility to protect, not only expressing its support for the doctrine but also stating its willingness to authorize the deployment of peacekeepers and adopt resolutions which sanction military intervention.[27] For instance, on 26 February 2011 the Security Council adopted resolution 1970, which deplored the gross and systematic violation of human rights in strife-torn Libya. On 17 March 2011, it adopted resolution 1973, which demanded an immediate ceasefire in Libya, including an end to ongoing attacks against civilians. It authorized member States to take all necessary measures to protect civilians under threat if they are attacked.[28] As we are all aware, NATO was subsequently

criticized for its enforcement of the mandate to protect civilians under the terms of resolutions 1970 and 1973.[29]

While the Security Council has adopted various resolutions referring to the responsibility to protect, it has not always been in agreement on situations in which the concept applies. In the case of the **Syrian Arab Republic**, on 4 February 2012 it voted on a draft resolution; 13 members voted in favour, but China and the Russian Federation exercised their veto and blocked the adoption of the resolution.[30] On 19 July 2012, China and the Russian Federation used their veto to block another resolution, South Africa and Pakistan abstained, while the other 11 members voted in favour. A veto by one of the permanent members – in this case China and the Russian Federation – means the resolution cannot be adopted.[31]

The unfolding humanitarian crisis in the Syrian Arab Republic, where the international community is deadlocked over whether and how to intervene to stop the carnage, underscores the urgent need for a middle ground to unblock the diplomatic stalemate.[32] The efforts of Kofi Annan – former UN-Arab League Joint Special Envoy for Syria - left him frustrated and impatient over his helplessness to push through a ceasefire. His frustrations were shared by the international community, which looked on as the "[A]ssad regime raged on with impunity in its bloody crushing of the people's uprising".[33] The Syrian stalemate and Annan's frustration reflect tragically not only on the United Nations, but also on States who dawdle over decisions while the bloodshed continues. Once again, we have to ask what we, as a global community of parliaments, should do together and individually and whether we have explored all avenues to prevent the situation from deteriorating further.

The efforts of the IPU and the fall-out of the Arab Spring

The[SM1] 126th IPU Assembly (Kampala, March-April 2012) adopted a resolution calling for the immediate cessation of violence and human rights violations and abuses in the Syrian Arab Republic and for support for the efforts of international and regional organizations to bring about a peaceful end to the crisis, and urging the United Nations and its organs to redouble their efforts to help bring an end to armed violence in the country and to address the current humanitarian crisis.[34]

We want peace and stability in the world, especially in conflict-ridden areas and in particular in the Syrian Arab Republic. We hold that violence should not be used to effect regime change, not only because of its destructive nature but because it is often viewed as externally imposed, rendering post-conflict reconciliation even more problematic. It is therefore incumbent on both parties to negotiate a peaceful settlement and end the killing of innocent people as soon as possible. Parties arming both sides with military equipment and weapons should cease these activities immediately in order to allow the two parties to settle their differences peacefully. There can be no development, much less economic growth, unless there is peace and security, as neither can happen in situations where the parties are trying to annihilate each other with weapons supplied by external players.

The IPU resolution, with its unambiguous stance on the Syrian crisis, is a step in the right direction, but we need to ask whether it goes far enough. Is the role of national parliaments limited to supporting such resolutions with no enforcement or punitive mechanism?

Whether the stalemate is partly due to the mishandling of the responsibility to protect in 2011 in Libya – many believed the ground-breaking intervention in Libya to protect unarmed civilians from the atrocities of the Gaddafi regime[35] was the right thing to do – is open for debate. The death of Gaddafi and the subsequent change in regime have prompted the concept's detractors to say that this is not what they voted for. One opinion is that the Libyan experience turned the tide against the responsibility to protect, as the Russian Federation and China have since hardened their positions on intervention in the Syrian Arab Republic.

Perceptions of abuse and selective non-use of the responsibility to protect

Part of the fall-out of the turmoil in Libya, Tunisia, Egypt and the Syrian Arab Republic is that, although 191 countries endorsed the concept in 2005, many still harbour reservations about the responsibility to protect. This is partly because of their suspicion about the potential abuse of the doctrine – the fear that it will be used to advance the strategic interests of other countries, or to bring about regime change.[36]

The question is thus what should be done to ensure that States do not neglect their responsibility to act when mass crimes are taking place. Their perceived "reluctance" and/or indifference reflects not only their wish to protect political, economic and other interests, as some would like to believe, but also the fear of a repeat of what happened in Libya, when NATO apparently exceeded its mandate. How do we assure States that there will not be a repeat of what happened in Libya? How do we, as an assembly of parliaments, guide our governments to get involved and enforce the responsibility to protect?

One of the issues we need to consider is whether the responsibility to protect is being selectively utilized. While the majority of States agree in principle with the doctrine, their support is qualified by strong perceptions of it being abused when strategic and economic interests are at stake. They ask why the doctrine can be so readily invoked in cases such as Côte d'Ivoire and Libya, but not in Palestine. This perception needs to be addressed, and governments, non-governmental organizations and especially parliamentary associations such as the IPU, the Commonwealth Parliamentary Association (CPA) and the Pan African Parliament (PAP) must take steps to ensure that the responsibility to protect is not being invoked for the wrong reasons.

The concerns expressed that the International Criminal Court – whose main task is to bring the perpetrators of war crimes and crimes against humanity to book – is a "pro-Western and anti-African court"[37] are similar to those raised against the selective application of the responsibility to protect concept. Although this bias has been denied by the Court, there is nonetheless a strong perception among African governments[38] that the continent receives far more attention from the Court than the rest of the world,[39] despite that fact that it played a crucial part in the Court's formation.[40] More importantly, the Rome Statute, the international treaty establishing the Court, has been ratified by 114 countries. Thirty-three of these are African countries. Prominent States, including the United States of America, the Russian Federation, Israel, the Islamic Republic of Iran, Egypt, China, India and Pakistan, and 11 African States have not signed the treaty.[41] Yet some of the non-signatories are often the first to call for the Court to take action against a suspected perpetrator.

We therefore need to apply our collective minds to this perceived bias in the application of the responsibility to protect concept, lest it renders us unable to intervene effectively and decisively anytime and anywhere such mass atrocities are perpetrated.

Responsibility while protecting

In its statement to the Security Council,[42] Brazil articulated a position regarding implementation of the responsibility to protect that can basically be described as "responsibility while protecting". Under this approach, the United Nations, when acting to protect, should not cause greater harm than the one it is endeavouring to prevent. In the light of what happened in Libya, Brazil's position is both timely and to the point: the United Nations should always start from a position of not causing harm itself. Some of the fundamental principles of the approach are listed below.

- Prevention is always the best policy;
- The international community should be rigorous in its efforts to exhaust all peaceful means available;
- The use of force must produce as little violence and instability as possible;
- In the event of the use of force being contemplated, action must be judicious, proportionate and limited to the objectives established by the Security Council;
- Enhanced Security Council procedures are needed to monitor and assess the manner in which resolutions are interpreted and implemented to ensure responsibility while protecting.

While the input from Brazil was generally welcomed, the Netherlands, referring to the issue of comprehensive and judicious analysis of all consequences, noted that when it came to the use of force, "no military plan survives first contact with the enemy". Not only can over-planning result in the atrocities getting further out of hand, it can also delay timely action.[43] The German Ambassador raised similar concerns about the Brazilian approach, indicating that "responsibility while protecting" limits the scope for timely, decisive and tailor-made solutions to situations of extreme gravity.[44] Although we note the concerns of the Netherlands and Germany, we are inclined to support the Brazilian view as we agree that the United Nations should indeed only apply the sanctions or force needed to achieve its goal and thus limit the economic and military damage. This approach will also serve to address concerns that the responsibility to protect doctrine is being misused.

The role of regional organizations

Priority should also be given to the contribution of continental and regional bodies, such as the Southern African Development Community[SM2] and the Economic Community of West African States, towards implementation of the responsibility to protect concept.

Jean Ping, former Chairperson of the African Union Commission, speaking about implementation of the responsibility to protect in Africa, says that: "[T]his concept has become universal and it is imperative for us in Africa to think global and act local, that is, to analyse and truly understand the global challenges and find our own answers to them."[45]

The African Union deals with issues of peace and security on the continent through its Peace and Security Council,[46] which serves as a "collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa". Its security regime is also in line with elements of the protection framework set out in the responsibility to protect concept. Like the responsibility to protect, the African Union's Constitutive Act[47] and its Protocol Relating to the Establishment of the Peace and Security Council are pro-sovereignty: they assign high priority to the sovereignty and territorial integrity of member States.[48]

The SADC, as one of the continent's regional organizations,[49] generally supports UN and African Union initiatives, in particular for the protection of civilians in conflict situations. South Africa and Nigeria, two regional heavyweights, have at times already implemented the responsibility to protect in their foreign policies, using subregional and multilateral means. However, they have yet to realize their full potential in this role.[50]

A South African perspective on the responsibility to protect

In 1993, Nelson Mandela stated: "Human rights will be the light that guides our foreign policy."[51] This belief is manifest in South Africa's various policy guidelines and is the pillar around which the South African government has built its approach to the responsibility to protect. The legislative framework informing our position starts with the 1996 Constitution, which confirms the centrality of human rights and freedoms in the Bill of Rights. Our Constitution's people-centeredness has its roots not only in our past, but also in our firm belief in *Ubuntu*.[52] The White Paper on Foreign Affairs, *Building a better world: the diplomacy of Ubuntu,*[53] further elaborates on this humane approach, which we project in our international relations.

Following on this, South Africa's approach to the responsibility to protect is logically one of engagement and quiet diplomacy, one that often pushes for **multilateral institutions** to become the main repositories of the responsibility to protect. This approach is also "engagist" in nature in that it underlines South Africa's move to push the continent's approach of "non-intervention" towards "non-indifference".[54] It therefore promotes graduated and cascading action that is based on the belief that the root causes of wars and deadly conflicts have to be tackled to prevent a return to violence, which can erupt even after peace deals have been agreed and implemented.

South Africa attaches great importance to the protection of civilians in armed conflicts. Besides acceding to and upholding the Geneva Conventions and their Additional Protocols - which seek to protect various categories of victims of armed conflict, particularly civilians not involved in hostilities - South Africa recognizes that the protection of civilians by its very nature is primarily the responsibility of individual States.[55]

Further to this, from the point of view of implementation by the national government, South Africa regards the responsibility to protect as a process, rather than a diktat that needs to be enforced. As a process, the responsibility to protect can best be encouraged and managed through diplomacy and engagement. In this way, South Africa has distanced itself from the role of policeman and bullying hegemon, a role others would like it to play.

What parliaments should do

Even though the constitutions of democratic countries specify the different roles of the legislative, executive and judicial branches in line with the separation of powers, parliaments should not view themselves as unable to contribute constructively and decisively to the manner in which international relations are conducted. On the contrary, parliament's oversight role extends beyond the national/domestic realm to include oversight of international participation. Thus, parliamentarians, as the elected representatives of the people, have a responsibility to engage the Executive on matters of international relations to ensure that the views of the electorate find concrete expression in the manner in which the Executive conducts itself in the international arena, within the prescripts of the country's foreign policy. Parliaments should strive not to limit their international participation to contributions in parliamentary forums such as the IPU, the CPA or the PAP; they should reach out and engage the Executive on matters of national interest at international level. These include the negotiation of treaties, international partnership agreements, reporting obligations arising from treaties ratified, etc.

In particular, parliaments should endeavour to help safeguard civilian lives through implementation of the responsibility to protect. Most centrally, a strong and credible parliament that represents the whole population ought to play a decisive role in ensuring that norms such as the responsibility to protect are given the necessary attention. It can do this by exercising effective democratic oversight, which can enhance the legitimacy of the Executive and the security services.[56] As a result, the security forces and the Executive can be trusted and relied upon to execute the will of the people, making them less likely to commit atrocities and trample on human rights at home, or to visit such crimes on neighbours. The use of force against another State is thus severely restricted. One role of parliament is to monitor whether the executive branch respects international restrictions on the use and threat of war and does not exceed its powers in times of conflict.

Other more specific suggestions for parliamentary action

- Parliaments should be more proactive in ensuring that they acquaint themselves with (and ideally provide input for) the Executive's negotiated positions on treaties, conventions and resolutions, including Security Council resolutions. Negotiators and/or the relevant Minister(s) should be asked to brief the relevant parliamentary committee(s) on the country's approach to a specific resolution (such as responsibility to protect) and to provide background or the reasons for their decision with regard to this approach. Parliamentarians (as representatives of the people) should thus have some input into the Executive's approaches in the international arena. Parliaments should also request briefings from the Executive on country progress reports required by the reporting structures provided for in individual treaties, particularly those relating to human rights;

- On a more reactive level, parliaments should interact with their governments to verify and confirm the position that their governments have taken on UN Security Council resolutions. An explanation of the reasons for a vote would not only help parliaments understand the issues in play, it would also allow parliamentarians to explain the votes to the media and their constituents;

- All international treaties and conventions should be incorporated into national law where required. Parliaments should use their law-making function to ensure that domestic legislation is aligned with the international norms concerning, for instance, the protection of civilians. A point in case is the processing of the Implementation of the Geneva Conventions Bill [B10 – 2011] in South Africa. National implementation of the Geneva Conventions not only makes international humanitarian law applicable in South Africa, it also strengthens South Africa's commitment to the protection regime during international conflicts;

- Every parliament should consider establishing a dedicated parliamentary committee to oversee international relations. Where such committees already exist, they should be prioritized by their parliaments, i.e. given sufficient financial and human resources, and allotted adequate time on the parliamentary programme to conduct their work. These committees should meet regularly and hold government to account both proactively and reactively for the conduct of international relations. They should work closely with their counterparts in the respective houses of parliament to ensure coordinated and effective oversight in the arena of international relations;

- Parliaments should ensure that the protection of human rights, especially of minorities and indigenous people, is guaranteed not only in national law, but in practice. This can be facilitated by the establishment of effective bodies with adequate resources, such as human rights commissions;

- Parliaments should ensure that their governments have early warning security systems in place in order to facilitate and enhance faster and more effective responses to unfolding internal conflict situations. This should be coupled with internal conflict resolution mechanisms such as negotiation, enquiry, mediation, conciliation, arbitration and judicial settlement, through which disputes can be addressed through dialogue in a timely and fair manner;

- Parliaments should advance and promote the media's role by ensuring that there is freedom of expression and that the media are protected under the Constitution and in law and operate within the parameters of the law. Parliaments and governments should also promote and use information and communication technologies to keep their citizens informed;

- Parliaments should promote all facets of good governance, as it has been demonstrated that there is a positive correlation between good governance and the achievement of peace and security;[57]

- A related suggestion is that Security Council proceedings should be monitored and assessed for the manner in which resolutions are interpreted and implemented to ensure responsibility while protecting.

Conclusion

With the unfolding Syrian crisis and the resignation of Kofi Annan, the IPU decision to deliberate on *Enforcing the responsibility to protect: the role of parliament in safeguarding civilians' lives* is more timely and relevant than ever. The ambiguous response to crisis situations in which mass atrocities are being committed is not only an indictment of governments and parliamentary unions such as the IPU, it also points to the need for an effective and objective enforcement mechanism. In addition, most countries tend to agree that something should be done, then find an excuse why they should not be the ones to do it, thus putting their narrow self-interest first.[58] The strong perception among African leaders in particular that the responsibility to protect concept is mainly used against the less powerful and Africans – similar to International Criminal Court cases – is an issue that requires urgent attention. This will not only garner support for the concept, it will also help address power relations between different States.

We therefore hold that issues of human rights abuses, such as in recent cases, require urgent attention by parliaments worldwide in the sense that they need to agree on a comprehensive resolution.

This report shows the extent to which human lives are being wasted because of the inability to play a proper role when mass atrocities occur, for reasons relating inter alia to narrow self-interest and protection of political, economic and strategic interests. Even though some of these mass atrocities are internally sponsored, and we respect State sovereignty, parliaments should not stand idle when this happens.

We need to agree that we require an enforcing mechanism or protocol that all States should adopt, a convention that has a specific legal status and clear criteria for measuring impact. These instruments will help address the indifference and narrow self-interests which often prevent countries from taking decisive action while mass atrocities are being perpetrated.

We believe that people deserve the right to call for assistance on behalf of abused/affected people when conditions deteriorate to the level of a mass atrocity.

Irrespective of what parliaments do, people (the affected) should be able to call for such assistance, particularly when the State is the culprit. We thus need to find a mechanism that allows people to call for assistance in such cases. This call needs, however, to be managed by existing institutions such as the United Nations, the African Union and the SADC, and the right to call for assistance should be formally recognized.

END NOTES

[1]   See, for instance, IPU, 126th Assembly (Kampala, March-April 2012). Accessed at http://www.126-ipu.ug/index.php/126th-assembly/overview on 27 July 2012.

[2]   See, for instance, the statement made by Mr. Basso Sansui, Ambassador and Permanent Representative of South Africa to the United Nations, during the debate on the Secretary-General's report on implementing the responsibility to protect, 23 July 2009.

[3]   Statement of South Africa: Ninth Open Debate on the Protection of Civilians in Armed Conflict: 7 July 2010.

[4]   See the statement made by Mr. Mashing, from the Permanent Mission of South Africa to the United Nations, on the protection of civilians in armed conflict, Security Council, 9 December 2005.

[5]   See the statement made by Mr. Swab, of the Permanent Mission of South Africa to the United Nations, during the Open Debate on the Protection of Civilians, Security Council, 22 June 2007.

[6]   Centre for Conflict Resolution, 2007. Africa's responsibility to protect. Policy Advisory Group Seminar Report, 23-24 April, Somerset West.

[7]   The UN is often denied the political will and material to prevent tragedy because most nations tend to agreed that something should be done, but then find an excuse why they should not be the ones to do it. See, for instance, South Africa's 2009 statement on the issue, 23 July 2009.

[8]   Kofi Annan, 2005. Secretary-General's message to the Global Conference on the Role of Civil Society in the Prevention of Armed Conflict and Peace-building, New York, 19 July. Accessed at http://www.un.org/sg/statements/index.asp?nid=1587 on 11 July 2012.

[9]   See, for instance, President Barak Obama's statement on the 18th anniversary of the Rwanda genocide, at http://content.usatoday.com/communities/theoval/post/2012/04/obama-on-rwanda-never-again/1, and the references to the "Never again" statements after the Holocaust and Rwanda, at http://news.bbc.co.uk/2/hi/africa/4211621.stm.

[10] Evans, G. 2006. *Crimes against humanity: Overcoming global indifferences*, University of New South Wales, Sydney, 30 April.

[11] *Ibid*.

[12] Statement by the Ambassador of Brazil to the Security Council during the Open Debate on the Protection of Civilians in Armed Conflict, 9 November 2011.

[13] Such as conciliation, mediation and arbitration.

[14] ICISS, 2001. *The responsibility to protect*. Report of the International Commission on Intervention and State Sovereignty, December, Ottawa, chapter 4.

[15] Kidlike, K. 2007. *Intervention to protect: Civilians in Darfur. Legal dilemmas and policy imperatives*. ISS Monograph Series No. 131. May.

[16] Parliamentary hearing at the United Nations, 2008.

[17] See, for instance, South Africa's 2009 statement on the issue, 23 July 2009.

[18] See a critique by Koresh Zia Bari of the five permanent members in particular, at http://www.globalresearch.ca/index.php?context=va&aid=22875.

[19] See, for instance, Inseam, L. 2011. *The concept of R2P and how it changes international law*, Rhodes Youth Forum, October. Accessed at http://youth-time.org/rhodes-youth-forum/54-the-concept-of-responsibility-to-protect-and-how-it-changes-international-law on 11 July 2012.

[20] See also http://r2pcoalition.org/content/view/73/93/, accessed on 30 July 2012.

[21] See, for instance, http://www.odihpn.org/report.asp?id=2605, accessed on 18 March 2011.

[22] Temba, S. 2011. *Cooperation for world and regional security and stability while respecting all forms of sovereignty and independence of States*, paper for the IPU debate, Research Unit, Parliament of the Republic of South Africa, 22 March.

[23] See IPU, 126th Assembly and related meetings, Kampala, 31 March to 5 April 2012, First Standing Committee on Peace and International Security, C-I/126/R, 15 December 2011.

[24] See, for instance, IPU, *ibid*., for similar sentiments.

[25] See, for instance, http://www.un.org/en/documents/charter/chapter5.shtml, accessed on 11 July 2012.

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33 *Ibid*.

34 IPU, 2012. Inter-parliamentary union initiative for an immediate halt to the bloodshed and human rights violations in Syria, and the need to ensure access to humanitarian aid for all persons in need and to support implementation of all relevant Arab League and United Nations resolutions and peace efforts. Resolution adopted by consensus by the 126th IPU Assembly on 5 April 2012.

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36 Kassim, Y.R. *Op. cit*.

37 See, for instance, http://www.guardian.co.uk/law/2012/may/23/chief-prosecutor-international-criminal-court, accessed on 14 August 2012.

38 This is also borne out by the statement that "All 15 cases opened in the 10-year history of the Netherlands-based court have been against African leaders or paramilitaries". See, for instance, http://americanfreed.com/?p=672, accessed on 14 August 2012.

39 The Hague-based Court is currently conducting investigations in seven countries – all of them African. See http://www.france24.com/en/20120315-lubanga-kony-icc-africans-international-justice-hague-syria-congo, accessed on 14 August 2012.

40 See, for instance, the article on the issues at http://www.leadershiponline.co.za/articles/politics/1979, accessed on 14 August 2012.

41 *Ibid*.

42 Statement by the Ambassador of Brazil, *op. cit*.

43 Statement by the Ambassador of the Netherlands on 21 February 2012 during the informal debate on the Brazilian concept note on the responsibility to protect.

44 Statement by the German Ambassador on 21 February 2012 during the informal discussion on responsibility while protecting.

45 African Union, 2008. Africa Union Commission on R2P, Keynote Speech by Chairperson Jean Ping, 23 October 2008, Addis Ababa, Ethiopia. See http://www.responsibilitytoprotect.org/index.php/component/conent/article/.

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57 IPU, 126th Assembly and related meetings, *op. cit*.

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