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Policy Brief

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Emerging Powers and the Responsibility to Prevent Mass Atrocities: Lessons from South Sudan

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Summary

- ❑ *The paper examines the role of emerging powers in the prevention of mass atrocities in the context of South Sudan. The analysis is built on two key premises:*
- ❑ *First, that R2P offers no new legal or political framework for addressing the fundamental challenges that have historically undermined international action to stop mass atrocities. At best, it makes a strong moral case against international inaction and refocuses global attention on preventing rather than responding to mass atrocities.*
- ❑ *Second, given their aversion to intervention for supposed humanitarian purposes, the preventive pillars of R2P provide emerging powers with an opportunity to assume leadership in shaping the development of the norm, both in discourse and practice.*
- ❑ *However, the example of South Sudan suggests that, while speaking favourably of the preventive aspects of R2P, emerging powers are yet to muster the political will and institutional capacity to become proactive actors in the prevention of mass atrocities in their bilateral cooperation with fragile and conflict-affected states.*
- ❑ *Nevertheless, emerging powers can bring valuable political leverage to the preventive enterprise in fragile states with which they have good bilateral relations, in the form of access to and influence on conflict parties or potential perpetrators.*
- ❑ *Despite capacity and resource constraints, emerging powers can be proactive in atrocity prevention by adopting a graduated approach founded on a commitment to adhering to the principles of ‘do no harm’ and conflict-sensitive development in their bilateral cooperation with conflict-affected states and other countries at risk of mass atrocities.*
- ❑ *Future atrocity prevention efforts should also be built around partnerships that recognise comparative advantage that emerging powers have when it comes to engaging with the*

political elite in conflict-affected countries, as well as the early warning capacity of civil society organizations.

- ❑ *Entrenching a culture of mass atrocity prevention will also benefit from improved public conversations on the agenda both in conflict-affected and other African states at risk and in those developing countries considered to be emerging powers.*

Introduction

The 2001 report of the International Commission on Intervention and State Sovereignty (ICISS) moved the debate on international humanitarian intervention from the domain of whether external actors have the right to take action within a state for humanitarian purposes to the question of how the global community could best exercise its responsibility to protect civilians from mass atrocities. In a sense, the report could be seen as the codification of a heightened global attitude in favour of the protection of populations from mass atrocities brought about, to a large extent, by the guilt associated with the international inertia in the face of the massacres in Rwanda and Srebrenica. This heightened global consciousness became even more evident when the 2005 World Summit of the United Nations (UN) adopted the responsibility to protect (R2P) concept as a norm to guide international action for the purpose of protecting civilians from serious human rights violations. While proposing a framework for international engagement to avert or halt mass atrocities, the R2P concept is far from becoming a fully entrenched global norm.

R2P may have refocused international attention on the high costs of inertia in the face of imminent or on-going massacres but it has not conclusively resolved the age-long debate on reconciling the moral imperative to protect civilians at risk of slaughter and the legal principles of non-interference and sovereign equality, which are the cornerstone of the current global order. As the controversy over the international intervention in Libya and the deadlock over Syria reveal, a number of states and transnational actors, particularly in the Global South, continue to harbour reservations on the interpretation and application of the norm. Building international consensus on the meaning and implementation of R2P has remained an elusive goal. It is therefore not surprising that there is significant discrepancy between R2P as conceptualised in the ICISS report and the provisions of the 2005 World Summit, which formally acknowledged the principle as an emerging global norm. Notwithstanding lingering misgivings in some quarters over R2P and its application generally, there is little contention over the preventive aspects of the emergent international norm. Both the ICISS report and the World Summit Outcome Document underscore the centrality of the preventive dimension of R2P, recognising the limitations and contestations associated with military interventions and other forms of strong-arm tactics vis-à-vis preventive measures. More importantly, the so-called emerging powers of the South, whose role remain vital for the future development of R2P but which continue to express reservations about the intent and application of the norm, have been strong advocates of the preventive aspects of R2P.

Yet over the years, the operationalization of the R2P norm has witnessed a general watering down of the pre-eminence of the preventive dimension of the concept, accompanied by a disproportionate focus on reacting to crisis situations that already endanger the lives of civilian populations. Not surprisingly, academic and policy discourses on R2P over the past decade have largely focused on the third pillar of the norm, almost to the exclusion of discussions on the centrality of a culture of prevention to the success of efforts to end mass atrocities.¹ There have equally been little attempts to examine the extent to which individual states have operationalised their commitment under the second pillar of R2P through their bilateral cooperation. This brief draws from the example of South Sudan to reflect on the role of emerging powers in developing the preventive dimension of R2P through the exercise of their responsibility to assist states build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The analysis departs from two basic premises. The first is that the emergent norm on the responsibility to protect offers no new legal or political framework for addressing the fundamental challenges that have historically undermined international action to stop mass atrocities. At best, it makes a strong moral case against international inaction and refocuses global attention on preventing rather than responding to mass atrocities. Second, given their aversion to humanitarian intervention, the preventive pillars of R2P provide emerging powers with an opportunity to assume leadership in shaping the development of the norm, both in discourse and practice.

Towards a culture of prevention: The essence of the Responsibility to Protect concept

The R2P idea as articulated by the ICISS in its 2001 report and later endorsed in the 2005 UN World Summit Outcome Document is by no means new. Rather, it represents the latest attempt to circumvent the sticking points of the debate between respect for national sovereignty versus the protection of human rights, which has animated international relations for decades. The ICISS sought to capitalise on the international outcry and lingering sense of guilt that accompanied the massacres in places like Rwanda and Srebrenica to propose and generate global consensus around a new framework on how to reconcile the imperatives of sovereignty and international action for humanitarian protection. In this context, the significance of the ICISS report lies primarily in the fact that it brought a sense of urgency to the need to move past a paralysing debate that had rendered the global community incapable of responding even to the most egregious of mass atrocities. The need to address this inertia had become more necessary in the context of the changing nature of conflicts, characterised by a rising incidence of intra-state conflicts, which are fought mainly by irregular armies using unconventional methods of warfare that often expose civilian populations to enormous risks.

The ICISS report is revolutionary indeed, to the extent that it suggests a rather ambitious framework for international action to protect civilian populations from mass atrocities. Building on the notion of sovereignty as responsibility and inspired by the expansion of the concept of security

¹ Notable exceptions here include: Alex Bellamy, “Mass Atrocities and Armed Conflict: Links, Distinctions, and Implications for the Responsibility to Prevent”, The Stanley Foundation

¹ ICISS, “The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty”, December 2001, pp. 19-20.

to include human security, the report recommends a threshold for international action which goes beyond the traditional crimes of genocide, war crimes and crimes against humanity – which states already have obligation to prevent and punish under existing instruments of international law – to include all situations that threaten or generate large scale loss of life or ethnic cleansing. As noted in the report, when such situations arise, “the principle of non-intervention yields to the international responsibility to protect when the responsible state is unwilling or unable to halt or avert mass atrocities”.²

The responsibility to protect framework of the ICISS also envisaged an international obligation that was not limited to reacting to escalating violence that put civilian populations at risk of mass slaughter, but also entailed efforts to prevent violent conflicts and other man-made crises, and rebuild societies emerging from them. This broad conception of the international responsibility to protect, which moves beyond the narrow focus on military intervention to include and prioritise preventive measures, was a clear attempt by the ICISS to encourage global action against mass atrocities without necessarily addressing the controversy over humanitarian intervention. The ICISS’s propositions intended to deal directly with the deadlock associated with the traditional controversy over humanitarian intervention are perhaps the most revolutionary aspects of its report. First, while reaffirming the UN Security Council as the supreme legitimate body to authorise military intervention, the report calls for the permanent members of the Council to make a prior commitment to using their veto power responsibly in respect to the passage of resolutions authorising military intervention in the context of R2P. More importantly, it proposed an authority structure for R2P that would see the UN General Assembly, as well as regional and sub-regional organizations assume responsibility for authorising military intervention for the purpose of protecting populations at risk in the event of a deadlock in the UNSC, albeit within the framework of the UN Charter.³

However, the R2P concept adopted by world leaders at the 2005 UN World Summit departs significantly from the ambitious framework proposed by the ICISS, reflecting lingering grey areas and contestations around the norm. In the first instance, contrary to the broad language of the ICISS report, paragraph 138 of the World Summit Outcome Document restricts the scope of situations that warrant international action for the purpose of protecting civilians to war crimes, crimes against humanity, genocide and ethnic cleansing. Moreover, while the initial concept called for international action when the state concerned is either unable or willing to protect its population from serious harm, the principle adopted by world leaders requires states to “manifestly fail” in their responsibility to protect their populations before the responsibility can pass over to the international community. What is more, the Outcome Document entrusts the responsibility to authorise military intervention for the protection of civilians exclusively in the UNSC, effectively disregarding the innovative recommendations of the ICISS intended to circumvent Security Council deadlock. Scholars such as Abbas have inferred from these provisions, as well as the lack of clarity on which actors are responsible for carrying out specific action, that in its current articulation R2P holds no significant value as far as the historical challenges to

² ICISS, 2001, p. xi.

³ ICISS, 2001, p. xiii.

humanitarian intervention are concerned.⁴ The argument here is that R2P does not create any new legal international obligation beyond what is enshrined in existing instruments requiring states to act against genocide, war crimes, crimes against humanity and ethnic cleansing. Similarly there is no evidence to suggest that it does offer an alternative decision-making process that is capable of overcoming the international inaction associated with Security Council deadlock. As Abbas correctly points out, in the absence of any meaningful contribution to overcoming the challenges and controversies around international intervention for humanitarian purposes, the significance of R2P lies primarily in its attempt to re-orient the discourse on the international obligation to protect civilian populations from serious harm away from the traditional focus on intervention to a new emphasis on prevention.⁵

The ICISS report underscores this priority when it argues that “prevention is the single most important dimension of the responsibility to protect”, calling for greater international commitment to prevent deadly conflicts that often degenerate into mass atrocities.⁶ As Bellamy argues, this emphasis is underpinned by a logic, which presupposes that “preventing atrocities saves lives, is less expensive than reaction and rebuilding, and raises fewer difficult questions about state sovereignty and non-interference”.⁷ Preventing mass atrocities, according to the ICISS, requires a renewed commitment to addressing both the root causes and immediate triggers of violent conflict. However, as the commission notes, these are areas in which the rhetoric of the international community has never been matched by concrete and concerted action, as evident in the many commitments to conflict prevention by the UN and regional organizations, which have not been successfully operationalised.⁸ Thus, even though the R2P consensus coming out of the World Summit also emphasised prevention as the core of the norm, including an international commitment to provide assistance to “states under stress” to enable them develop the capacity to protect their populations from mass atrocity crimes, a culture of prevention of mass atrocities is yet to emerge. The gap between rhetoric and action as far as the responsibility to prevent mass atrocities is concerned can be explained at different levels.

First, like the general conflict prevention agenda, preventing mass atrocities, especially when the focus is on addressing their root causes, requires a lot of resources and political will. However, as Bellamy notes, largely because of the difficulty in establishing a causal link between structural conditions and the outbreak of deadly conflict and mass atrocities, policy-makers have often shied away from making the vast political and financial commitment required for prevention measures. This is made worse by the fact that an effective and coherent policy to prevent violent conflict and mass atrocities would have to cover a wide range of political, social, economic, cultural and military areas. The second challenge to the prevention of mass atrocities stems from its conceptual link with the broader agenda of preventing armed conflict. Perhaps working on the assumption that armed conflicts are the breeding ground for mass atrocities, the ICISS report makes no distinction between measures to prevent mass atrocities and those to prevent armed conflict. Hence its

⁴ Tahira Mohamad Abbas, “The shifting discourse of the ‘Responsibility to Protect’”, e-international relations, 23 August 2012.

⁵ Ibid.

⁶ ICISS, 2001, p. xi.

⁷ Bellamy, 2011, p.1.

⁸ ICISS, 2001, pp. 19-20.

recommendation for the global community to do more in closing the gap between rhetorical support for the prevention of deadly conflict and other man-made catastrophe and tangible action.⁹ However, this simplistic conception of the relationship between armed conflict and mass atrocities has been problematized in a number of recent commentaries on R2P. For example, Bellamy¹⁰ and Stannes¹¹ have argued that although most mass atrocity crimes tend to be committed in the midst of armed conflict, there is evidence to suggest that some of these crimes can be committed outside the context of armed conflict. This view is echoed in the 2009 report of the UN Secretary-General on implementing R2P, which argued that although some of the previous mass atrocity crimes occurred in the context of on-going violent conflict, evidence suggests that some of the worst cases were not linked to armed conflict.¹² In other words, the relationship between R2P and armed conflict is quite complex. Thus, although atrocity prevention efforts can draw from already existing measures to prevent armed conflict, these tools need to be refined and targeted to the particular objective of preventing atrocities. This is because the incentives that encourage the deliberate targeting of civilians are not always the same as those driving armed conflict,¹³ and that conflict prevention measures can sometimes run counter to the goal of atrocity prevention.¹⁴ Moreover, as Gerber notes, the incentives driving mass atrocity crimes can be very difficult to isolate and understand because they are often rooted in broader political and economic interests.¹⁵ The difficulty to devise precise and coherent policy interventions from such complex and imprecise dynamics has contributed significantly to the emergence of a culture of prevention on R2P.

This is not to suggest that the prevention of mass atrocities is not a feasible enterprise, neither does this paper share Stannes' proposition that because of these and other challenges, the scope of preventive R2P should be limited to direct measures designed to avert looming mass atrocities, to the exclusion of so-called root cause or structural prevention measures.¹⁶ An effective atrocity prevention strategy must, however, be founded on two critical pillars. The first pillar constitutes developing the requisite capacity to analyse and understand the unique dynamics of the mass atrocity crimes that fall within the ambit of R2P, including the structural conditions that breed them, their triggers and enablers, as well as the incentives that drive perpetrators.¹⁷ The second pillar

⁹ ICISS, 2001, p. 19.

¹⁰ Bellamy, 2011.

¹¹ Stannes, 2010, p. 12.

¹² Ban Ki-Moon, "Implementing the Responsibility to Protect", Report of the UN Secretary-General to the General Assembly, 12 January 2009, par. 6.

¹³ Bellamy, 2011, p. 1; see also Rachel Gerber, "Prevention: Core to the Responsibility to Protect", e-international relations, 10 October 2011.

¹⁴ For example, the search for negative peace at all costs may actually create room for atrocity crimes. This was the case with the international preoccupation with safeguarding the Arusha Accords that allowed for genocide in Rwanda or the need to preserve the Comprehensive Peace Agreement which restrained the international community from deterring the Sudanese government from carrying out mass atrocities in Darfur. For more on this, see Bellamy, 2011, p.8.

¹⁵ Rachel Gerber, 2011.

¹⁶ Eli Stannes, "Operationalizing the Preventive Aspects of the Responsibility to Prevent", Norwegian Institute of International Affairs Report no. 1, 2008, p. 6.

¹⁷ See Gerber, 2011.

relates to incorporating what Bellamy refers to as an “atrocities prevention lens” into conflict prevention activities. This will ensure that policy interventions target specific atrocity risks and capacity gaps in a given context, are not oblivious to the possibility of peacetime atrocities, and are activated throughout all phases of a conflict, including after the outbreak of violence.¹⁸

In the context of the second pillar of R2P – that is, the responsibility of the international community to help states develop capacity to protect their populations from mass atrocities – which is the focus of this paper, it is also imperative to briefly examine the normative implications of the preventive aspects of R2P. As Stamnes reminds us, atrocity prevention and the broader conflict prevention agenda are not unintrusive and uncontroversial as they are sometimes made to be. In particular, because structural prevention, like peacebuilding, is not a value-free enterprise, it can be opened to the same accusations of neo-colonialism or neo-imperialism characteristic of military intervention. Similarly, in situations where states are the perpetrators or potential perpetrators of mass atrocities, the effectiveness of both root cause and direct prevention measures by external actors may be diluted by the gatekeeping role that the host state would obviously want to exercise.¹⁹ Although these normative considerations would normally present difficulties to the atrocity prevention activities of external actors generally, as elaborated below, they nonetheless also present opportunities for emerging powers to champion and shape the development of the preventive dimension of R2P by tactfully applying the principles of South-South cooperation to their atrocity prevention strategies.

Emerging powers and the responsibility to protect

Much of the debate on R2P and humanitarian intervention generally has been motivated by the need to bridge the historical gap between western powers, which have always had a strong inclination to intervene militarily in the internal affairs of other states and developing countries, which largely because of experiences with western colonialism and imperialism remain wary of any attempts to dilute the principles of non-interference and respect for national sovereignty. While in the past this debate has often been dominated by western powers, increasingly a number of leading states in the South, commonly referred to as emerging powers, have become influential in shaping global discourses and norms, including in the area of humanitarian intervention, thanks to newfound economic fortunes and political clout. There is no gainsaying therefore that the future development of R2P as a globally accepted norm depends to a significant extent on how these rising powers engage with and internalise the norm.

Traditionally, emerging powers, like the rest of the developing world, have been strong advocates against the use of coercive measures to influence political affairs in another state. Together with their reaction and positions on the crisis in Libya and Syria, this predisposition has often been interpreted to suggest that emerging powers are largely unresponsive to R2P and that their growing global influence represents a threat to the development of the norm. However, as Stuenkel points out, the positions of emerging powers on R2P are more nuanced than commonly assumed. He convincingly argues that emerging powers such as Brazil, India, China and South Africa, have generally bought into the idea that the international community cannot remain indifferent in the

¹⁸ Bellamy, 2011, p.1, 8-9.

¹⁹ Stamnes, 2010, pp. 17-21.

face of looming or on-going atrocities, although they continue to differ with the west on when and how the norm should be applied.²⁰ Stuenkel equally notes that emerging powers' support for pillars I and II of R2P is absolute, arguing, perhaps with a little bit of exaggeration, that “the majority of BRICS countries are actively involved in combating the root causes of genocide, war crimes, ethnic cleansing and crimes against humanity”.²¹

Sarah Teitt's analysis of China's engagement with the R2P principle resonates with the perspective above. She describes the Chinese government's attitude towards R2P as one of firm but cautious support for the norm, noting that while China remains “reticent to apply sanctions and objects to non-consensual force”, it has consistently reaffirmed the endorsement of R2P by the 2005 World Summit and also voted in favour of Security Council Resolution 1674, which strengthened the commitment made by world leaders in the World Summit Outcome Document to protect civilians in armed conflicts.²² This position, which combines a continued commitment to traditional values of sovereignty and non-interference on the one hand, and an enlightened view of china's international role on the other hand, is shaped by factors such as China's semi-colonial past, its growing economic interests abroad, the ever present potential for domestic political turmoil, as well as Beijing's increased consciousness of its global image.²³ Furthermore, China's approach to R2P prioritises the preventive aspects of the norm, which from a Chinese perspective would entail assisting states to develop the capacity to create conditions necessary to avert armed conflict.²⁴

South Africa's position and engagement with R2P is not much different from that of China, even if they are informed by slightly different considerations. Inspired by a history of discrimination and human rights abuses under apartheid, and founded on a constitution that guarantees the human rights of all, South Africa's post-apartheid foreign policy has always had a clearly articulated ethical dimension with the global promotion of human rights at its core, at least rhetorically. Thus, despite lingering anti-colonial and anti-imperial sentiments within the ruling elite, as Landsberg notes, South Africa has been an active advocate for R2P both in Africa and globally.²⁵ However, Pretoria's views and approach to operationalizing R2P have not always converged with those of western powers. Although not obstinately opposed to the use of military action, it has often warned against the dangers of over militarising and abusing R2P, and the use of other strong-arm tactics as a means of protecting civilians. Instead, South Africa prefers the use of subtle diplomatic engagements and multilateral channels, including prioritising the role of regional organisations, to win the consent and cooperation of states and other actors entangled in conflicts that put civilian lives at risk. Like China and other emerging powers, South Africa has repeatedly made a case for R2P to be grounded in efforts to address the root causes of conflict, defined in terms of socio-

²⁰ Olivier Stuenkel, “BRICS and the Future of R2P: Was Syria or Libya the exception?” *Global Responsibility to Protect*, 6 (2014), pp. 3-28.

²¹ Stuenkel, 2014, 23.

²² Sarah Teitt, “Assessing Polemics, Principles and Practices: China and the Responsibility to Protect”, *Global Responsibility to Protect*, 1 (2009), pp. 208, 215.

²³ See Kim Nackers, “Emerging powers and mass atrocities prevention – China”, The Nexus Fund, undated.

²⁴ Teitt, 2009, pp.217 – 218.

²⁵ Chris Landsberg, “Pax South Africana and the Responsibility to Protect”, *Global Responsibility to Protect*, 2 (2010), pp. 436 – 457.

economic underdevelopment, poverty, inequality and discrimination, as well as poor governance.²⁶ Even before the adoption of R2P, South Africa had, in 1998, introduced the concept of ‘developmental peacekeeping’ into the peacekeeping discourse to promote an approach to peacebuilding and conflict prevention that is directed at unlocking the potential of local capacities to deliver on human security needs in an efficient, democratic and sustainable manner.²⁷

Among the emerging powers, India has been described as the most sceptical when it comes to embracing R2P, owing to a strong non-interference culture associated with the country’s colonial past and “concerns that it may also become the target of external meddling”, considering that “parts of the country remain at risk of mass atrocities resulting from internal conflict and inter-communal violence”.²⁸ Even so, as with other emerging powers, there are indications to suggest that India’s stance on R2P has been evolving since 2005 when it strongly opposed R2P at the World Summit. While it continues to harbour suspicions over the intentions of western powers in the context of R2P, India has capitalised on its status as a key troop contributing country to UN peacekeeping operations to argue in favour of an approach to the protection of civilians that strengthens the peacekeeping mandate of the UN, through the deployment of well-resourced multidimensional peacekeeping missions that both protect civilians and strengthen the capacity of state institutions to assume this role.²⁹

The above synopsis suggests that emerging powers are generally supportive of the principle underpinning R2P, but remain very guarded when it comes to the implementation of pillar III of the norm for a variety of reasons. Moreover, emerging powers’ interpretation of R2P is almost always linked to the imperative for effective global partnerships to assist states develop the capacity to address the root causes of armed conflict and mass atrocities, as articulated in pillars I and II of R2P. However, operationalizing this preference has proven to be quite challenging and slow for at least two reasons. The first has to do with the difficulty to reconcile domestic economic interests with a foreign policy that prioritises conflict prevention and the promotion of human rights. Notwithstanding their remarkable economic performance, relative social progress and growing political clout on the world stage, most emerging powers have huge domestic socio-economic challenges, which often tend to define the direction of their foreign policy and international cooperation. In this context, engagement in conflict-affected or fragile states sometimes tends to be defined first and foremost by the promotion of economic and other strategic interests than by conflict prevention imperatives. Secondly, as both Landsberg and Stuenkel note, while emerging powers have rhetorically prioritised the preventive aspects of R2P over military interventions, they do not seem to have developed the capacity to match their words with action in this regard. This in itself is a reflection of domestic socio-economic and institutional challenges in these countries,

²⁶ Landsberg, 2010. See also Faith Mabera and Tim Dunne, “South Africa and the Responsibility to Protect”, AP R2P Brief, Vol.3 No.6 (2013).

²⁷ N. Madlala-Routledge & S. Liebenberg, “Developmental Peacekeeping: What are the advantages for Africa?” *African Security Review*, 13 (2), 2004, pp. 125-131.

²⁸ Naomi Kikoler, “Emerging powers and mass atrocity prevention – India”, The Nexus Fund, Undated, p.1.

²⁹ Ibid, p.4.

which continue to create a gap between their global leadership aspirations and the extent to which they have been able to live up to the responsibilities that come with such leadership.³⁰

Emerging powers and mass atrocity prevention in South Sudan

South Sudan is among a number of African countries that have not only been devastatingly affected by violent conflict but whose polity also remains very fragile, as a result of both the legacy of armed conflict and the failure of the new state's political elite to prioritise state and nation building over personal ambitions. The potential for such fragility to encourage mass atrocity crimes became evident during the recent political crisis when violence resulting from simmering tensions between President Salva Kiir and his erstwhile deputy Riek Machar quickly degenerated into the targeting killings of civilians in some parts of the country. As a number of observers have noted, although the ongoing crisis in South Sudan was triggered by power struggle within the ruling SPLM, it quickly took on an atrocious dimension because it fed off of a society that has not been at peace with itself for a long time. Historical personal, ethnic and regional grievances, which had remained unresolved, mean that the South Sudanese society continues to be defined by a deep culture of revenge, with individuals and groups waiting for the least opportunity to settle past scores. This is made worse by a lingering culture of violence, high levels of illiteracy, unemployment and the widespread presence of small arms and light weapons in the South Sudanese society. Of course, the inability of the South Sudanese leadership to steer the country through these many minefields that constitute the legacy of years of liberation struggle is also a central factor in bringing about the current state of affairs in the country.³¹ In this context, external assistance, under pillar II of R2P, becomes very critical in strengthening the capacity of the South Sudanese state to protect its citizens from mass atrocity crimes. We will now proceed to review the assistance of three emerging powers with diplomatic presence in South Sudan, namely South Africa, China and India.

South Africa

Among emerging powers with an active diplomatic presence in South Sudan, South Africa perhaps carries the most expectations to play a leading role in assisting South Sudan develop the capacity to prevent armed conflict and mass atrocities, not least because of its avowed Africa-focus foreign policy, which also has the prevention of conflicts on the continent as one of its priorities. As noted above, post-apartheid South Africa's foreign policy has also rhetorically prioritised the promotion of human rights on the continent and globally. South Africa's relations with South Sudan are rooted in the historical solidarity between the African National Congress (ANC) and the Sudan People's Liberation Movement/Army (SPLM/A), which was forged during the liberation struggles in both countries. Given that the ANC and the SPLM/A share similar experiences in shaking off the yoke of discrimination and marginalisation, South Africa is also believed to be in a better

³⁰ See Landsberg, 2010, p. 457. See also Stuenkel, 2014, pp. 25-26.

³¹ Information in this section was obtained from interviews conducted in Juba in August 2014 with a number of individuals in the academia, government and civil society. For more on the dynamics of the crisis in South Sudan, see The Sudd Institute, "South Sudan Crisis: Its Drivers, Key Players and Post-conflict Prospects", Sudd Institute Special Report, 3 August 2014.

position to appreciate the local dynamics in South Sudan than most other external actors would, while also having access to the political elite in South Sudan.

The South African government has had an active engagement in what is today South Sudan since the signing of the Comprehensive Peace Agreement (CPA) in 2005, when the country was still a semi-autonomous region within Sudan. South Africa's bilateral cooperation with southern Sudan and now South Sudan has focused primarily on assisting the country develop its governance capacity for long-term development and peacebuilding. This bilateral engagement has evolved in tandem with, and partly flows from South Africa's role as chair of the African Union (AU) ministerial committee on post-conflict reconstruction and development in Sudan established in 2003. Within this bilateral and multilateral framework, South Africa has trained more than 1,600 officials from the Government of South Sudan in such areas as police, diplomacy, public service, justice, education, mineral affairs and correctional service.³² A number of South African government departments, agencies and institutions of higher learning have contributed to this effort, which at times took the form of trilateral partnerships with western donors such as Norway.³³ South Africa also currently contributes police personnel to the UN peacekeeping mission in South Sudan or UNMISS, which was launched after independence in 2011.³⁴ South Africa's disposition to assist southern/South Sudan develop into a viable state with the capacity to mitigate conflicts within its borders and prevent them from escalating into violence has also found expression in attempts at bilateral cooperation between the ANC and the SPLM/A. Both parties signed a Memorandum of Understanding (MOU) in 2009 in which they pledged to leverage their common historical experiences to develop a framework for transforming the two parties into viable, accountable and democratic movements.³⁵

As pointed out above, South Africa's understanding of R2P links the concept to the broader processes of conflict prevention, conflict resolution, peacekeeping, peacebuilding and post-conflict reconstruction and development, especially as they apply to Africa. Therefore, although it has hardly made any direct reference to R2P, in supporting South Sudan develop its governance capacity and working towards creating conditions for lasting peace and development in the country, South Africa's engagement could be construed as a contribution to the root cause prevention of violent conflict and mass atrocities in South Sudan. However, as illustrated above, there are significant weaknesses in this approach, which takes for granted the relationship between mass atrocities and armed conflict, and therefore assumes that measures deployed to address the latter are always sufficient to prevent the former. What is more, South Africa's engagement in South Sudan suggests that even its rhetorical commitment to the broader agenda of conflict prevention and peacebuilding in Africa, which, although limited, could contribute to the mitigation of certain

³² DIRCO, "Mr Ramaphosa visits South Sudan", South Africa Department of International Relations and cooperation, 5 March 2014.

³³ Cheryl Hendricks and Amanda Lucey, "South Africa and South Sudan: Lessons for post-conflict development and peacebuilding partnerships", ISS Policy Brief 49, December 2013, p. 3.

³⁴ UNMISS Facts and Figures, <http://www.un.org/en/peacekeeping/missions/unmiss/facts.shtml>

³⁵ John Stephen, "SPLM and ANC Sign Memorandum of Understanding", Gurtong, 27 October 2009.

risk factors associated with mass atrocities, has not always translated into tangible and effective action. A recent report by the Pretoria-based Institute for Security Studies (ISS) argues that South Africa's post-conflict development and peacebuilding in South Sudan has not been informed by any overarching policy and strategy, with most interventions lacking coherence and sustainability.³⁶ At the heart of this problem is a chronic capacity challenge, which stems mainly from a combination of an overstretched engagement on the continent and a dwindling economic resource base.³⁷ It is not surprising therefore that South Africa cannot boast of an efficient institutional capacity to give strategic direction to its conflict prevention agenda in Africa, let alone mainstream mass atrocity prevention in the operationalization of this agenda in high risk countries like South Sudan.

Additionally, over the years South Africa's struggling economy has been unable to meet the growing social demands of the majority of its historically marginalised black population. This has generated conflict over scarce resources between an ethical foreign policy that prioritises conflict prevention and the advancement of democracy and human rights in Africa on the one hand, and the imperative to use the country's diplomatic engagements to promote its domestic economic interests on the other hand. The change in administration from Thabo Mbeki to Jacob Zuma in 2008/2009 tilted the balance in favour of the latter priority, and perhaps no other relationship exemplifies the de-prioritisation of conflict prevention in South Africa's Africa policy than its bilateral cooperation with South Sudan. Despite its active engagement in southern Sudan in the early period after the signing of the CPA, South Africa never seized the opportunity of South Sudan's independence to consolidate its conflict prevention and peacebuilding activities in the country. South Africa only signed a General Cooperation Agreement with South Sudan in April 2013, two years after the latter became an independent state. Incidentally, this agreement was signed only a few months before simmering political tensions within the ruling SPLM/A took on a violent turn and exploited unaddressed divisions, grievances and hatred within the South Sudanese society, resulting in targeted killings of civilians in parts of the country. It is worth noting that the social and governance risks that are believed to have encouraged the massacres in Bentiu and other parts of South Sudan were the target of recommendations made at a policy discussion forum at South Africa's Department of International Relations and Cooperation (DIRCO) in the wake of South Sudan's successful referendum in 2011. Co-hosted by DIRCO's Policy Research and Analysis Unit (PRAU), the Institute for Global Dialogue (IGD) and the Africa Institute of South Africa (AISA) with the objective to inform South Africa's engagement with the imminent state of South Sudan, the forum identified lingering insecurity and divisions in South Sudan and weak institutional capacity in the new polity as among the critical risk factors that could undermine peace, stability and development in South Sudan. The South African government was therefore advised to reinforce its capacity building interventions in South Sudan while also giving attention to issues of healing, social dialogue and reconciliation as part of nation-building measures. South Africa's

³⁶ See Hendricks and Lucey, 2013. This assessment was echoed at a roundtable discussion hosted by the author in partnership with the Sudd Institute in Juba on 30 August 2014 where some participants argued that South Africa's capacity building initiatives have had very little impact on the targeted sectors.

³⁷ See recent commentary on South Africa's medium-term budget policy statement, Peter Fabricius, "Nene fails to put his money where Zuma's mouth is", ISS Today, 23 October 2014.

subsequent engagement with South Sudan has been a far cry from the recommendations that came of this forum for the reasons outlined earlier.

China

As with South Africa, China has been actively engaged in South Sudan, using its bilateral cooperation and multilateral channels such as the UN to contribute to the latter's post-conflict reconstruction and peacebuilding efforts. However, unlike South Africa, China is seen to be, directly or indirectly, part of the problem in South Sudan as much as it would wish to be part of the solution.³⁸ China's relations with South Sudan are inextricably linked to its historical interests in Sudan's oil sector, which saw it provide political, economic, military and diplomatic support to the government in Khartoum, often at the expense of Sudan's peripheries, including the then southern Sudan. It was only after the signing of the CPA and the growing prospects of southern Sudan's independence that China started paying close attention to this region, which is home to most of Sudan's oil fields. China established formal diplomatic relations with South Sudan on the same day that the latter declared its independence. Since then, China has provided financial, economic, technical, infrastructural and capacity building assistance to South Sudan, within the framework of what it considers "mutually beneficial cooperation" and in line with its philosophy that preventing conflicts—and the atrocities that sometimes flow from them, and building sustainable peace—is dependent first and foremost on creating conditions for socio-economic development.³⁹ As Xue Lei argues, this thinking has also informed Beijing's active and evolving peacekeeping role in Sudan and South Sudan. For example, until recently, China has deployed largely non-combatant troops to UNMISS, which are believed to have contributed to the mission's initial peacebuilding and statebuilding mandate through economic and social reconstruction projects for local communities.⁴⁰ However, China recently resolved to deploy combatant troops as part of a bolstered UNMISS force after the outbreak of violence in December 2013. While this deployment conforms with UNMISS's new mandate of protecting civilians, explicit reference to the protection of foreign nationals and oil installations in the UNSC resolution has led to accusations that China is simply using the UN to protect its economic interests in South Sudan.⁴¹ China has uncharacteristically also played an active diplomatic role in defusing tensions between Sudan and South Sudan over outstanding CPA issues, and recently in the search for peace in South Sudan, albeit with a close eye on its economic interests in the region.

Notwithstanding the contributions outlined above, Beijing's commitment to conflict prevention and the protection of civilians from serious human rights violations in South Sudan is not without its critics. China's relations with Sudan and South Sudan is seen to be largely driven by the imperative to promote and protect its economic interests, expressed mostly in massive investment

³⁸ Personal interview with academics at the University of Juba, August 2014.

³⁹ Information obtained from the official website of Chinese embassy in Juba, as well as email conversation with official in the embassy. Efforts to meet with officials at the Chinese embassy in Juba were unsuccessful.

⁴⁰ Xue Lei, "China's Role in Sudan and South Sudan Peacekeeping Operations", *Global Review*, pp. 12-14.

⁴¹ See, for example, Colum Lynch, "UN peacekeepers to protect China's oil interests in South Sudan", *The Cable*, 16 June 2014.

in the oil sector that straddles both countries. Critics argue that China's historical support to the government in Khartoum was a contributing factor to the marginalisation and underdevelopment of southern Sudan and other regions of the country, fuelling armed conflict and the massacre of civilians in places like Darfur, Southern Kordofan and Blue Nile.⁴² Some see a replication of this trend in South Sudan, making a connection between Chinese political, economic and military support to the authorities in Juba and allegations of corruption, dictatorship, mismanagement and marginalisation that underpin the current crisis.⁴³ More specifically, the operations of some Chinese oil companies are believed to be having adverse socio-economic and environmental impact on local communities in oil-rich states like Unity and Upper, a dynamic that has contributed to stoking grievances and sentiments of injustice and marginalisation against the government in Juba.⁴⁴

India

India's role in conflict/atrocity prevention in South Sudan mirrors that of China to a significant extent, except that it has not attracted as much controversy as China's. Like China, energy security is a top priority in India's bilateral cooperation with South Sudan, having made substantial investment in the hydrocarbon sector in the country. As noted above, India subscribes to an approach to peacebuilding and conflict prevention that focuses on assisting vulnerable states build the institutional capacity to assume primary responsibility for protecting their populations and creating conditions for inclusive economic development and social harmony. In this regard, India has supported capacity building and infrastructure development projects in South Sudan, while also offering concessional lines of credit to the South Sudanese government for undertaking sustainable development projects as per its socio-economic priorities.⁴⁵ India's greatest contribution to the protection of civilians in South Sudan has perhaps been in the area of peacekeeping. It currently deploys more than 2000 troops as part of UNMISS, and its soldiers, some of whom were killed, have been credited, along with their counterparts from Nepal and Bangladesh, for preventing more casualties when the rebel forces attacked civilians taking shelter at a UN base in Jonglei state in December 2013. It should also be noted that although China has received the brunt of the criticism over the conflict-inducing effect of oil extraction in South Sudan, such criticisms apply equally to India considering that China's stakes in South Sudan's oil sector are part of a consortium involving India's state-owned oil and gas corporation.

Concluding reflections and policy recommendations

A number of trends are discernible from the preceding overview of the role of selected emerging powers in conflict/atrocity prevention in South Sudan. Among these is the observation that whereas emerging powers appear to share a common orientation on the discourse around R2P (reservations over military intervention, strong preference for preventive measures, linking prevention to strong state capacity and inclusive socio-economic development) there is little

⁴² Personal interview with academics at the University of Juba, August 2014.

⁴³ *ibid.*

⁴⁴ Personal interview with researcher at SaferWorld offices in Juba, August 2014.

⁴⁵ Information obtained from the official website of the Indian embassy in Juba. Efforts to meet with officials at the Indian embassy in Juba were unsuccessful.

uniformity on how they go about operationalizing this commitment. To a large extent, this diverse experience is a function of differing national interests, which shape priorities as well as the nature and scope of engagement. Thus, because South Africa sees peace and stability in its African neighbourhood as having a direct bearing on its own national security, it is the only country among the three whose bilateral cooperation with South Sudan is rooted in a clearly stated peacebuilding and conflict prevention mandate, which comes from both the AU and South Africa's own foreign policy, as expressed in the so-called African Agenda. To the extent that China and India have demonstrated interest in preventing armed conflict and promoting sustainable peace in their bilateral relations with South Sudan, this disposition is strongly linked to the protection of their economic interests in the country, which sometimes have to compete with conflict/atrocities prevention objectives. However, the experience of South Africa also demonstrates that as far as the agenda of conflict/atrocities prevention is concerned, noble intentions do not always translate to the capacity and political commitment to make a difference, as other domestic priorities could attract more attention.

Another point that is worth highlighting is the observation that despite the prevalence of mass atrocities risks in the South Sudanese society, none of the emerging powers studied has framed any of their conflict prevention activities in the country within R2P or even made reference to the concept. This could mean one of two things or both. From a political standpoint, it could be an indication of lingering hesitations to fully embrace the concept as an international norm as a result of its continued association predominantly with military intervention and western interference. In this case, avoiding the R2P label while still working towards its objectives could be a way of avoiding to be seen to give legitimacy to a concept whose interpretation remains a subject of international controversy. The absence of the R2P label from the vocabulary of emerging powers in their bilateral cooperation with South Sudan could plausibly also speak to wider technical/institutional capacity challenges. Most of these countries continue to face severe constraints on their institutional systems, which make the pursuit of coherent, coordinated and sustained international cooperation highly challenging. In this context, mainstreaming atrocities prevention in broader conflict prevention and peacebuilding strategies is a luxury and the idea that atrocities prevention and the prevention of armed conflict are two sides of the same coin becomes the default position that directs action. It must however be underscored that this observation is not unique to emerging powers but reflects a fundamental challenge to making the transition from rhetoric to action in atrocities prevention, which stems largely from the complexity of the dynamics involved. As Jason Ralph points out, even western countries like the United Kingdom with well-established institutional systems have until now only paid lip service to the mainstreaming of atrocities prevention in their general conflict prevention agenda.⁴⁶

It goes without saying that if emerging powers lack the institutional capacity to deploy well-targeted long-term preventive tools to address atrocities risk factors embedded in the socio-economic and political structures of vulnerable states, they are even less equipped to prevent atrocities in the course of escalating violence, which requires even more incisive analysis, sustained monitoring of the situation and targeted preventive measures. However, the example of South Sudan suggests that emerging powers can bring valuable political leverage to the preventive enterprise in fragile

⁴⁶ Jason Ralph, "Mainstreaming the Responsibility to Protect in UK Strategy", United Nations Association – UK, Briefing No. 2, April 2014, pp. 12-21.

states with which they have good bilateral relations, in the form of access to and influence on conflict parties or potential perpetrators, which, together with the technical capacities of other actors, can make a significant difference in de-escalating armed conflict and averting mass atrocities. This then underscores the need for a focus on partnerships in the atrocity prevention agenda, which build on the relative strengths and capacities of a variety of international actors.

If the case of South Sudan is anything to go by, it is safe to conclude that while speaking favourably of the preventive aspects of R2P, emerging powers are yet to muster the political will and institutional capacity to become proactive actors in the prevention of mass atrocities in their bilateral cooperation with fragile and conflict-affected states, although this offers a significant opportunity for them to shape the global discourse on the protection of civilian populations from mass atrocities. This assessment must however be put into perspective to give due recognition to the myriad contributions of emerging powers, through bilateral and multilateral channels, to the broader conflict prevention and peacebuilding agenda, which speak to a latent potential that just needs to be harnessed for effective atrocity prevention. It should also be qualified with the observation that the art of preventing mass atrocities is as much a challenge for western powers as it is for emerging powers.

Going forward, what is recommended is a graduated approach that takes into account these constraints but still commits emerging powers to be proactively engaged in mass atrocity prevention. More than anything else, this should entail a commitment to adhering to the principles of ‘do no harm’ and conflict-sensitive development in their bilateral cooperation with conflict-affected states and other countries at risk of mass atrocities. In other words, if emerging powers cannot be actively involved in the search of solutions they should at least avoid being part of the problem or aggravating it. Future atrocity prevention efforts should also be built around the recognition of the comparative advantages that emerging powers have when it comes to engaging with the political elite in conflict-affected countries, bearing in mind that most of these states are concentrated in the developing world where historical bonds of solidarity make emerging powers more acceptable as intermediaries than western countries. In an enterprise characterised by a lot of political sensitivities, constructive partnerships between emerging powers (who bring political access and influence) and western powers (with comparatively strong institutional capacity and other resources) could make a significant difference in preventing mass atrocities. Such partnerships could also be built around supporting emerging powers develop the requisite institutional capacity to be able to successfully mainstream atrocity prevention in their development cooperation programs. Atrocity prevention partnerships could also benefit from the comparative advantage that civil society organizations bring to the enterprise as early warning agents. However, in the context of Africa, tapping into this agency would require a reconfiguration of relations between governments and civil society organizations away from the current adversarial posture to one of constructive engagement.

Finally, entrenching a culture of mass atrocity prevention will also benefit from improved public conversations on the agenda, both in conflict-affected states and in those developing countries considered to be emerging powers. Currently this public debate is virtually absent, contributing to the de-prioritisation of the atrocity prevention agenda in official policies and discourses. Encouraging domestic and transnational dialogues on the subject among societies in the developing world, and between publics in the developing world and those in developed countries would go a

long way to making atrocity prevention a central consideration in the foreign policies of both emerging and established powers. Think tanks, universities, NGOs, CBOs and faith-based organisations, all have a critical role to play in this regard.

About Sudd Institute

The Sudd Institute is an independent research organization that conducts and facilitates policy relevant research and training to inform public policy and practice, to create opportunities for discussion and debate, and to improve analytical capacity in South Sudan. The Sudd Institute's intention is to significantly improve the quality, impact, and accountability of local, national, and international policy- and decision-making in South Sudan in order to promote a more peaceful, just and prosperous society.

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