

P7_TA(2013)0180

UN principle of the ‘Responsibility to Protect’

European Parliament recommendation to the Council of 18 April 2013 on the UN principle of the ‘Responsibility to Protect’ (‘R2P’) (2012/2143(INI))

The European Parliament,

- having regard to the values, objectives, principles and policies of the European Union as, inter alia, enshrined in articles 2, 3 and 21 of the Treaty on European Union,
- having regard to the Charter of the United Nations,
- having regard to the Universal Declaration of Human Rights,
- having regard to the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948,
- having regard to the Rome Statute of the International Criminal Court (ICC),
- having regard to the United Nations General Assembly (UNGA) Resolution A/RES/63/308 of 7 October 2009 on the responsibility to protect,
- having regard to the United Nations Security Council (UNSC) Resolution 1674 of April 2006 and UNSC Resolution 1894 of November 2009 on ‘Protection of civilians in armed conflict’¹,
- having regard to UNSC Resolutions 1325 (2000) and 1820 (2008) on women, peace and security, to UNSC Resolution 1888 (2009) on sexual violence against women and children in situations of armed conflict, to UNSC Resolution 1889 (2009) aiming to strengthen the implementation and monitoring of UNSC Resolution 1325 (2000), and to UNSC Resolution 1960 (2010), which created a mechanism for compiling data on, and listing perpetrators of, sexual violence in armed conflict,
- having regard to the UNSC Resolution 1970 of 26 February 2011 on Libya referencing the R2P and authorising several non-coercive measures to prevent the escalation of atrocities, and to the UNSC Resolution 1973 of 17 March 2011 on the situation in Libya, which authorised Member States to take all necessary measures to protect civilians and civilian-populated areas, and contained for the first time in history an explicit reference to the R2P’s first pillar, followed by similar references in UNSC Resolution 1975 on Côte d’Ivoire, UNSC Resolution 1996 on the Sudan and UNSC Resolution 2014 on Yemen,
- having regard to the Paragraphs 138 and 139 of the UN 2005 World Summit Outcome²,
- having regard to the report ‘The Responsibility to Protect’ (2001) by the International Commission on Intervention and State Sovereignty (ICISS), the report ‘A more secure

¹ S/RES/1674.

² A/RES/60/1.

world: our shared responsibility'¹ (2004) by the High-Level Panel on Threats, Challenges and Change, and the report 'In larger freedom: towards development, security and human rights for all'² (2005) by the UN Secretary-General,

- having regard to the reports of the UN Secretary-General, specifically those on 'Implementing the Responsibility to Protect' of 2009³, 'Early warning, assessment and the responsibility to protect' of 2010⁴, 'The role of regional and subregional arrangements in implementing the responsibility to protect' of 2011⁵ and 'Responsibility to protect: timely and decisive response' of 2012⁶,
- having regard to the UN Secretary-General's Internal Review Panel on UN Action in Sri Lanka of November 2012, enquiring into the failure of the international community to protect civilians from large-scale violations of humanitarian and human rights laws and making recommendations regarding future UN action to respond effectively to similar situations involving mass atrocity crimes,
- having regard to the report by the UN Secretary-General on 'Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution' of 25 July 2012,
- having regard to the Brazilian initiative submitted to the UN on 9 September 2011 entitled 'Responsibility while protecting: elements for the development and promotion of a concept',
- having regard to the EU Programme for the Prevention of Violent Conflicts (Gothenburg Programme) of 2001 and the annual reports on its implementation,
- having regard to the EU's priorities for the 65th UN General Assembly of 25 May 2010⁷,
- having regard to the 2012 Nobel Peace Prize, which not only honours the EU's historical contribution to a peaceful Europe and world but also enhances expectations as to its future engagement for a more peaceful world order based on the rules of international law,
- having regard to the European Consensus on Development⁸ and the European Consensus on Humanitarian Aid⁹,
- having regard to its recommendations to the Council, of 8 June 2011 on the 66th session of the UNGA¹⁰ and of 13 June 2012 on the 67th session of the UNGA¹¹,
- having regard to its resolution of 16 February 2012 on the 19th Session of the UN Human

¹ <http://www.un.org/secureworld/report3.pdf>

² A/59/2005.

³ A/63/677.

⁴ A/64/864.

⁵ A/65/877-S/2011/393.

⁶ A/66/874-S/2012/578.

⁷ 10170/2010.

⁸ OJ C 46, 24.2.2006, p. 1.

⁹ OJ C 25, 30.1.2008, p. 1.

¹⁰ OJ C 380 E, 11.12.2012, p. 140.

¹¹ Texts adopted, P7_TA(2012)0240.

Rights Council¹,

- having regard to its resolution of 11 May 2011 on ‘the EU as a global actor: its role in multilateral organisations’²,
 - having regard to its resolution of 19 February 2009 on the European Security Strategy and ESDP³,
 - having regard to Rules 121(3) and 97 of its Rules of Procedure,
 - having regard to the report of the Committee on Foreign Affairs and the opinion of the Committee on Development (A7-0130/2013),
- A. whereas the UN 2005 World Summit Outcome provides, for the first time, a common definition of the principle of R2P; whereas the principle of R2P, embedded in paragraphs 138 and 139 of the UN 2005 World Summit Outcome, represents an important step forward towards a more peaceful world by establishing the obligation of states to protect their populations against genocide, war crimes, ethnic cleansing and crimes against humanity, as well as the obligation of the international community to help states assume this responsibility and to react should they fail to protect their citizens against these four specified crimes and violations;
- B. whereas the principle of R2P is based on three pillars, namely: (i) the state bears the primary responsibility to protect its population from genocide, war crimes, crimes against humanity and ethnic cleansing; (ii) the international community must assist states in fulfilling their protection obligations; (iii) when a state manifestly fails to protect its population or is in fact a perpetrator of these crimes, the international community has a responsibility to take collective action;
- C. whereas, according to the work done on R2P preceding the agreement on the World Summit Outcome Document in 2005 and specifically in the 2001 report on R2P of the International Commission on Intervention and State Sovereignty (ICISS), the principle of R2P has been further defined to encompass the components of the responsibility to prevent (R2prevent), the responsibility to react (R2react) and the responsibility to rebuild (R2rebuild), as introduced in the ICISS report;
- D. whereas the development of the concept of R2P is welcome since it clarifies and strengthens the existing obligations of states to ensure the protection of civilians; whereas this concept, born from the international community’s failures in Rwanda in 1994, is critical for the survival of the community of nations;
- E. whereas in the cases in question legitimate force should only ever be used in a prudent, proportionate and limited manner;
- F. whereas the development of the principle of R2P is an important step towards anticipating, preventing and responding to genocide, war crimes, ethnic cleansing and crimes against humanity and upholding fundamental principles of international law, in particular

¹ Texts adopted, P7_TA(2012)0058.

² OJ C 377 E, 7.12.2012, p. 66.

³ OJ C 76 E, 25.3.2010, p. 61.

international humanitarian, refugee and human rights law; whereas the principles should be applied as consistently and uniformly as possible, to which effect it is crucially important that early warning and assessment should be conducted fairly, prudently and professionally and that the use of force should remain the measure of last resort;

- G. whereas more than a decade after the emergence of the concept of R2P and eight years after its endorsement by the international community at the UN World Summit in 2005, recent events have again brought to the fore the importance and the challenges of ensuring timely and decisive responses to the four core crimes covered by the concept, as well as the need to further operationalise the principle in order to implement it effectively and prevent mass atrocities;
- H. whereas the development of the principle of R2P - particularly its prevention component - can advance global efforts towards a more peaceful world. since many mass atrocity crimes occur during periods of violent conflict and this makes it necessary to create effective capacities for structural and operational conflict prevention, thus minimising the need for the use of force as the last resort;
- I. whereas using all tools available under Chapters VI, VII and VIII of the Charter, ranging from non-coercive responses to collective action, is of fundamental importance for the further development and the legitimacy of the principle of R2P;
- J. whereas the most effective form of preventing conflict, violence and human suffering is to promote respect for human rights and fundamental freedoms, enforcement of the rule of law, good governance, human security, economic development, poverty eradication, inclusiveness, socio-economic rights, gender equality, and democratic values and practices, as well as the reduction of economic inequalities;
- K. whereas the military intervention of 2011 in Libya pointed up the need to clarify the role of regional and subregional organisations when applying R2P; whereas such organisations can be both legitimisers and operational agents for the implementation of R2P, but often lack capacities and resources;
- L. whereas human rights are of the utmost importance in international relations;
- M. whereas there is a need for a shift in the manner in which we approach R2P, which should involve integrating it into all our models of development cooperation, aid and crisis management, as well as building on programmes that already embrace R2P;
- N. whereas a more consistent implementation of R2P's prevention component (R2prevent), including mediation measures and preventive diplomacy at an early stage, could prevent or reduce the potential for conflicts and violence and help avoid their escalation, thus potentially helping prevent international intervention under R2P's reaction component (R2react); whereas two-track diplomacy is an important instrument in preventive diplomacy which builds upon the human dimension of reconciliation efforts;
- O. whereas R2P is primarily a preventive doctrine and military intervention should be the last resort in R2P situations; whereas R2P, wherever possible, is to be carried out first and foremost through diplomatic and long-term developmental activities that focus on capacity-building in the fields of human rights, good governance, the rule of law, the reduction of poverty and emphasis on education and health, conflict prevention through education and

the expansion of trade, effective arms control and prevention of illicit arms trading, and the strengthening of early warning systems; whereas, furthermore, there are many non-military coercive alternatives, such as preventive diplomacy, sanctions, accountability mechanisms and mediation; whereas the EU must continue to play a leadership role in the field of conflict prevention;

- P. whereas cooperation with regional organisations is an important dimension of R2P work; whereas it is therefore necessary to call for the reinforcement of regional capacities in terms of prevention and the identification of effective policies for preventing the above-mentioned four crimes; whereas the forthcoming EU-Africa summit in 2014 will provide a good opportunity to express our support for AU leadership and promote African ownership of R2P;
- Q. whereas the UN Guidelines for Effective Mediation identify the dilemma that arrest warrants issued by the ICC, sanctions regimes and national and international counter-terrorism policies also affect the manner in which some conflict parties may be engaged in a mediation process; whereas the definition in international law of crimes which demand an immediate reaction by the international community has made considerable progress since the establishment of the ICC, although an independent assessment mechanism of when these definitions are met is still, crucially, missing; whereas the implementation of the Rome Statute would enhance the efficiency of the ICC regime; whereas the Rome Statute has not been ratified by all states of the international community;
- R. whereas the ICC and R2P are interlinked, since both aim to prevent genocide, crimes against humanity and war crimes; whereas, on the one hand, R2P bolsters the ICC's mission to fight impunity by advocating that states honour their judicial responsibility, while, on the other hand, it also reinforces the complementarity principle of the ICC, under which the main responsibility to prosecute lies with states;
- S. whereas the ICC plays a fundamental role not only in crime prevention but also in the reconstruction of countries and in mediation processes;
- T. whereas the EU has always been an active promoter of R2P on the international stage; whereas it needs to strengthen its role as a global political actor, upholding human rights and humanitarian law and also reflecting that political support in its own policies;
- U. whereas EU Member States have also endorsed the R2P principle; whereas only a few of them have incorporated the concept into their national texts;
- V. whereas recent experiences relating to specific crises such as those in Sri Lanka, Côte d'Ivoire, Libya and Syria have demonstrated the persistent challenges involved in arriving at a common understanding of how to ensure the timely and effective implementation of the R2P principle, while also generating the common political will and effective capacity to prevent or stop genocide, war crimes, ethnic cleansing and crimes against humanity, whether committed by national and local authorities or non-state actors, and the consequent multiple civilian casualties;
- W. whereas in situations where R2P is applied it is of the utmost importance to maintain the distinction of mandates between military and humanitarian actors, in order to safeguard the perception of the neutrality and impartiality of all humanitarian actors and avoid putting at risk the effective delivery of aid and of medical or any other kind of assistance, access to

beneficiaries, or the personal safety of field-based humanitarian personnel;

- X. whereas the proposal initiated by Brazil on ‘Responsibility while Protecting’ is a welcome contribution to the necessary development of the criteria to be followed when implementing an R2P mandate, including the proportionality of the scope and duration of any intervention, a thorough balance of consequences, ex ante clarity of the political objectives, and transparency in the intervention’s reasoning; whereas the monitoring and review mechanisms of adopted mandates should be strengthened, including through the UN Secretary-General’s Special Advisors on the Prevention of Genocide and on R2P, and the UN High Commissioner for Human Rights, and should be conducted ‘fairly, prudently and professionally, without political interference or double standards’¹;
- Y. whereas the definition in international law of crimes which demand an immediate reaction by the international community has made considerable progress since the creation of the ICC, although independent assessment mechanisms for when those definitions should apply are still, crucially, missing;
- Z. whereas the UN High Commissioner for Human Rights plays an important role in awareness-raising on ongoing cases of mass atrocity crimes; whereas the UN Human Rights Council is playing an increasingly important role in implementing R2P, including by authorising fact-finding missions and commissions of inquiry to gather and assess information relating to the four specified crimes and violations, and by its increasing readiness to refer to R2P in crisis situations such as in Libya and Syria;
- AA. whereas a narrow but deep approach to implementing R2P should restrict its application to the four mass atrocity crimes and violations specified;
- AB. whereas the principle of R2P should not be applied in the context of humanitarian emergencies and natural disasters; whereas humanitarian action should not be used as an excuse for political action, and whereas humanitarian space needs to be respected by all actors involved;
- AC. whereas comprehensive assistance has to be offered for post-conflict situations; whereas more efforts are needed to affirm accountability for serious violations of human rights, as well as international humanitarian law and the fight against impunity;
- 1. Addresses the following recommendations to the High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission (HR/VP), the EEAS, the Commission, the Member States and the Council:
 - (a) to reconfirm the EU’s commitment to R2P by adopting an interinstitutional ‘Consensus on R2P’, including a common understanding of the implications of R2P for the EU’s external action and the role its actions and instruments can play in situations of concern, to be prepared jointly by the Council, the EEAS, the Commission and Parliament having also taken into account the views of stakeholders, including those of civil society actors and NGOs;
 - (b) to include a chapter in the HR/VP’s annual report to Parliament on the CFSP concerning

¹ Article 51, ‘Responsibility to protect: timely and decisive response’, Report of the UN Secretary-General, 25 July 2012 (A/66/874-S/2012/578).

the EU's actions on conflict prevention and mitigation in applying the R2P principle; to analyse in this chapter the usefulness of the relevant instruments and administrative structures in implementing R2P, including identifying necessary revisions; to prepare this chapter in cooperation with the EU Special Representative for Human Rights and taking account of the various positions adopted by Parliament on specific issues relating to conflict prevention or human rights protection; and to debate the findings with Parliament;

- (c) to integrate the R2P principle in the EU's development assistance; to further professionalise and strengthen the Union's preventive diplomacy, mediation, crisis prevention and response capacities, with special reference to information gathering and exchange as well as early warning systems; to improve the coordination between the various Commission, Council and EEAS structures regarding all aspects of R2P, and to inform Parliament on a regular basis of the initiatives taken in support of R2P;
- (d) to ensure sufficient policy planning, operational concepts and capability development goals within the Common Security and Defence Policy (CSDP) to enable the Union to fully implement R2P in close international cooperation within the UN and regional organisations;
- (e) to further develop the EU's conflict prevention and mitigation capacities, including the standby capacities of legal experts, police officers and regional analysts and the creation of an autonomous European Institute of Peace intended to provide the EU with advice on and capacities for mediation, two-track diplomacy and exchange of best practices on peace and de-escalation; to strengthen the preventive elements of the EU's external instruments, in particular of the Instrument for Stability;
- (f) to strengthen linkages between early warning, policy planning and high-level decision-making in the EEAS and the Council;
- (g) to include a systematic assessment of the risk factors of genocide, war crimes, ethnic cleansing and crimes against humanity in regional and country strategy papers, and to include their prevention in dialogues with third countries that are at risk of those crimes and violations;
- (h) to develop cooperation with and training of the staff of the EU delegations and Member States' embassies, as well as of civilian and military missions, in the fields of international human rights, humanitarian law and criminal law, including their capacity to detect potential situations involving the four specified crimes and violations, inter alia by regular exchanges with local civil society; to ensure that EU Special Representatives uphold R2P whenever necessary and broaden the mandate of the EU Special Representative on Human Rights to include R2P issues; to identify an EU Focal Point for R2P in the EEAS in the context of the existing structures and resources, to be tasked notably with raising awareness of the implications of R2P and ensuring timely information flows between all concerned actors on situations of concern, while also encouraging the establishment of national focal points for R2P in the Member States; to further professionalise and strengthen preventive diplomacy and mediation;
- (i) to launch and promote an internal debate within the EU on the reform of the UN Security Council, which is the only internationally legitimate body that can sanction R2P interventions without the consent of the target state;

- (j) to involve and train representatives of civil society and NGOs, who could play a role in informal or 'track II' diplomacy with a view to promoting exchanges of good practice in this field;
- (k) to strengthen cooperation with regional and subregional organisations, including by improving their prevention, capacity-building and response measures in relation to R2P;
- (l) to ensure speedy ratification by all EU Member States of the amendments to the ICC Statutes defining the crime of aggression, since the Court can play a central role in the prevention of mass atrocity crimes, as well as in efforts to ensure accountability;
- (m) to insist on respect for the ICC clause in agreements with third countries. and to consider reviewing agreement with countries failing to comply with ICC arrest warrants;
- (n) to espouse a dual track-approach, i.e. promoting the universal acceptance of R2P while at the same time encouraging states to support and assist the ICC;

2. Encourages the HR/VP and the Council:

- (a) to contribute actively to the debate on the R2P principle, building on existing international human rights law and the Geneva Conventions with a view to strengthening the international community's focus on R2P's prevention component and the universal application of non-coercive tools, and to develop a concrete action plan to that end which also includes considerations on the responsibility/need to rebuild;
- (b) to promote the R2P principle at the UN, and to work towards ensuring its universality, as an essential part of a collective security model based on multilateralism and the primacy of the UN and linked to the strengthening of the ICC; to recall that R2P also implies the responsibility to fight impunity;
- (c) to support the efforts of the UN Secretary-General to reinvigorate and enhance the understanding of the implications of the R2P principle, and to cooperate with other UN members who wish to improve the capacities of the international community to prevent and respond to mass atrocity crimes covered by the R2P principle;
- (d) to call on the UNSC to take up the Brazilian proposal 'Responsibility while Protecting' in order to ensure the most efficient application of the R2P principle that causes the least harm possible, and contribute to the necessary development of the criteria to be followed when acting to implement in particular the third pillar of R2P, including the proportionality of the scope and duration of any intervention, a thorough balance of consequences, ex ante clarity of the political objectives and transparency in the intervention's reasoning; given that the development of such criteria may provide guarantees which could persuade countries currently reticent about the R2P doctrine of its applicability, to strengthen the monitoring and review mechanisms of adopted mandates, including through the UN Secretary-General's Special Advisors on the Prevention of Genocide and on R2P, and the UN High Commissioner for Human Rights, and to conduct these mechanisms 'fairly, prudently and professionally, without

political interference or double standards'¹;

- (e) to draw lessons, in cooperation with the Member States and our international partners, from the experience of R2P in Libya in 2011 and from the current inability to take action in Syria;
- (f) to propose to the five permanent members of the UN Security Council the adoption of a voluntary code of conduct which would limit the use of the right of veto in cases of genocide, war crimes, ethnic cleansing or crimes against humanity;
- (g) to engage with the EU's regional partners in order to spell out more clearly the role of regional and subregional organisations in applying R2P;
- (h) to work towards establishing R2P as a new norm of international law, within the scope agreed to by the UN's member states at the 2005 World Summit;
- (i) to advise the Security Council that enshrining R2P, which is now an emerging standard, as a standard of international law would not limit its decision-making capacity;
- (j) to help strengthen the framework and capacities at UN level for mediation, two-track diplomacy, exchange of best practice on the peaceful resolution of emerging conflicts, and de-escalation and early warning systems, such as those of the Mediation Support Unit of the Department of Political Affairs; to strengthen the Office of the Special Advisor on the Prevention of Genocide and the Special Advisor on the Responsibility to Protect; to engage the Human Rights Council in the debate on R2P;
- (k) to ensure, in cooperation with the EU Member States having a seat on the UN Security Council and all international partners, the full consistency of possible further developments of the R2P concept with international humanitarian law (IHL), and to advocate and monitor full compliance with IHL in future cases where R2P is applied;
- (l) to address the issue of a single EU seat on the UN Security Council and of a communalised budget for CFSP missions under UN mandate;
- (m) to integrate women, including women leaders and women's groups much more in all conflict prevention and mitigation, as well as in resolution efforts in accordance with UNSC Resolutions 1325 and 1820;
- (n) to work with the UN towards the establishment of a clear link between the implementation of R2P and the fight against impunity for the most serious crimes covered by this concept;

3. Calls on the HR/VP:

- (a) to present to the European Parliament's Committee on Foreign Affairs a concrete plan of action within six months of the adoption of the present Recommendation, on the follow-up of the Parliament's proposals, notably outlining the steps towards achieving a 'Consensus on R2P';

¹ Article 51, 'Responsibility to protect: timely and decisive response', Report of the UN Secretary-General, 25 July 2012 (A/66/874-S/2012/578).

4. Instructs its President to forward this recommendation to the Council and, for information, to the Commission, the HR/VP, the EEAS and the Member States.