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# **A Rifle and a Bag of Rice: Excluding Climate Disasters from the Scope of the Responsibility to Protect**

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**Abstract:** The connection between climate change and atrocities has recently attracted scholarly attention. To illuminate the constraints of R2P as a response to climate-induced crises, I examine two debates on the applicability of R2P to natural disasters utilising Quentin Skinner's ideas on intentions and the English School concepts of pluralism and solidarism. I propose an idea of R2P as a social contract of which the English School concepts provide competing readings and study the debates through this framework. I examine how pluralist and solidarist convictions were used in arguing for the same conception of the scope of R2P. Although it was broadly agreed that the concept did not apply to natural disasters, the statements given exposed a division of intentions: whereas solidarists sought to keep R2P alive, pluralists strived to safeguard sovereign rights. I argue that despite R2P's narrow focus, the links between climate change and atrocities should not be ignored.

**Keywords:** responsibility to protect – climate change – natural disasters – pluralism – solidarism

## **1 Introduction**

The roots of climate change can be traced back to the Industrial Revolution, with human beings attempting to improve their standards of living with little regard to the environmental consequences of their actions. Now nature, angered by human

indifference, 'is striking back with fury'.<sup>1</sup> Whether through food insecurity, infectious diseases, mass migration, extreme weather events, or rising sea levels threatening to swallow the land beneath the feet of those inhabiting areas of risk, climate change affects the lives and livelihoods of people all around the world. The apocalyptic image of the state of the planet and the future of humankind is made bleaker by the occurrence of conflicts<sup>2</sup> and large-scale human rights violations<sup>3</sup> that the adverse effects of climate change have contributed to. As a former Executive Director of the Global Centre for the Responsibility to Protect, Simon Adams, has noted, even though '[t]he primary causes of conflict will remain raw politics and naked economics', '[i]n the future ethnic warlords, authoritarian rulers and aspiring demagogues will undoubtedly use the consequences of climate change to mobilize support'.<sup>4</sup>

Given the, as yet, under-researched relationship between atrocity crimes and the undesirable changes in the climate, one might be tempted to charge into battle to save the victims of climate-induced calamities armed with the principle of the Responsibility to

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<sup>1</sup> António Guterres, 'Remarks at 2019 Climate Action Summit', 23 September 2019, <https://www.un.org/sg/en/content/sg/speeches/2019-09-23/remarks-2019-climate-action-summit>, accessed 24 May 2023.

<sup>2</sup> An overview of literature can be found in Vally Koubi, 'Climate Change and Conflict', *Annual Review of Political Science*, 22, 343–360 (2019).

<sup>3</sup> For example, Simon Adams, 'From Global Warming to Genocide Warning: Climate Change and Mass Atrocities', 4 December 2016, <https://reliefweb.int/report/world/global-warming-genocide-warning-climate-change-and-mass-atrocities>, accessed 13 March 2023; Jürgen Zimmerer, 'Climate Change, Environmental Violence, and Genocide', *The International Journal of Human Rights*, 18(3) 265–280 (2014), DOI:10.1080/13642987.2014.914701; Asia Pacific Centre for the Responsibility to Protect (APR2P Centre), *Climate Change and Atrocity Crimes: The Challenge in the Pacific* (St Lucia: School of Political Science and International Studies, University of Queensland, 2020).

<sup>4</sup> Adams, 'From Global Warming to Genocide Warning'.

Protect (R2P). Konstantin Kleine has even gone so far as to argue that as there are no moral grounds to discriminate between state-sponsored and nature-generated human suffering, the ‘rationale of R2P should be to ensure protection for (potential) victims of large-scale atrocities or disasters, irrespective of whether the disaster is man-made or the result of state decision’.<sup>5</sup> In this article, I seek to challenge Kleine’s argument proposing that acting on the temptation to invoke R2P to rescue the victims of climate-induced catastrophes would only result in a cumbersome journey across an impervious swamp of disputes over the meaning of R2P and, most probably, accusations of abuse. To demonstrate the likely futility of the attempt, I revitalise two debates with direct implications on the limits of R2P as a response to scourges inflicted upon humankind by ‘the defining crisis of our time’.<sup>6</sup>

The two debates examined in the article took place in 2008 and 2009 in the aftermath of Cyclone Nargis in Myanmar, where the ruling military junta failed to respond adequately to the crisis at hand and guarded itself against outside interference. The actions and inactions of the junta provoked a heated international debate on whether a feeble domestic response to a natural disaster justified coercive international action and whether possible non-consensual measures could be adopted in the name of R2P. The interventionist views expressed by some were widely rejected due to the worrying prospect of ‘UN troops fighting their way into the flooded Irrawaddy delta with an Armalite rifle in one hand and

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<sup>5</sup> Konstantin Kleine, ‘Will R2P Be Ready When Disaster Strikes? The Rationale of the Responsibility to Protect in an Environmental Context’, *The International Journal of Human Rights*, 19(8) 1176–1189 (2015), DOI:10.1080/13642987.2015.1082832.

<sup>6</sup> UN, ‘The Climate Crisis – a Race We Can Win’, <https://www.un.org/en/un75/climate-crisis-race-we-can-win>, accessed 22 May 2023.

a bag of rice in the other'.<sup>7</sup> It has been argued that the debate 'refocused' R2P on the crimes and violations specified in the World Summit Outcome,<sup>8</sup> thus reinforcing a narrow interpretation of the scope of R2P criticised by Kleine and even contributing to the emergence of a shared understanding of the principle.<sup>9</sup>

In this article, however, I approach R2P as an ambiguous concept – instead of a principle or a norm<sup>10</sup> – that serves as a battlefield of competing interpretations. The article, in other words, builds on an idea of concepts as 'bundle[s] of questions that call for competing answers',<sup>11</sup> hence inherently resisting the emergence of a shared understanding. Therefore, the idea of reaching consensus on the meaning of a concept is simply self-contradictory. Even though in the Nargis dispute it was widely agreed that natural disasters fell beyond the scope of the concept and the conclusion was broadly embraced in the UN General Assembly the following year, the two debates revealed that beneath the surface of unanimity, there lurked a fundamental disagreement on the meaning of R2P. To demonstrate this point, I apply Quentin Skinner's ideas on intentions, which – despite their obvious utility in studies concerning conceptual disputes – have sparked little interest in R2P scholars. In addition to Skinner's ideas, I adopt tools from the English School of international relations. I resort to the concepts of pluralism and solidarism in

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<sup>7</sup>Kirk Leech, 'Aid with Strings', *The Guardian*, 14 May 2008, <https://www.theguardian.com/commentisfree/2008/may/14/aidwithstrings>, accessed 3 August 2022.

<sup>8</sup> Julian Junk, 'Testing Boundaries: Cyclone Nargis in Myanmar and the Scope of R2P', *Global Society*, 30(1) 78–93 (2016), p. 79, DOI:10.1080/13600826.2015.1092423.

<sup>9</sup> This interpretation was proposed by a colleague in a comment to an earlier version of the article.

<sup>10</sup> The question of whether R2P should be regarded as a concept, principle, or norm has remained a source of dispute.

<sup>11</sup> Kari Palonen, *Kootut retoriikat: Esimerkkejä politiikan luennasta* (Jyväskylä: SoPhi – Yhteiskuntatieteiden, valtio-opin ja filosofian julkaisuja, 1997), p. 11. My translation.

an examination of how pluralist and solidarist convictions were used in the 2008 and 2009 debates in arguing for the same narrow conception of the scope of R2P.

In the next section of the article, I consider the first formulations of the concept proposing an idea of R2P as a global-scale social contract of which the concepts of pluralism and solidarism allow for different readings. In the third section, I revisit the opinions expressed or reported primarily in the media in 2008 and the statements given in the General Assembly debate on R2P in 2009 examining the debates through this framework. In the conclusions, I reflect on the relationship between R2P and climate change.

## **2 The Social Contract of R2P**

Francis M. Deng, who served as UN Special Rapporteur on the Human Rights of Internally Displaced Persons and, later, as Special Adviser for the Prevention of Genocide, sketched the parameters of what later became called R2P.<sup>12</sup> Conceptualising sovereignty as consisting of responsibilities – discharged in cooperation with the international community, where necessary – Deng linked the legitimacy of a government with the protection provided to individuals. Where a state failed to protect the vulnerable and call for outside assistance, the international community was to ‘step in to provide the needed remedy’.<sup>13</sup> Deng’s ideas were picked up by the International Commission on Intervention and State Sovereignty (ICISS) in their 2001 report introducing R2P. While states were identified as the primary protectors of their peoples, a ‘residual responsibility’

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<sup>12</sup> For example, Francis M. Deng, ‘Frontiers of Sovereignty: A Framework of Protection, Assistance, and Development for the Internally Displaced’, *Leiden Journal of International Law*, 8(2) 249–286 (1995), DOI:10.1017/S0922156500003320.

<sup>13</sup> *ibid.*, p. 278.

would fall on the international community if a state failed to meet its obligations.<sup>14</sup> The international community was therefore assigned with the responsibility to help states prevent humanitarian disasters,<sup>15</sup> but also, if necessary, to respond to catastrophes through ‘interventionary measures’, including ‘in extreme and exceptional cases’, the use of armed force.<sup>16</sup>

In 2005, a modified version of this idea was able to find its way into the UN World Summit Outcome, where it was declared that each state had ‘the responsibility to protect its populations’ from atrocities as well as to avert ‘such crimes, including their incitement’.<sup>17</sup> The international community in turn was assigned with a task to ‘encourage and help States to exercise’ their responsibility.<sup>18</sup> It was also announced that the UN membership intended to help strengthen states’ capacity to meet their responsibilities as well as to aid states before the eruption of tensions.<sup>19</sup> Furthermore, it was stated that ‘the international community, through the United Nations’, was to utilise ‘appropriate diplomatic, humanitarian and other peaceful means ... to help protect populations’ from crimes relating to R2P.<sup>20</sup> Yet despite the emphasis on softer, consensual measures, the Outcome did not rule out the possibility of coercion:

In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be

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<sup>14</sup> International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: IDRC, 2001), p. 17.

<sup>15</sup> *ibid.*, Chapter 3.

<sup>16</sup> *ibid.*, Chapter 4.

<sup>17</sup> A/RES/60/1, 16 September 2005, para. 138.

<sup>18</sup> *ibid.*, para. 138.

<sup>19</sup> *ibid.*, para. 139.

<sup>20</sup> *ibid.*, para. 139.

inadequate and national authorities are manifestly failing to protect their populations ...<sup>21</sup>

In the negotiations preceding the World Summit, states squabbled over the details of R2P based on their differing convictions<sup>22</sup> as a result of which R2P was transformed into a ‘product of serious compromises’.<sup>23</sup> Nevertheless, the concept endorsed shared three central tenets with the ideas formulated by Deng and the ICISS. These tenets – ‘[t]he protection responsibilities of the State’; ‘[i]nternational assistance and capacity-building’; and ‘timely and decisive response’ – were in 2009 referred to as the three pillars of R2P by the then UN Secretary-General Ban Ki-moon.<sup>24</sup> What was implicit in these four formulations was an idea of R2P as a global-scale social contract between three parties: the state, the international community, and the population of the state.

Based on the first formulations of R2P, the contract consists of three dimensions, the first of which refers to the responsibility of the state to protect the people residing in its territory. The second dimension establishes a relationship between the state and the international community. The state as a member of the community is expected to act according to its norms which include the principles regarding the rights of other states as well as human rights. In return, the international community is called on to assist the state in meeting its responsibilities and to recognise the rights of the state by respecting the norm of non-intervention. In addition, R2P establishes a relationship between the

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<sup>21</sup> *ibid.*, para. 139.

<sup>22</sup> See C. S. R. Murthy and Gerrit Kurtz, ‘International Responsibility as Solidarity: The Impact of the World Summit Negotiations on the R2P Trajectory’, *Global Society*, 30(1) 38–53 (2016), pp. 42–47, DOI:10.1080/13600826.2015.1094451.

<sup>23</sup> Marc Pollentine, *Constructing the Responsibility to Protect*, PhD diss., Cardiff University, Cardiff, 2012, p. 217.

<sup>24</sup> Ban Ki-moon, *Implementing the Responsibility to Protect*, A/63/677, 12 January 2009.



international community and the population of the state. This dimension of the contract only enters into force if the state shirks its responsibilities towards its people thereby ignoring binding international norms. In other words, a state that fails its own people breaches the contract between itself and the international community. Based on the third dimension, this justifies the international community to ‘use appropriate diplomatic, humanitarian and other peaceful means’,<sup>25</sup> but also, if necessary, to resort to coercive measures that temporarily disregard the rights of the state.

Even though R2P was unanimously endorsed at the 2005 World Summit, actors have remained divided over the right interpretation of the contract presented above. The dispute has primarily been about the question of the inviolability of sovereign rights and the responsibilities of the international community. Some have emphasised respect for sovereignty as the fundamental value that should guide the conduct of states even in the face of grave human rights violations. In these understandings, outside interference in the domestic affairs of a sovereign state is justified only if based on consent or self-defence, or if the crisis in a given state poses a threat to international peace and security. Others, however, have called for the rights of sovereigns to be disregarded in the name of protecting those abused by their own governments. This debate can be elaborated through the English School concepts of pluralism and solidarism, which permit competing readings of the social contract of R2P.

In English School thought, states aware of their shared values and interests, bounded by mutually acknowledged rules governing their conduct, and participating in the operation

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<sup>25</sup> A/RES/60/1, para. 139.

of common institutions<sup>26</sup> are understood as forming a society.<sup>27</sup> The debate between pluralism and solidarism concerns the scope of values, rules, and institutions acknowledged universally or, in the words of Barry Buzan, ‘the thickness or thinness’ of the society of states.<sup>28</sup> In traditional pluralist thought, the cultural diversity that characterises the world-wide society generates an international structure held together by a conservative collection of ideas among which the rights of sovereign states reign supreme. Essentially, it is the norm of non-intervention that maintains international order<sup>29</sup> protecting the fragile society and especially its weaker members from the worst calamities of international anarchy. In pluralist thought, international society is, in other words, ‘limited to the creation of a framework that will allow [states] to coexist in relative harmony’.<sup>30</sup>

In these state-centric understandings, individuals are protected by the *raison d’etat* that is regarded as ‘the guarantee of human welfare and security’.<sup>31</sup> The security provided by the state is first and foremost afforded to the state’s own citizens whose interests outweigh the rights of strangers. Even though states should seek to advance the actualisation of

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<sup>26</sup> On institutions, see for example, Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Palgrave, 2002); K. J. Holsti, *Taming the Sovereigns: Institutional Change in International Politics* (Cambridge: Cambridge University Press, 2004); Barry Buzan, *From International to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2004).

<sup>27</sup> Bull, *The Anarchical Society*, p. 13.

<sup>28</sup> Buzan, *From International to World Society?*

<sup>29</sup> On international order, see Bull, *The Anarchical Society*.

<sup>30</sup> James Mayall, *World Politics: Progress and Its Limits* (Cambridge: Polity Press, 2007), p. 14.

<sup>31</sup> Alex J. Bellamy, ‘Humanitarian Responsibilities and Interventionist Claims in International Society’, *Review of International Studies*, 29(3) 321–340 (2003), p. 322, DOI:10.1017/S0260210503003218.

human rights abroad, they have a responsibility not to compromise the fundamental values concerning the maintenance of international order.<sup>32</sup> For traditional pluralists, order provides the structure within which goals of justice can be advanced and stepping out of this framework risks destroying the order that separates the society from a state of nature.<sup>33</sup> Furthermore, in a world of cultural division, sovereignty and the accompanying right of non-intervention protect the right of national communities to live according to the values of their choosing free from outside compulsion.<sup>34</sup> Sovereignty is, therefore, not only a building block of inter-state order, but also an affirmation of the self-determination of the national community the rights of which non-consensual foreign interference would violate.

Whereas in traditional pluralism, the society of states is understood as a minimalist arrangement against the threat of disorder, solidarism draws attention to values, norms, and institutions that go beyond the pluralist logic of coexistence highlighting the cooperative nature of international society. The fields of solidarist cooperation most relevant to the issue at hand are human rights and what Robert Jackson has referred to as ‘responsibility for the global commons’.<sup>35</sup> In some interpretations, ‘environmental stewardship’ has even been regarded as having evolved to occupy a position as an institution of the global international society.<sup>36</sup> The broad support enjoyed by the

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<sup>32</sup> Robert Jackson, *The Global Covenant: Human Conduct in a World of States* (Oxford: Oxford University Press, 2003), pp. 289, 291.

<sup>33</sup> Jackson, *The Global Covenant*, pp. 289, 291; Bull, *The Anarchical Society*, pp. 83, 91.

<sup>34</sup> Jackson, *The Global Covenant*, pp. 181–182.

<sup>35</sup> *ibid.*, pp. 175–178.

<sup>36</sup> For example, Robert Falkner and Barry Buzan, ‘The Emergence of Environmental Stewardship as a Primary Institution of Global International Society’, *European Journal of International Relations*, 25(1) 131–155 (2017), DOI:10.1177/1354066117741948; Sanna Kopra, ‘China

solidarist project of environmentalism could be explained by the flexibility of the pluralist notion of coexistence which, according to Buzan, might stretch to ‘the management of collective problems of common fate that concern the “existence” part of coexistence’,<sup>37</sup> including the threat posed by climate change. Yet at the same time, the institution has been restricted by a pluralist commitment to upholding sovereignty and respecting ‘the diversity of national preferences’.<sup>38</sup> The uneasy fit between pluralist and solidarist values is underlined by the connection between the environment and human rights – the notion of a ‘right to a livable environment’ – that poses a challenge to the norm of non-intervention.<sup>39</sup>

In solidarist thought, due to the commitment to ‘upholding minimum standards of common humanity’,<sup>40</sup> states are regarded as ‘custodians of human rights’<sup>41</sup> everywhere. Sovereigns are thus not only expected to promote the actualisation of the rights of their own citizens, but also to protect human rights beyond their borders. As human rights are

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and the UN Climate Regime: Climate Responsibility from an English School Perspective’, *Journal of International Organizations Studies*, 9(2) 59–74 (2018).

<sup>37</sup> Barry Buzan, *An Introduction to the English School of International Relations* (Cambridge: Polity Press, 2014), p. 89; Buzan, *From International to World Society?*, pp. 144–145; also Robert Falkner, ‘International Climate Politics Between Pluralism and Solidarism: An English School Perspective’ in Olaf Corry and Hayley Stevenson (eds.), *Traditions and Trends in Global Environmental Politics: International Relations and the Earth* (Abingdon: Routledge, 2018), pp. 32, 34.

<sup>38</sup> Falkner, ‘International Climate Politics Between Pluralism and Solidarism’, p. 42.

<sup>39</sup> Falkner and Buzan, ‘The Emergence of Environmental Stewardship as a Primary Institution of Global International Society’, pp. 134, 148–149.

<sup>40</sup> Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), p. 38.

<sup>41</sup> Andrew Linklater and Hidemi Suganami, *The English School of International Relations: A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006), p. 244.

considered as having an equal standing to sovereign rights in international law,<sup>42</sup> sovereignty provides no protection to those who abuse their own people. Instead, states 'ought to satisfy certain basic requirements of decency before they qualify for the protection which the principle of non-intervention provides'.<sup>43</sup> Solidarists hence challenge the pluralist idea of the inviolability of sovereign rights, arguing that 'states that massively violate human rights should forfeit their right to be treated as legitimate sovereigns, thereby morally entitling other states to use force to stop the oppression'.<sup>44</sup> If environmental stewardship is then understood as a matter of human rights, the interventionist logic might apply to cases where the human right to a life-sustaining environment is violated.<sup>45</sup> This is the position adopted by Kleine in his argument defending R2P's applicability to 'mass human suffering and death' caused by disasters relating to the natural environment.<sup>46</sup>

Given the link between climate change and atrocities as well as the status of environmental stewardship as an institution of international society, it might make sense to expect states to adopt a uniform stance in acknowledging disasters engendered by climate change as cases of R2P concern and hence in responding to such catastrophes. Yet the idea of R2P as a social contract of which pluralists and solidarists offer different

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<sup>42</sup> Alex J. Bellamy, 'Humanitarian Intervention and the Three Traditions', *Global Society*, 17(1) 3–20 (2003), p. 15, DOI:10.1080/0953732032000053971.

<sup>43</sup> R. J. Vincent and Peter Wilson, 'Beyond Non-Intervention' in Ian Forbes and Mark Hoffman (eds.), *Political Theory, International Relations and the Ethics of Intervention* (London: Palgrave Macmillan, 1993), p. 125.

<sup>44</sup> Wheeler, *Saving Strangers*, pp. 12–13.

<sup>45</sup> Falkner and Buzan, 'The Emergence of Environmental Stewardship as a Primary Institution of Global International Society', p. 149.

<sup>46</sup> Kleine, 'Will R2P Be Ready When Disaster Strikes?'.

interpretations casts doubt on the prospect of unanimity. Solidarists acknowledge each of the three dimensions, accepting the adoption of coercive measures as a legitimate response of last resort to situations of R2P concern. Even though, in principle, these circumstances might include disasters of natural origin, the fact that pluralists challenge the solidarist reading of the third dimension by stressing the primacy of sovereign rights limits the solidarist room for manoeuvre in practice. Yet as will be demonstrated in the next section of the article, it is not only the pluralist resistance to coercion but also the fragility of the 2005 agreement that sets limitations on the applicability of the social contract to catastrophes relating to the environment. These two factors are likely to render attempts to include climate-induced calamities in the scope of R2P both futile and destructive of the R2P agenda.

### **3 The Problem of Natural Disasters**

In the ICISS's formulation, one of the circumstances under which R2P could be applied was natural disasters. Yet in the report, the Commission referred to R2P as a response to 'avoidable catastrophe[s]'<sup>47</sup> and 'man-made crises',<sup>48</sup> which appear to fit poorly together with the idea of natural disasters as potential R2P cases. When defining the 'just cause threshold' criteria for armed intervention, however, the ICISS argued that the use of force was justified in cases of 'large-scale ethnic cleansing ...' and 'large-scale loss of life ...' that was 'the product either of deliberate state action, or state neglect or inability to act ...'.<sup>49</sup> The Commission further elaborated these criteria by including in the list of potential R2P cases 'overwhelming natural or environmental catastrophes' where the government

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<sup>47</sup> ICISS, *The Responsibility to Protect*, p. viii.

<sup>48</sup> *ibid.*, p. xi.

<sup>49</sup> *ibid.*, p. 32.

was ‘either unwilling or unable to cope, or call for assistance, and significant loss of life [was] occurring or threatened’.<sup>50</sup>

Therefore, natural catastrophes did not, per se, meet the criteria defined by the Commission. Yet if the ‘significant loss of life’ was not only caused by a disaster of natural origin, but also by an inadequate response, it was proposed that the feeble response might justify international action. In the negotiations preceding the World Summit, states were, however, unable to agree on the inclusion of natural disasters in the scope of R2P as the possibility of the use of coercive measures against states due to natural catastrophes was found unacceptable by some.<sup>51</sup> What was agreed was to confine the concept to four specific crimes and violations: war crimes, crimes against humanity, genocide, and ethnic cleansing. In the two paragraphs defining the concept in the Outcome, every mention of R2P was coupled with this set of crimes and violations,<sup>52</sup> which were repeated altogether five times and once in the section title. The point of this rather clumsy-sounding repetition was to alleviate ‘concerns relating to potential abuses/misuses of R2P by narrowing the space for alternative justifications to flourish’.<sup>53</sup>

In 2009, R2P was debated in the General Assembly based on the report of the Secretary-General. Adhering to the agreement reached at the Summit, the report emphasised that discussions on the concept should not focus on ‘renegotiat[ing]’ the common ground found in 2005, but instead, finding ways to implement the unanimously endorsed

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<sup>50</sup> *ibid.*, p. 33.

<sup>51</sup> Mely Caballero-Anthony and Belinda Chng, ‘Cyclones and Humanitarian Crises: Pushing the Limits of R2P in Southeast Asia’, *Global Responsibility to Protect*, 1(2) 135–155 (2009), pp. 147–148, DOI:10.1163/187598409X424270.

<sup>52</sup> Pollentine, *Constructing the Responsibility to Protect*, p. 340.

<sup>53</sup> *ibid.*, p. 339.

provisions of the Outcome.<sup>54</sup> Yet although the Secretary-General sought to comply with the formulation endorsed at the Summit, the report appears to have left some room for further discussions on the scope of R2P:

The responsibility to protect applies, until Member States decide otherwise, only to the four specified crimes and violations: genocide, war crimes, ethnic cleansing and crimes against humanity. To try to extend it to cover other calamities, such as HIV/AIDS, climate change or the response to natural disasters, would undermine the 2005 consensus and stretch the concept beyond recognition or operational utility.<sup>55</sup>

On the one hand, it was argued that the concept should remain narrow since any attempts to broaden its reach might simply serve to wreck the 2005 agreement. Yet on the other hand, it was proposed that the 2005 formulation only applied ‘until Member States decide[d] otherwise’. The report did not rule out the possibility of further discussions on the scope of R2P in the future. It might then be argued that despite the 2005 defeat, the broader concept introduced by the ICISS – or ‘the more favourable rationale’, as Kleine has termed the Commission’s approach<sup>56</sup> – had only lain dormant in anticipation of future resurrection. It should be noted, however, that even though the report perhaps did not seek to terminate the debate over the scope of R2P, it fell far short of promoting climate change-centred extensions to the concept endorsed at the Summit.

Nevertheless, the four-crime formulation was endorsed in the 2009 debate by a broad spectrum of states, including the strong supporters as well as the most eager critics of R2P. At the R2P-supporting end of the spectrum were, among others, South Korea,<sup>57</sup>

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<sup>54</sup> Ban, *Implementing the Responsibility to Protect*, para. 2.

<sup>55</sup> *ibid.*, para. 10(b).

<sup>56</sup> Kleine, ‘Will R2P Be Ready When Disaster Strikes?’, p. 1176.

<sup>57</sup> A/63/PV.97, 23 July 2009, pp. 19–20.



Costa Rica,<sup>58</sup> New Zealand,<sup>59</sup> Canada,<sup>60</sup> Timor-Leste,<sup>61</sup> and the member states of the European Union. Sweden, speaking on behalf of the EU and ten non-members,<sup>62</sup> followed the example set by the Secretary-General by noting that ‘unless Member States decide[d] otherwise’ the principle was only applicable to the crimes and violations listed in the Summit Outcome.<sup>63</sup> Altogether 14<sup>64</sup> EU member states offered complementary remarks expressing their support for the narrow conception by only referring to the crimes and violations specified in 2005. Interestingly, this group even included the United Kingdom, who in the Summit negotiations had supported a wider interpretation of the scope of R2P together with France.<sup>65</sup> Eventually, both had ended up settling for less to satisfy the demands of more hesitant states.<sup>66</sup>

Yet in 2009, whereas the UK continued to toe the line amenably, France – the 15th EU member state to issue a statement – chose to break ranks reverting to its 2005 stance. On the one hand, France ‘fully endorse[d]’ the statement made on behalf of the EU and

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<sup>58</sup> *ibid.*, pp. 22–24.

<sup>59</sup> *ibid.*, pp. 24–26.

<sup>60</sup> A/63/PV.98, 24 July 2009, pp. 25–26.

<sup>61</sup> A/63/PV.100, 28 July 2009, pp. 15–16.

<sup>62</sup> Turkey, Croatia (which became a member in 2013), Macedonia, Albania, Bosnia and Herzegovina, Montenegro, Ukraine, Moldova, Armenia, and Georgia.

<sup>63</sup> A/63/PV.97, 23 July 2009, p. 4.

<sup>64</sup> The UK, Belgium, Denmark (whose statement was given by the representative of Costa Rica on behalf of both states), the Netherlands, Italy, Austria, the Czech Republic, Ireland, Germany, Romania, Slovenia, Luxembourg, Hungary, and Slovakia.

<sup>65</sup> Sarah Brockmeier, Gerrit Kurtz, and Julian Junk, ‘Emerging Norm and Rhetorical Tool: Europe and a Responsibility to Protect’, *Conflict, Security & Development*, 14(4) 429–460 (2014), p. 438, DOI:10.1080/14678802.2014.930587.

<sup>66</sup> *ibid.*, p. 438.

underlined that the definition of R2P had already been agreed.<sup>67</sup> On the other hand, the fact that the EU did not rule out the possibility of further discussion allowed France to try to smuggle something extra into the concept without crossing the Union:

The report [of the Secretary-General] proposes an approach that is both targeted and in-depth, strictly confining the responsibility to protect to four crimes enumerated by the 2005 Final Document, namely, genocide, war crimes, ethnic cleansing and crimes against humanity. France will also remain vigilant to ensure that natural disasters, when combined with deliberate inaction on the part of a Government that refuses to provide assistance to its population in distress or to ask the international community for aid, do not lead to human tragedies in which the international community can only look on helplessly.<sup>68</sup>

Following J. L. Austin, Quentin Skinner has proposed that ‘the issuing of [an] utterance constitutes ... the performance of a type of social action’.<sup>69</sup> In other words, an actor is regarded as ‘doing something *in* saying’ something.<sup>70</sup> When speaking or writing, an agent is performing an ‘illocutionary act’ which is comparable to the actor’s ‘intention in’ issuing the given utterance.<sup>71</sup> Uncovering these intentions, in turn, corresponds to gaining an understanding of what the agent ‘may have *meant by*’ the given utterance.<sup>72</sup> The French statement was quite obviously an attempt to add criteria proposed by the ICISS into the narrower concept acknowledged in 2005. Furthermore, in declaring its vigilance

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<sup>67</sup> A/63/PV.97, 23 July 2009, p. 9.

<sup>68</sup> *ibid.*, p. 9.

<sup>69</sup> Quentin Skinner, ‘“Social Meaning” and the Explanation of Social Action’ in James Tully (ed.), *Meaning and Context: Quentin Skinner and His Critics* (Princeton: Princeton University Press, 1988), p. 83.

<sup>70</sup> *ibid.*, p. 83.

<sup>71</sup> *Ibid.*, p. 84; Quentin Skinner, ‘Motives, Intentions and the Interpretation of Texts’ in James Tully (ed.), *Meaning and Context: Quentin Skinner and his Critics* (Princeton: Princeton University Press, 1988), p. 76.

<sup>72</sup> Skinner, ‘Motives, Intentions and the Interpretation of Texts’, p. 76.

in cases of natural catastrophes, France intended to justify a deviant interpretation of the concept their Foreign Minister had put forward in the context of the humanitarian disaster in Myanmar a year before the debate.

Cyclone Nargis had struck Myanmar at the beginning of May in 2008 leaving more than 130,000 people dead or missing and affecting 2.4 million.<sup>73</sup> Although warned of the approaching catastrophe, the military government had made no effort to evacuate those who would be affected by the cyclone.<sup>74</sup> Moreover, once the disaster unfolded, the junta proved unable to respond and initially deepened the crisis by setting restrictions on outside help.<sup>75</sup> The situation and the possible international response were discussed and debated in intergovernmental arenas and in the media around the world. One of those

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<sup>73</sup> The United Nations Office for the Coordination of Humanitarian Affairs, *Myanmar Cyclone Nargis*, OCHA Situation Report No. 34, 23 June 2008, para. 1.

<sup>74</sup> Ashley McLachlan-Bent and John Langmore, 'A Crime against Humanity? Implications and Prospects of the Responsibility to Protect in the Wake of Cyclone Nargis', *Global Responsibility to Protect*, 3(1) 37–60 (2011), pp. 39–40, DOI:10.1163/187598411X549477.

<sup>75</sup> For example, Julian Junk, 'Testing Boundaries: Cyclone Nargis in Myanmar and the Scope of R2P', *Global Society*, 30(1) 78–93 (2016), pp. 80–81, DOI:10.1080/13600826.2015.1092423; Andrew Selth, 'Even Paranoids Have Enemies: Cyclone Nargis and Myanmar's Fears of Invasion', *Contemporary Southeast Asia*, 30(3) 379–402 (2008), pp. 386–389, DOI:10.1355/cs30-3b. The restrictions set on international relief efforts stemmed from Myanmar's longstanding fear of becoming invaded by Western forces seeking to impose regime change: see Selth, 'Even Paranoids Have Enemies'. These fears were given a further boost by the fact that some Western states offering assistance had a history of imposing sanctions and trying to pressure Myanmar into democracy: *ibid.*, pp. 392–393; Rebecca Barber, 'The Responsibility to Protect the Survivors of Natural Disaster: Cyclone Nargis, a Case Study', *Journal of Conflict and Security Law*, 14(1) 3–34 (2009), pp. 26–27, DOI:10.1093/jcsl/krn026. In the aftermath of Nargis, arguments for overthrowing the junta became intertwined with the calls to help those in need making the government suspicious of Western motives: Barber, 'The Responsibility to Protect the Survivors of Natural Disaster', pp. 26–28.

contributing to the debate was the French Foreign Minister, Bernard Kouchner, who suggested that the Security Council should invoke R2P to intervene regardless of the objection of the junta.<sup>76</sup>

The Foreign Minister's call for action was not an isolated political panic attack, but a continuation of his long-term commitment to humanitarian causes.<sup>77</sup> Yet it might also be argued that Kouchner's plea was rooted in the self-conception of France. Eglantine Staunton has suggested that the idea of France as the 'daughter of the Revolution and homeland of human rights'<sup>78</sup> has imposed on France a perceived duty to get involved in the protection of human rights abroad.<sup>79</sup> This identity was given expression in the concepts of *droit d'ingérence*, *devoir d'ingérence*, and *droit à l'assistance humanitaire* promoted by Kouchner, among others, in the 1980s and 1990s.<sup>80</sup> In the 2009 debate, France even pointed out that the emergence of R2P was enabled by 'the birth of the right of humanitarian intervention ..., as formulated by France and Bernard Kouchner ...'.<sup>81</sup> What is notable about these concepts is the fact that the disasters they were meant to respond to were not only political, but included, for example, emergencies of natural origin.<sup>82</sup>

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<sup>76</sup> For example, Junk, 'Testing Boundaries', pp. 81–83.

<sup>77</sup> Kouchner's humanitarian merits include the co-founding of Médecins Sans Frontières.

<sup>78</sup> Marie Claude Smouts 1997, cited in English in Eglantine Staunton, 'France and the Responsibility to Protect: A Tale of Two Norms', *International Relations*, 32(3) 1–22 (2018), p. 9, DOI:10.1177/0047117818773857.

<sup>79</sup> Staunton, 'France and the Responsibility to Protect'; also Brockmeier, Kurtz, and Junk, 'Emerging Norm and Rhetorical Tool', p. 433.

<sup>80</sup> Staunton, 'France and the Responsibility to Protect', pp. 7–9.

<sup>81</sup> A/63/PV.97, 23 July 2009, p. 9.

<sup>82</sup> Staunton, 'France and the Responsibility to Protect', p. 8.

Skinner has proposed that actions that are regarded as ‘untoward’ must be legitimated in order for the agent to achieve the end pursued through such actions.<sup>83</sup> This legitimation is a task of an ‘innovating ideologist’ – an agent seeking to achieve the desired end by manipulating language in a way that enables controversial action to become acknowledged as acceptable.<sup>84</sup> Such manoeuvring can take the form of stretching or narrowing the scope of the concept used in legitimating the action.<sup>85</sup> This way, the questionable actions of the agent can be brought ‘in line with some accepted principle’<sup>86</sup> by manipulating the principle itself to achieve the desired outcome. For Kouchner, the weapon of choice was R2P. At the time, France had sought to bring R2P more in line with its notion of human protection centred on the above-mentioned concepts hence advancing a broader interpretation of R2P.<sup>87</sup> In 2008, Kouchner continued along this path. Because the French interventionism was frowned upon<sup>88</sup> – or considered as ‘untoward’ – it had to be legitimated by describing the suggestion as compatible with an accepted principle, R2P. Justifying the proposition to intervene based on the junta’s neglect required Kouchner to stretch the concept used as a tool to legitimate his demand.

Some have argued that what Kouchner meant by his proposal was that the actions and inactions of the junta might amount to crimes against humanity thereby justifying

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<sup>83</sup> Quentin Skinner, ‘Some Problems in the Analysis of Political Thought and Action’ in James Tully (ed.), *Meaning and Context: Quentin Skinner and his Critics* (Princeton: Princeton University Press, 1988), section II.

<sup>84</sup> *ibid.*, section II.

<sup>85</sup> *ibid.*, pp. 115–116.

<sup>86</sup> *ibid.*, p. 117.

<sup>87</sup> Staunton, ‘France and the Responsibility to Protect’, pp. 12–15.

<sup>88</sup> France was excluded from the ICISS as it was believed that its absence might alleviate concerns about less powerful states’ sovereignty becoming eroded by a resurrected ‘right to humanitarian intervention’: Staunton, ‘France and the Responsibility to Protect’, pp. 10–12.

international action based on the 2005 formulation. Mely Caballero-Anthony and Belinda Chng appear to hint at this direction, but yet they note that when asked about which of the four crimes and violations the junta had committed, a French UN Ambassador, Jean-Maurice Ripert, who backed Kouchner in the matter, was ‘unable to respond directly’.<sup>89</sup> This suggests that what the French had in mind was not the 2005 agreement, but an extension to it. The same conclusion could be drawn from the 2009 statement cited above, where natural disasters were not referred to as something belonging under the banner of crimes against humanity, but as a separate category. Be that as it may, the debate that resulted from Kouchner’s suggestion demonstrated that what for France was an act of responsibility, was for others an act of imprudence or even abuse.

A former Canadian Foreign Minister and the force behind the founding of the ICISS, Lloyd Axworthy, noted that ‘the fundamental message’ of R2P was that there was ‘no moral difference between an innocent person being killed by machete or AK-47 and starving to death or dying in a cholera epidemic that could have been avoided by proper international response’.<sup>90</sup> What was implied was that in order to stay true to the spirit of R2P – ‘to ensure full realisation of the rationale behind’ the principle<sup>91</sup> – the international community was to step in regardless of what states had actually agreed in 2005. Many other prominent supporters of R2P, however, took a more cautious stance on the issue. Edward Luck, Special Adviser to the Secretary-General on R2P, argued that applying the concept to the catastrophe ‘would be a misapplication’ as the international community had not acknowledged applying it outside the scope agreed at the Summit, ‘no matter how

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<sup>89</sup> Caballero-Anthony and Chng, ‘Cyclones and Humanitarian Crises’, p. 140.

<sup>90</sup> Cited in Barber, ‘The Responsibility to Protect the Survivors of Natural Disaster’, p. 33.

<sup>91</sup> Kleine, ‘Will R2P Be Ready When Disaster Strikes?’, p. 1183.

disturbing and regrettable the circumstances'.<sup>92</sup>

Ramesh Thakur, an Indian academic and a member of the ICISS, was concerned about the actions of the 'unrelentingly oppressive' government of Myanmar, which he referred to as 'an unmitigated disaster' in itself.<sup>93</sup> He noted that although natural disasters were not included in the 2005 formulation, crimes against humanity were and added that 'prima facie would seem to apply to the Burmese generals' actions in blocking outside aid'.<sup>94</sup> Thakur was, however, dissatisfied with the attitude of 'the virtuous West fighting the evil rest',<sup>95</sup> and worried about the 'buyer's remorse' some states appeared to have started to experience after the Summit.<sup>96</sup> He stressed that 'reintroduc[ing]' the broader conception 'by the back door' would only fuel suspicions towards the West and compromise what

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<sup>92</sup> Cited in Alex J. Bellamy, 'The Responsibility to Protect: A Wide or Narrow Conception?' in Peter Hilpold (ed.), *The Responsibility to Protect (R2P): A New Paradigm of International Law?* (Leiden: Brill Nijhof, 2015), pp. 48–49.

<sup>93</sup> Ramesh Thakur, 'Should the UN Invoke the "Responsibility to Protect"?', *The Globe and Mail*, 8 May 2008, <https://www.theglobeandmail.com/opinion/should-the-un-invoke-the-responsibility-to-protect/article719610/>, accessed 16 June 2022.

<sup>94</sup> Ramesh Thakur, 'Burma and the Responsibility to Protect: First, Do More Good than Harm', *E-International Relations*, 20 June 2008, <https://www.e-ir.info/2008/06/20/burma-and-the-responsibility-to-protect-first-do-more-good-than-harm/>, accessed 16 June 2022.

<sup>95</sup> *ibid.*

<sup>96</sup> Thakur, 'Should the UN Invoke the "Responsibility to Protect"?' On examples of the buyer's remorse Thakur referred to, see for example, Security Council Report, 'Update Report No. 4: Protection of Civilians in Armed Conflict', 13 January 2006, [https://www.securitycouncilreport.org/update-report/lookup\\_c\\_gIKWLeMTIsG\\_b\\_1357007.php](https://www.securitycouncilreport.org/update-report/lookup_c_gIKWLeMTIsG_b_1357007.php), accessed 4 July 2022; APR2P Centre, *The Responsibility to Protect and the Protection of Civilians: Asia-Pacific in the UN Security Council, Update No. 1*, 10 February 2009, pp. 7–8, [https://r2pasiapacific.org/files/3084/2009\\_r2p\\_PoC\\_AP\\_in\\_UNSC\\_update1.pdf](https://r2pasiapacific.org/files/3084/2009_r2p_PoC_AP_in_UNSC_update1.pdf), accessed 5 July 2022.

had already been achieved.<sup>97</sup> He argued that '[t]here would be no better way to damage R2P beyond repair in Asia and the developing world than to have humanitarian assistance delivered into Myanmar backed by Western soldiers fighting in the jungles of Southeast Asia again'.<sup>98</sup>

A cautious view was also offered by Gareth Evans, a former Foreign Minister of Australia and co-chair of the ICISS. Like Thakur, Evans<sup>99</sup> was worried that calls for the invocation of R2P in cases beyond the scope of the concept agreed in 2005 might cause the developing world to withdraw their support from R2P. Undermining the agreement reached at the Summit would then hamper the ability of the international community to respond to future atrocities. Therefore, he noted that international action should only be considered in the context of the 2005 agreement, that is to say, if the actions and inactions of the junta amounted to crimes against humanity.<sup>100</sup> Evans acknowledged that it was a matter of debate whether the criteria for crimes against humanity were met but proposed that 'when a government default [was] as grave as the course on which the Burmese generals seem[ed] to be set, there [was] at least a prima facie case to answer for their

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<sup>97</sup> Thakur, 'Burma and the Responsibility to Protect'.

<sup>98</sup> Thakur, 'Should the UN Invoke the "Responsibility to Protect"?'.

<sup>99</sup> Gareth Evans, 'Facing Up to Our Responsibilities', *The Guardian*, 12 May 2008, <https://www.theguardian.com/commentisfree/2008/may/12/facinguptoourresponsibilities>, accessed 20 June 2022.

<sup>100</sup> Evans, 'The Responsibility to Protect: An Idea Whose Time Has Come... and Gone?', *International Relations*, 22(3) 283–298 (2008), pp. 294–295, DOI:10.1177/0047117808094173, has proposed that a broader agenda of protection could be pursued under the banner of human security, whereas Alex J. Bellamy, 'The Responsibility to Protect', pp. 54–59, has suggested the concept of sovereignty as responsibility.



intransigence being a crime against humanity’.<sup>101</sup>

What is notable about these two positions is the fact that although having initially advocated for the inclusion of natural disasters in the scope of R2P, in 2008, Thakur and Evans firmly anchored their statements to the 2005 agreement. By the time of the catastrophe, both had abandoned the original criteria of large-scale loss of life that would have allowed coercive interference in cases of disasters generated by climate change instead settling for the narrower conception of R2P. In short, even those who had in fact formulated the broader concept did not approve of Kleine’s idea that the ‘scope of the implementation of R2P should be adapted to’ honour the rationale that had informed the work of the ICISS<sup>102</sup> – ‘ensuring protection for (potential) victims of large-scale atrocities or disasters’.<sup>103</sup>

Like France, the United States had suggested aid to be delivered to Myanmar without the consent of the junta,<sup>104</sup> although the US Secretary of Defense, Robert Gates, had in his

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<sup>101</sup> Evans, ‘Facing up to Our Responsibilities’. Later, Evans agreed that the criteria had not been met: Gareth Evans, ‘The Responsibility to Protect in Environmental Emergencies’, *International Crisis Group*, 26 March 2009, <https://www.crisisgroup.org/global/responsibility-protect-environmental-emergencies>, accessed 16 August 2022.

<sup>102</sup> Kleine, ‘Will R2P Be Ready When Disaster Strikes?’, p. 1183.

<sup>103</sup> *ibid.*, p. 1181.

<sup>104</sup> Bellamy, ‘The Responsibility to Protect’, p. 48; Julian Borger and Ian MacKinnon, ‘Bypass Junta’s Permission for Aid, US and France Urge’, *The Guardian*, 9 May 2008, <https://www.theguardian.com/world/2008/may/09/cyclonenargis.burma>, accessed 2 June 2022.

public statements implied the need for the junta's consent.<sup>105</sup> Nevertheless, according to Julian Junk, the US did not agree that R2P applied to the case and references to the concept as a justification for possible non-consensual aid delivery were hence avoided.<sup>106</sup> An ambassador of Britain, John Sawers, in turn, unequivocally opposed Kouchner's suggestion by noting that R2P related to 'acts of genocide, war crimes, crimes against humanity and so forth, rather than government responses to natural disasters'.<sup>107</sup> Yet without referring to R2P, a number of prominent European political figures, including in the UK, argued that the international community should get involved, although preferably through diplomatic means.<sup>108</sup>

A German diplomat noted in an interview<sup>109</sup> that '[e]ach time, when the US argued in the direction of R2P, the usual R2P sceptics ... lined up'.<sup>110</sup> Essentially, the non-Western critics of Kouchner's demands, including Myanmar, regarded that interference on the grounds of R2P would constitute a 'gross violation' of the sovereignty of the state.<sup>111</sup> Asian states especially opposed the invocation of R2P, denouncing 'Western-dominated, sabre-rattling responses'.<sup>112</sup> Some members of the Security Council, including China,

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<sup>105</sup> Security Council Report, 'Update Report No 4: Myanmar', 14 May 2008, [https://www.securitycouncilreport.org/update-report/lookup\\_c\\_glkwlemtisg\\_b\\_4130257.php](https://www.securitycouncilreport.org/update-report/lookup_c_glkwlemtisg_b_4130257.php), accessed 17 June 2022.

<sup>106</sup> Junk, 'Testing Boundaries', pp. 85–86; Julian Junk, 'The Two-Level Politics of Support: US Foreign Policy and the Responsibility to Protect', *Conflict, Security & Development*, 14(4) 535–564 (2014), pp. 546–547, DOI:10.1080/14678802.2014.930588.

<sup>107</sup> Cited in Borger and MacKinnon, 'Bypass Junta's Permission for Aid'.

<sup>108</sup> Junk, 'Testing Boundaries', p. 85.

<sup>109</sup> The interview was conducted by Julian Junk for his article on the Nargis debate.

<sup>110</sup> Cited in Junk, 'Testing Boundaries', p. 91.

<sup>111</sup> Selth, 'Even Paranoids Have Enemies', p. 290.

<sup>112</sup> Junk, 'Testing Boundaries', pp. 86–87.

expressed their intent to obstruct attempts to impose unwanted assistance.<sup>113</sup> Even though China urged Myanmar to accept outside help,<sup>114</sup> it stated that the situation fell outside the scope of R2P and the authority of the Security Council.<sup>115</sup> Likewise, Russia argued against the invocation of R2P and stated that the situation did not pose a threat to international peace and security and was therefore not an issue to be dealt with by the Council.<sup>116</sup>

The crisis was eventually solved without resorting to coercive measures, and the narrow conception of R2P triumphed over the broader one. Yet as the French statement from 2009 suggests, this victory did not bring the debate to its end. Based on the two debates, for France, supporting the narrow conception in 2005 might have only been a way to live to fight another day. Likewise, the views expressed by the Secretary-General and the EU – as well as Tanzania<sup>117</sup> – hinted at the possibility of the battle not being over. Yet most of the strong proponents of R2P were reluctant to broaden the scope of the concept, at least for the time being. As the statements of Evans, Thakur, and Secretary-General Ban reveal, the reason for promoting the narrow conception was in part the fear of undesirable consequences that possible extensions to R2P might bring about.<sup>118</sup> The idea was that states should refrain from acting in a way that might destroy whatever trust existed between them on the issue of R2P and hamper the chances of the concept becoming

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<sup>113</sup> Bellamy, 'The Responsibility to Protect', p. 46.

<sup>114</sup> Borger and MacKinnon, 'Bypass Junta's Permission for Aid'.

<sup>115</sup> Bellamy, 'The Responsibility to Protect', pp. 46–47.

<sup>116</sup> Junk, 'Testing Boundaries', p. 86.

<sup>117</sup> Tanzania argued that 'there should be no attempt at present to include other elements' in the scope of R2P: A/63/PV.100, 28 July 2009, p. 28.

<sup>118</sup> See also Bellamy, 'The Responsibility to Protect', p. 47; Junk, 'Testing Boundaries', pp. 89–90.

implemented in the face of future atrocities. As Evans has noted,

if R2P is to be about protecting everybody from everything, it will end up protecting nobody from anything. ... If too much is bundled under the R2P banner, we run the risk of diluting its capacity to mobilize in the cases where it is really needed.<sup>119</sup>

Considering the buyer's remorse Thakur referred to – and to apply Skinner's vocabulary – the shared intention of those supportive of R2P was to counter attempts to expand its scope to secure a future for R2P. In other words, those seeking to advance solidarist values meant their statements as attacks against French attempts to stretch the concept due to the threat they posed on the viability of R2P. Essentially, this was a question of reducing opposition to the solidarist social contract, of which half of the third dimension had been attacked by those fostering pluralist values.

Needless to say, the 2009 debate was not a spectacle arranged only to praise R2P. Although Myanmar had been threatened with coercion the previous year, in 2009, it gave a somewhat impassioned statement regarding the scope of the concept. It merely pointed out in a matter-of-fact way what the international community had agreed at the Summit and followed the Secretary-General by noting that R2P did not apply 'to other calamities'.<sup>120</sup> It did, however, attempt to – or intend to – erode the credibility of the French humanitarianism in arguing that states that were 'serious about preventing atrocities should avoid any effort to renegotiate a text already agreed by world leaders in

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<sup>119</sup> Evans, 'The Responsibility to Protect', pp. 294–295.

<sup>120</sup> A/63/PV.100, 28 July 2009, p. 7. However, Myanmar did point out that 'the Secretary-General suggested in his report that the General Assembly focus on ways to develop the strategy for implementing R2P, defining what should and should not be protected': A/63/PV.100, 28 July, p. 7. Given the context and everything else said in the statement, I believe this was not a request for the Assembly to renegotiate the scope of R2P, but to reaffirm that the concept only applied to the crimes and violations specified in the Outcome.

2005'.<sup>121</sup> Although Myanmar appears to have been surprisingly neutral towards R2P in the 2009 debate, based on its response to international calls for action the previous year – and given its never-ending fear of becoming invaded by foreign forces<sup>122</sup> – its intentions must have been of the pluralist kind. For a former British colony vulnerable to natural disasters and with a limited capacity to fight off intervening troops, excluding natural catastrophes from the scope of the concept was a way of safeguarding sovereign rights.

This rationale for supporting the narrow conception was present in the statements issued by those critical of R2P, which included, among others, devoted guardians of sovereignty from the ranks of the Non-Aligned Movement. Especially for the most ardent critics of R2P, a few of whom would have preferred to toss the principle altogether in 2005,<sup>123</sup> the reason for favouring the narrow conception had to do with the possibility of powerful states imposing their values on weaker or nonconformist ones by force. Pakistan, for example, highlighted that the concept was only applicable to the four crimes and violations and that nothing beyond the agreement reached in 2005 should even be discussed.<sup>124</sup> This was followed by an emphatic defence of sovereign rights, in which Pakistan underlined that 'R2P should not become a basis either for contravening the principles of non-interference and non-intervention or for questioning the national sovereignty and territorial integrity of any State'.<sup>125</sup>

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<sup>121</sup> A/63/PV.100, 28 July 2009, p. 8.

<sup>122</sup> Selth, 'Even Paranoids Have Enemies'.

<sup>123</sup> States such as Pakistan, Cuba, and Venezuela were 'vociferously hostile' to R2P in the negotiations preceding the World Summit: Pollentine, *Constructing the Responsibility to Protect*, p. 341.

<sup>124</sup> A/63/PV.98, 24 July 2009, pp. 3–4.

<sup>125</sup> *ibid.*, p. 3.

Pakistan's position was fuelled by the possibility of double standards, selectivity, and the abuse of R2P 'as a tool to pressure or interfere in the internal affairs of a sovereign State'.<sup>126</sup> These fears were widely shared. In the 2009 debate, several non-Western states were concerned about weaker states' sovereignty becoming trampled upon by more powerful states abusing and selectively applying the doctrine. The French attempt to invoke R2P in the aftermath of Cyclone Nargis was explicitly referred to by Cuba as an example of abusive use of the concept.<sup>127</sup> Singapore, more supportive of R2P than Pakistan or Cuba, but still dissatisfied with double standards in its application, noted that the attempt by 'some' to 'link R2P to humanitarian access in the wake of natural disasters' had been 'patently unhelpful'.<sup>128</sup> States such as Brazil,<sup>129</sup> South Africa,<sup>130</sup> and Japan<sup>131</sup> also advocated for the exclusion of natural disasters but made no explicit reference to the Nargis debate.

Others favouring the narrow conception and expressing concerns over selectivity or possible abuses included ardent R2P critics, such as Iran<sup>132</sup> and Sudan,<sup>133</sup> but also the veto-wielding powers of the East<sup>134</sup> who, despite their rather neutral tone in the debate, had been somewhat dissatisfied with R2P right from the start. Yet this concern was also brought up by some of the obvious supporters, such as Ireland, who highlighted the need

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<sup>126</sup> A/63/PV.98, 24 July 2009, pp. 3–4.

<sup>127</sup> A/63/PV.99, 24 July 2009, p. 22.

<sup>128</sup> A/63/PV.98, 24 July 2009, pp. 7–8.

<sup>129</sup> A/63/PV.97, 23 July 2009, p. 12.

<sup>130</sup> A/63/PV.98, 24 July 2009, p. 16.

<sup>131</sup> *ibid.*, p. 21.

<sup>132</sup> A/63/PV.100, 28 July 2009, pp. 10–11.

<sup>133</sup> A/63/PV.101, 28 July 2009, pp. 10–11.

<sup>134</sup> A/63/PV.98, 24 July 2009, pp. 23–24; A/63/PV.100, 28 July 2009, pp. 11–12.

to guard against selectivity and ‘malicious misapplication [of R2P] for a State’s own strategic interests’.<sup>135</sup> A similar stance was taken by Chile, who noted that ‘self-serving’ applications of the concept did not ‘invalidate’ R2P but would hamper its credibility.<sup>136</sup> It underlined that even though ‘[s]elective application’ was ‘evidently a risk’, ‘it would be morally and politically wrong to conclude that because the international community [could not] act perfectly everywhere, it should not act anywhere’.<sup>137</sup> Unlike for some of the critics, for the supporters, the possibility of abuses was not a reason to denounce R2P, but a problem to be solved through mutual effort.

In critical statements, the concerns over the possible erosion of sovereignty and the prospect of abusive use of R2P were often coupled with implicit or explicit accusations of neo-colonialism. This line of argument was given impetus by the Nicaraguan President of the General Assembly, Miguel d’Escoto Brockmann, who in his concept note pointed out that the arguments that had been used to justify colonialism were now put forward to advance the R2P agenda.<sup>138</sup> In the debate, the neo-colonial undertone of R2P was brought up especially by Venezuela, who referred to ‘the imperial hegemonic domination exercised throughout history by western imperial Powers’ and to the possibility of the doctrine serving as a ‘pretext for imperial countries to intervene in weak countries for political reasons’.<sup>139</sup> Given both history and the contemporary asymmetry in wealth and power between states, the concerns were not completely unfounded. Yet it appears that

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<sup>135</sup> A/63/PV.99, 24 July 2009, p. 2.

<sup>136</sup> A/63/PV.98, 24 July 2009, p. 12.

<sup>137</sup> *ibid.*, p. 12.

<sup>138</sup> Miguel d’Escoto Brockmann, *Concept Note on the Responsibility to Protect Populations from Genocide, War Crimes, Ethnic Cleansing and Crimes against Humanity*, A/63/958, 9 September 2009. p. 3.

<sup>139</sup> A/63/PV.99, 24 July 2009, pp. 4–5.

these kinds of statements were intended to erode R2P by framing the debate as a battle between the imperialist West and the rest of the world. Although a number of both Western and non-Western states attempted to counter these tactics by referring to the African ancestor of R2P,<sup>140</sup> for the critics, the principle remained an expression of Western domination that should be strictly restrained.

In sum, in the two debates, those leaning on the pluralist interpretation of the social contract appear to have clung on to the four-crime formulation of R2P to limit the number of circumstances where the rights of sovereign states could legitimately be disregarded. In expressing support for the narrow conception and attacking those abusing and selectively applying the principle, states disapproving of the solidarist interpretation of R2P intended to restrict the reach of the third dimension of the contract or, to be clear, half of the third dimension. For those ‘revolt[ing] against Western dominance’,<sup>141</sup> countering the French attempts to stretch the concept was essentially a matter of keeping Western intervention enthusiasts at bay to uphold pluralist, sovereignty-centred values.

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<sup>140</sup> Article 4(h) of the Constitutive Act of the African Union declares ‘[t]he 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’. Some of those less enthusiastic about R2P also brought up the pioneering work of the AU but offered a pluralist reading of the organisation’s commitments based on Article 4(j), which states ‘the right of Member States to request intervention from the Union in order to restore peace and security’. Egypt, speaking on behalf of NAM, underlined that ‘[t]he conditions for implementation [were] clearly stipulated under Article 4 (h) and (j) ..., namely, in order to restore peace and security upon the request of the State and only pursuant to a decision of the Assembly of the Union’. A/63/PV.97, 23 July 2009, p. 6.

<sup>141</sup> Hedley Bull, ‘Justice in International Relations: The 1983 Hagey Lectures (1984)’ in Kai Alderson and Andrew Hurrell (eds.), *Hedley Bull on International Society* (London: Macmillan Press, 2000).



## **Conclusions: Removing Rice from the Menu**

In this article, I have proposed an idea of R2P as a social contract, the interpretation of which differs between pluralists and solidarists, and examined the 2008 and 2009 debates over the scope of the concept through this framework. In doing so, I have sought to demonstrate the ambiguity of the contract, as well as to shed light on the constraints of R2P as a response to catastrophes engendered by climate change. I have argued that even though the French attempts to stretch the concept were widely resisted and rice was thus taken off the R2P menu by a near-unanimous decision, the rationales for favouring the narrow conception revealed a division between solidarist and pluralist readings of the contract. Crucially, neither of these positions gave ground for optimistic projections regarding the broadening of the scope of the concept to encompass disasters relating to climate change.

To state the obvious, rice was never the cause of these debates, but instead, it was the possibility of the rice being delivered with rifles blazing. As noted, the main source of concern in the framework of R2P has been the third dimension of the contract due to the fact that it allows the international community to resort to coercive measures and even to use military force against those failing to meet their responsibilities. This is why the idea of including natural disasters in the scope of R2P was strongly opposed especially by some less powerful states with strong pluralist convictions and high vulnerability to such catastrophes. Based on the hostility with which the prospect of coercion and the attempts to stretch the concept were met, it is safe to predict that at least as long as coercive measures remain a piece of the R2P puzzle, the pluralist wing will not be persuaded to allow climate change-centred extensions to the concept.

It might be argued that bowing to pluralist pressure would equate to letting those with

disturbing human rights records dictate the rules of the game. It is perhaps obvious that some states who have opposed extensions to R2P or even the principle in general must have been driven by the logic of ‘better to fight a concept than intervening troops’. Yet broadening the scope of R2P would probably have caused rejection even in the ranks of states generally supportive of the formulation agreed on in 2005. This was the fear expressed by those who tried to balance between solidarist convictions and pluralist demands. Even though the interventionist logic of solidarism might, in theory, be applied to issues relating to climate change, in practice, the fragility of the 2005 agreement appears to have restrained more ambitious aspirations.

These conclusions cast critical light on Konstantin Kleine’s argument stating that the ‘rationale ... best representing the concept of R2P ... is the rationale of protecting (potential) victims of large-scale atrocities or disasters’ and that the ‘scope of the implementation of R2P should’ therefore ‘be adapted to ensure full realisation’ of this rationale.<sup>142</sup> The membership of the UN did not, however, endorse a principle designed as a way to ‘react to all kinds of disasters that might occur and deeply affect human lives’.<sup>143</sup> Instead, as Kleine admits, they agreed on a formulation that was perhaps ‘the only acceptable solution for states’<sup>144</sup> with competing values, interests, and histories. This kind of diversity emphasised by pluralism cannot be wished away through academic endeavours even if the mission of scholars was ‘to find the best solution, not the most politically acceptable one’.<sup>145</sup> Even less can they be ignored without being to the detriment of R2P, as Thakur, Evans, and Secretary-General Ban seem to have realised.

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<sup>142</sup> Kleine, ‘Will R2P Be Ready When Disaster Strikes?’, pp. 1183, 1185.

<sup>143</sup> *ibid.*, p. 1176.

<sup>144</sup> *ibid.*, p. 1181.

<sup>145</sup> *ibid.*, p. 1186.

That said, given the effect of climate change on the risk of mass atrocities, the two phenomena cannot be isolated from one another like an ill-behaved child from the rest of the class. If climate change ‘has the potential to act as an amplifier ... of existing vulnerabilities’ hence possibly elevating the risk of crimes and violations relating to R2P, this connection must be taken into consideration in policies of atrocity prevention, as scholars at the Asia-Pacific Centre for the Responsibility to Protect have proposed.<sup>146</sup> In a world of interconnected emergencies, ignoring the links attaching one crisis to another would be to waste the opportunity to advance the aspect of R2P both pluralists and solidarists actually agree on: the prevention of mass atrocities.

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<sup>146</sup> APR2P Centre, *Climate Change and Atrocity Crimes*, p. 18.