Stop Mass Atrocities

Advancing EU Cooperation with Other International Organizations

IAI RESEARCH PAPERS

Edited by
Luis Peral and Nicoletta Pirozzi

Edizioni Nuova Cultura

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List of Abbreviations

AAR	Air-to-Air Refueling
ACHR	Arab Court of Human Rights
AICHR	ASEAN Intergovernmental Commission on Human Rights
AIPR	ASEAN Institute for Peace and Reconciliation
AL	Arab League
AMIS	African Union Mission in Sudan
AMISEC	African Union Mission for Support to the Elections in the Comoros
AMISOM	African Union Mission in Somalia
AMM	Aceh Monitoring Mission
APSC	ASEAN Political-Security Community
APSC	Arab Peace and Security Council
ASEAN	Association of South-East Asian Nations
ASF	African Stand-by Force
AU	African Union
BRICS	Brazil Russia India China South Africa
CEN-SAD	Community of Sahel-Saharan States
CEWS	Continental Early Warning System
CoE	Council of Europe
COMESA	Common Market for Eastern and Southern Africa
COREPER	Comité des Représentants Permanents
CPC	Conflict Prevention Centre (OSCE)
DDR	Disarmament, Demobilizations and Reintegration
EAC	East African Community

ECCAS	Economic Community of Central African States
ECFR	European Council on Foreign Relations
ECHR	European Convention on Human Rights
ECOWAS	Economic Community of West African States
E/CSDP	European/Common Security and Defence Policy
EDA	European Defence Agency
EEAS	European External Action Service
ENP	European Neighbourhood Policy
EU	European Union
EUFOR ALTHEA	European Union Force in Bosnia and Herzegovina
EU HR/VP	High Representative of the Union for Foreign Affairs and Security Policy/Vice President of the European Commission
EULEX Kosovo	European Union Rule of Law Mission in Kosovo
EUMM	European Union Monitoring Mission in Georgia
EUMS	European Union Military Staff
EUNAVFOR ATALANTA	European Union Naval Force in Somalia
EUPM BiH	European Union Police Mission in Bosnia and Herzegovina
EUPOL Afghanistan	European Union Police Mission in Afghanistan
EUPOL COPPS	European Union Police Mission for the Palestinian Territories
EUSEC RD Congo	European Union Security Sector Reform Mission in the Democratic Republic of the Congo
FARC	Fuerzas Armadas Revolucionarias de Colombia
HCNM	High Commissioner on National Minorities
ICC	International Criminal Court
ICHR	Inter-American Commission of Human Rights
ICISS	International Commission on Intervention and State Sovereignty

IDPs	Internally Displaced Persons
IGAD	Intergovernmental Authority on Development
IOs	International Organizations
ISR	Intelligence, Surveillance and Reconnaissance
LAS	League of Arab States
MAPP	Mision de Apoyo al Proceso de Paz in Colombia
MICIVIH	International Civilian Mission in Haiti (OAS/UN)
MICOPAX	Mission for the Consolidation of Peace in the Central African Republic
MINUSTAH	Mission des Nations Unies pour la Stabilisation en Haïti
NAC	North Atlantic Council
NATO	North Atlantic Treaty Organization
NCPs	New Co-operation Priorities
NGO	Non-Governmental Organization
NHRIs	National Human Rights Institutions (ASEAN)
OAS	Organization of American States
OSCE	Organization for Security and Co-operation in Europe
PACE	Parliamentary Assembly of the Council of Europe
PoW	Panel of the Wise
PSC	Political and Security Committee (EU)
PSOs	Peace Support Operations
RECs	Regional Economic Communities
RoL	Rule of Law
R2P	Responsibility to Protect
RWP	Responsibility While Protecting
SADC	Southern African Development Community
SAPEM	Sistema de Análisis Político y Escenarios Múltiples
SSR	Security Sector Reform
UN	United Nations

UNAMID	United Nations-African Union Mission in Darfur
UNGA	United Nations General Assembly
UNMIK	United Nations Interim Administration Mission in Kosovo
UNOMIG	United Nations Observer Mission in Georgia
UNRCCA	United Nations Regional Center for Preventive Diplomacy in Central Asia
UNSC	United Nations Security Council
UNSCR	United Nations Security Council's Resolution
UNSMIL	United Nations Support Mission in Libya
UNSMIS	United Nations Supervision Mission in Syria
US	United States

Introduction

Luis Peral and Nicoletta Pirozzi

Gross and large scale violations of human rights which may be attributed to a State have been recognized as the most serious breaches of fundamental obligations affecting the international community as a whole; and the Rome Statute, adopted in 1998 and which entered into force in 2002, has established that the International Criminal Court has jurisdiction over atrocity crimes such as genocide, war crimes and crimes against humanity. Both States and individuals may thus be held accountable for these ominous acts, but the international responsibility of States and International Criminal Law are *ex post facto* mechanisms which do not satisfy the rights of victims. As an indispensable component of the underlying norm, the responsibility to protect (R2P), a principle allowing for the effective protection of potential victims from such crimes, was endorsed by all members of the international community in the 2005 United Nations World Summit Outcome Document. While the R2P concept was presented in a report of the Canadian-sponsored International Commission on Intervention and State Sovereignty (ICISS) in 2001 as a possibility for coercive intervention to protect populations at risk in the case that no decision is adopted by the UN Security Council, the World Summit Outcome Document broadened its scope to include preventive measures, and made explicit reference to the need for Security Council authorization as regards any eventual recourse to force in order to put an end to such massacres.[1]

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[1] Paragraphs 138-139 of the *World Summit Outcome Document* identifies the following three pillars of the Responsibility to Protect: (1) Each individual State has primary responsibility for the protection of its population from genocide, war crimes, crimes against humanity and ethnic cleansing, and is also responsible for preventing these crimes; (2) The international community should encourage or assist States to exercise this responsibility; (3) The international community has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means to help protect popula-

This new development of the norm has not been confined to the framework of the United Nations (UN), but has also led to a series of re-forms in the main regional organizations. At the same time, both the interpretation and the implementation of the R2P norm and humanitarian intervention remain differentiated within the international community, with disagreement made explicit by some of the BRICS States (namely Brazil, Russia, India, China and South Africa) as regards the way in which a group of Western States under the North Atlantic Treaty Organization (NATO) umbrella implemented R2P in Libya.

In its 2008 Report on the Implementation of the European Security Strategy,[2] the European Union (EU) specified that "sovereign governments must take responsibility for the consequences of their actions and hold a shared responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity".[3] Indeed, the EU consolidated a relationship with the UN covering most aspects of preventive measures and potential responses to situations of mass atrocities long before the R2P concept was incorporated into official UN documents. The EU has also offered support in different ways to the African Union Peace and Security Architecture, which is significantly oriented to the prevention and halting of mass atrocities; and it has traditionally co-operated with NATO, although on an *ad hoc* basis, as well as with the Organization for Security and Co-operation in Europe (OSCE) – but not so much with the Council of Europe – on, respectively, the military and civilian dimensions of the response. Such *acquis* has, however, not always been consistent, and is currently at risk due to the financial and political crisis that the EU has experienced over the last few years, but it

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tions threatened by these crimes. When a State manifestly fails in its protection responsibilities, and peaceful means are inadequate, the international community must take stronger measures, including the collective use of force authorized by the Security Council under Chapter VII.

[2] *Report on the Implementation of the European Security Strategy. Providing Security in a Changing World*, S407/08, Brussels, 11 December 2008.

[3] A complete review of the existing tools of the European Union for the prevention of mass atrocities and recommendations to optimize timely and adequate responses to emerging threats of mass atrocities are contained in *The EU and the Prevention of Mass Atrocities – An Assessment of Strengths and Weaknesses*, forthcoming.

still constitutes the most notable performance by a regional organization in this field.

There have been, however, fewer attempts on the part of the EU to work together with other international actors as regards the prevention of mass atrocities and R2P, particularly when it comes to the third pillar.[4] There is thus scope for horizontal cooperation in this sense, especially considering that certain countries are becoming indispensable actors in a new global context and that some regional organizations are proving increasingly active in different aspects of R2P.[5] Although a few non-EU countries have taken part in different EU operations in the framework of the European/Common Security and Defence Policy (E/CSDP),[6] such contributions have been scarce and restricted to crisis management. Recent important developments at Association of South East Asian Nations (ASEAN) and the reform process initiated by the Arab League as a result of the Arab democratic wave offer new opportunities of cooperation which have not been sufficiently explored. As to EU cooperation with non-EU countries, it is sufficient to say that the ten Strategic Partnerships[7] have not yet represented any advance in this field.

The present report has been conceived as a kind of mapping exercise of the EU's ongoing and potential cooperation with other international

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[4] See footnote 1 for the three pillars of R2P.

[5] Examples of regional organizations' involvement in R2P-related cases, which would have allowed or allow for closer cooperation with the EU, are the Organization for American States in Haiti in the aftermath of the 1991 coup d'état or, currently, the Gulf Cooperation Council in Yemen.

[6] As for 2011, twelve non-EU countries (Albania, Canada, Chile, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Norway, New Zealand, Switzerland, Turkey, Ukraine and the US) participated in seven of the ongoing EU missions (EUFOR ALTHEA, EULEX Kosovo, EUPM BiH, EUPOL COPPS, EUPOL Afghanistan, EUNAVFOR ATALANTA, EUSEC RD Congo). See Council of the European Union, *Main Aspects and basic choices of the CFSP (point G, paragraph 43 of the Interinstitutional Agreement of 17 May 2006) – 2011. Annual Report of the High Representative of the European Union for Foreign Affairs and Security Policy to the European Parliament*, 14605/1/12 REV 1, Brussels, 9 October 2012.

[7] The EU's ten Strategic Partnerships are with the United States, Canada, Japan, Brazil, Russia, India, China, South Africa, Mexico and South Korea. For further reference to the approach of the EU's strategic partners to R2P, see the Annex.

organizations to prevent and halt mass atrocities.[8] It is a collective exercise not only because it has been undertaken by a group of experts, but also due to the fact that a common framework of analysis has been devised so that the report is as consistent and comprehensive as possible. For the purpose of our analysis, we referred to an inclusive framework of activities implemented by the EU and other relevant actors for the prevention of mass atrocities and R2P: these include not only early warning, diplomatic initiatives, targeted sanctions, civilian and/or military missions, peacebuilding, but also transitional justice and the fight against organized crime, even though they does not fall under the traditional notion of the R2P. The mapping results from the identification of all relevant international organizations (IOs) with which the EU has or should have cooperated, namely the UN, NATO, OSCE, the Council of Europe (CoE), the African Union (AU), the League of Arab States (LAS), ASEAN and the Organization of American States (OAS). The aim of the report is to assess both best practices and gaps, including areas that have not been explored or in which there is scope for improvement, in order to make policy recommendations which are relevant not only to the EU but also to each of the IOs already or potentially working with the EU to prevent and/or halt mass atrocities. The general assumption of the report is that the EU will advance cooperation with other IOs whenever possible in order to fulfill its own commitment to R2P, which entails forging or strengthening consensus with other member states of the international community, starting with the Strategic Partners.

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[8] This research has been undertaken in parallel to, and in coordination with, the activities of the Task Force on EU Prevention of Mass Atrocities, launched in January 2012 by the Foundation for the International Prevention of Genocide and Mass Atrocities (http://www.massatrocitiestaskforce.eu).

I

EU-UN Cooperation: from Safe Altruism to Reluctant Pragmatism

1.
EU-UN Cooperation: from Safe Altruism to Reluctant Pragmatism

Richard Gowan

The wars in Libya and Syria have demonstrated both the importance of the UN to European security, and the difficulties of working through the UN in a period of significant power tensions. The crises have also underlined the power of R2P in debates at the UN and the EU, while highlighting corrosive and unresolved differences over how to implement the norm. The UN has played a doubly important role in the evolution of R2P over the last decade. It has provided the primary framework for *political* discussions of R2P, both in conceptual terms and in response to specific crises. The 2005 World Summit agreed that the international community could act forcefully in response to genocide, mass atrocities, ethnic cleansing and crimes against humanity, but stipulated that collective action must be "through the Security Council". The Summit urged the General Assembly to "continue consideration" of R2P, creating the basis for yearly debates on the principle. These debates have not always been constructive, but have arguably contributed to a consolidation of support for R2P.

In *operational* terms, meanwhile, UN mediators, peacekeepers and experts on post-conflict reconstruction have made a major contribution to protecting civilian populations from mass violence. The protection of civilians has become a priority for peacekeeping operations – and there are now about 100,000 UN peacekeepers worldwide. In cases from Guinea to Kyrgyzstan, UN officials have intervened to ensure that outbreaks of violence have not escalated into far worse mass atrocities.

European governments and European institutions have both advocated for R2P at the UN, and supported UN operations in the field. The European Consensus for Development, signed in 2005, makes a direct

reference to R2P, and the European Parliament has frequently cited the concept in resolutions, especially with reference to Darfur. More broadly, the EU has invested heavily in conflict prevention, with a particular focus on security sector reform (SSR) and building up the rule of law in weak states. Although these efforts are not explicitly tied to R2P, they are potential contributions to long-term atrocity prevention. In many cases, such as the Democratic Republic of Congo and Guinea-Bissau, EU-flagged SSR and RoL initiatives have been launched alongside larger UN peacekeeping and peacebuilding missions. Although inter-institutional cooperation is not always smooth (EU and UN regulations do not always fit together easily), the institutions serve shared strategic goals.

European strategists have often seen working with the UN as an altruistic enterprise with limited connections to current security challenges in their neighborhood. But the outbreak of violence in Libya and Syria in 2011 and 2012 respectively has upset this assumption. Civilians have faced atrocities within a few hundred miles of EU Member States, bringing back memories of the Balkan wars.

The UN had a central role in the European response to both crises – and the duty to protect innocent civilian lives has played a major role in European decision-making. This has aroused controversy. There have been criticisms of the implementation of R2P in Libya, where NATO's intervention to protect the population arguably led to regime change (there was also criticism concerning the fact that no boots on the ground implied civilian casualties). Conversely, European powers' efforts to deal with the Syrian situation through the Security Council have proved ineffectual, as China and Russia have blocked action, although NATO discarded the possibility of intervention when the Syrian regime started cracking down on peaceful protestors.

European powers can act both to reinforce R2P as a political norm at the UN, and to strengthen the UN's operational capacities to protect civilians on the ground. These investments are necessary not only because R2P is an important principle *per se*, but because the UN may play an even greater role in European security in future.

1.1. The EU, UN and R2P before Libya: selective engagement?

Prior to 2011, the Member States of the European Union had made strong commitments to both the UN as an institution and R2P as an idea. However, most perceived the UN as a security actor in crises far beyond Europe's immediate periphery, whether in the slums of Haiti or the deserts of Darfur. The UN's residual role in European security (in Kosovo and Cyprus) was seen as an anachronism, and to some extent an embarrassment. A 2010 survey of European security analysts by the European Council on Foreign Relations (ECFR) found that 40% rated NATO the most important organization for European security and 33% the EU, while 27% rated the two bodies equally highly.[1] 0% believed that the UN was the most important.

Similarly, R2P has typically been viewed as an important principle, but one primarily to be implemented far beyond Europe's borders. The mandate for the EULEX mission in Kosovo, launched in 2008, refers to the R2P. But in the decade prior to the Libyan war, threats of mass slaughter and ethnic cleansing typically emerged in far-away places such as the Eastern Democratic Republic of Congo, Sri Lanka or Kyrgyzstan.

The EU's Member States have, however, taken such crises seriously. In 2003 and 2006, for example, the Union sent military forces to the Congo, namely Artemis and EUFOR RD Congo, which were authorized respectively by UN Security Council Resolutions 1484 (2003) and 1671 (2006). The first quelled an outbreak of disorder in the east of the country, while the second acted as a deterrent against disorder, primarily in the capital Kinshasa, during elections. Both these forces were, specifically designed to back up the larger UN peacekeeping mission in the Congo. More generally, EU responses to areas at risk of mass atrocities and humanitarian crises beyond Europe's immediate neighborhood have been channeled via the UN.

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[1] Ivan Krastev and Mark Leonard, *The Spectre of a Multipolar Europe*, European Council on Foreign Relations, 2010, p. 34.

Examples of this trend include not only the Congo but also Chad. In 2008-2009, the EU deployed its largest military mission to date outside the Balkans to eastern Chad and the Central African Republic (EUFOR Tchad/RCA), which was authorized by UN Security Council Resolution 1778 (2007), to help protect refugees from Darfur across the region. The mission was an impressive display of European logistical and operational abilities. But its goals were to create the security space for UN humanitarian agencies and police officers to operate, before handing over to UN troops in 2009.

While these efforts have been operationally significant, there have been questions over their long-term strategic significance. The success or failure of UN missions in Africa is of little import to those EU Member States that still view Russia as the main threat. And UN officials have argued that European assistance has proved inconsistent and unpredictable. The EU has sometimes failed to offer the UN total support, as occurred, for example, during a humanitarian crisis in the Eastern Congo in late 2008. Militias displaced over 200,000 people and appeared ready to conduct large-scale killings. The UN asked for military support from Brussels – and public figures in Europe argued that this was a case of R2P – but the EU Council could not agree on a response.

Outside Africa, European support to the UN in cases of potential or actual mass atrocities has also varied a great deal. In 2009, a bloody assault by the Sri Lankan army on rebel-held areas in the north of the country took both the EU and the UN by surprise. UN humanitarian agencies struggled to get relief supplies to affected civilians. France and Britain attempted to raise the issue in the Security Council, although their efforts were largely blocked by Russia and China. But the European Commission continued to conduct trade negotiations during the fighting. UN officials on the ground and in New York also responded to the crisis painfully weakly.

A more positive example of EU-UN cooperation in the face of an impending atrocity came in Kyrgyzstan in the summer of 2010. After a political crisis had destabilized the country earlier in the year, there were attacks on the Uzbek minority in the southwest. Nearly 500 ethnic Uzbeks died, and tens of thousands fled. The UN Regional Center for Preventive Diplomacy in Central Asia (UNRCCA) coordinated with the EU

Special Representative for the region, Pierre Morel, as well as the OSCE to mediate an end to the violence, although underlying tensions remain.

Overall, European support for R2P and crisis management more generally at the UN prior to the Libyan and Syrian crises might best be described as significant but selective and sub-strategic. There is no doubt that the EU Member States poured major resources into deploying troops to the Congo and Chad. Member States, and increasingly the European Commission, have also played an essential role in funding humanitarian assistance. And in New York, EU officials and European diplomats have been credited with making consistently constructive contributions to the annual debates in the General Assembly about the evolution of R2P. However, episodes such as the crises in Congo and Sri Lanka in 2008 and 2009 respectively suggest that there are limits to what the EU has been prepared to put at risk – in the UN and beyond – for the sake of R2P.

1.2. R2P ON EUROPE'S DOORSTEP

Libya

If European strategists previously perceived the UN and R2P as separate from their regional security concerns, the Libyan and Syrian crises challenged their calculations. In both cases, EU Member States had to respond to the threat of mass atrocities on Europe's doorstep. In both, they turned to the UN to help frame and implement a political and operational response. In the Syrian case in particular, this has proved an extremely frustrating process. But the events of the last eighteen months have established the importance of R2P and the UN in Europe's neighborhood.

To some extent, R2P has provided a strategic narrative for the European response to the Arab Spring. EU Member States initially struggled to identify a clear approach to the revolutions that unfolded in Tunisia and Egypt (as did the US and other powers). Western leaders recognized that they could not oppose these popular uprisings – the few that favored the *status quo* were soon sidelined – but questions soon emerged about exactly what principles should guide European decision-

making. Should, for example, European policy aim specifically at promoting secular democracy as the model for post-revolutionary Arab States in the face of Islamism?

The Libyan crisis, which rapidly grew more violent than those in Tunisia and Egypt, offered a partial solution to this dilemma. Whatever other values were at stake, European governments could agree that the Libyan Government remained bound by R2P. This was also, at least initially, a matter of consensus at the UN. The Security Council's first resolution on the crisis (UNSCR 1970, agreed unanimously in the last week of February 2011) recalled "the Libyan authorities' responsibility to protect its population". To this end, it imposed targeted sanctions on Colonel Gaddafi's regime, and invoked the International Criminal Court. An extraordinary ministerial meeting of the European Council on 11 March 2011 affirmed the EU's support for UNSCR 1970, and declared that the "safety of the people must be ensured by all necessary means."

Nonetheless, some EU Member States, including Germany and many Eastern European States, were opposed to a military response which they did not believe would be in the Union's strategic interests. Britain and France, by contrast, began to push for a no-fly zone at the Security Council. Eventually, the Obama administration trumped this with a resolution (UNSCR 1973) authorizing an even wider military action.

The precise circumstances around the adoption of this resolution – on which Germany abstained, along with Brazil, China, India and Russia – has been a running sore in UN diplomacy ever since. So has been NATO's decision to implement the resolution through an air campaign that led to the deposition of Colonel Gaddafi. Leaving aside for now the strategic implications of these developments, the initial debate over Libya had two important effects on EU strategy:

- *The Libya debate established R2P as a baseline principle for Europe's response to events in North Africa and the Middle East:* whereas European strategists had previously associated R2P with events in distant crises, there was now a precedent for implementing the norm in Europe's immediate neighborhood;
- *The EU response to the crisis was mediated through UN structures:* although European governments differed over precisely how to implement R2P in the Libyan case, they accepted that the Security

Council had a decisive role in the crisis. This created a precedent for the Council's role in the Syrian crisis.

The Security Council's central role in the initial response to the Libyan war was conditioned by a number of factors beyond European decision-making. The first was that the Obama administration had concluded that it could only risk military action in Libya with UN support, given the damaging precedent of Iraq. The second was that a number of important Council members – including China and India – had big stakes in events in Libya, having invested in its energy infrastructure. Thirdly, the Arab League had taken a strong stance against Gaddafi, calling for UN action. Even if European powers had wanted to pursue a policy towards Libya that was not channeled through the UN, these factors compelled them to prioritize the UN route.

As of March 2011, therefore, EU Member States had settled on a response to the Libyan crisis that ensured that the UN would have a major role in the outcome. While NATO took responsibility for the military campaign, a UN mediator attempted to negotiate an end to the conflict. While this was a lost cause, a separate UN official – the British official Ian Martin – set about planning for post-conflict reconstruction.

During the war there was talk of European peacekeepers deploying to Libya. The European Council authorized an EU military mission to assist in the provision of humanitarian aid, although this was never deployed. As the main hostilities concluded, France and Italy considered sending police forces to help restore stability. But the anti-Gaddafi forces rejected all proposals for a foreign military presence, preferring to work with Ian Martin and the UN Support Mission in Libya (UNSMIL).

EU officials invested in cooperation with UNSMIL, agreeing to undertake a joint assessment mission to Libya with the UN and the World Bank in September 2011. The three organizations continued to liaise closely on economic issues, and EU officials worked with UNSMIL on issues ranging from a plan for a European border security mission (which was ultimately not deployed) to human rights workshops. The operating environment in Libya was often challenging – with violence in the south of the country and targeted assassinations in coastal regions – but UNSMIL was ultimately able to facilitate surprisingly successful national elections in July 2012.

Syria

In the early months of 2011, when Government forces first used violence against protestors in Syria, European powers hoped to persuade Damascus to show moderation. Once this proved impossible, the EU Member States turned to the Security Council. In May 2011, the European members of the Security Council floated a resolution censuring Syria and threatening sanctions. It made no reference to R2P, but EU officials framed their initiative as an effort to protect suffering civilians. British Prime Minister David Cameron noted that "if anyone votes against that resolution or tries to veto it that should be on their conscience." This moral gambit failed, marking the beginning of a series of diplomatic battles in New York. On three occasions (in October 2011, and then February and July 2012), China and Russia vetoed Western-backed proposals calling for sanctions or a political conclusion to the crisis.

The US cooperated on all these resolutions, although American diplomats were always skeptical that China or Russia would back down. The impetus for action through the Security Council came from the Europeans, supported by the Arab League. Beyond the Security Council, EU Member States worked with their American and Arab allies to pass a series of resolutions condemning Syria in the General Assembly and the Human Rights Council, with overwhelming majorities. After the third Sino-Russian veto, the General Assembly passed a resolution (document A/66/L.57 of 31 July 2012) "deploring" the Security Council's failure to put pressure on Assad. This did not refer to R2P explicitly, but pointed to "the failure of the Government of [the] Syrian Arab Republic to protect its population".

Although facing political constraints, the Europeans backed efforts by UN human rights officials to monitor events in Syria in 2011. In 2012, during a brief lull in the diplomatic confrontation in New York, the Security Council mandated an unarmed UN observer mission (UNSMIS) to deploy to Syria to oversee a flawed ceasefire negotiated by the UN envoy Kofi Annan. EU officials offered UNSMIS technical assistance, and eight EU Member States (the Czech Republic, Denmark, Finland, France, Ireland, Italy, the Netherlands and Romania) contributed military personnel. The ceasefire fell apart and the observer mission only functioned for a few months.

The Syrian case has shown the limits of the UN as a strategic tool for European powers – and suggests that powers such as China and Russia are unlikely to be moved by the moral imperative of R2P in intense crises. Indeed, many UN analysts argue in private that the Syrian crisis shows that "R2P is dead at the Security Council" after its brief moment in the limelight over Libya. It is sadly ironic that the European investment in the UN and R2P in response to the Arab Spring may ultimately have harmed both the institution and the concept. But the events of the last two years may offer a potential basis for enhanced European support to the UN.

1.3. REINFORCING R2P AT THE UN: POLITICAL DEBATE AND OPERATIONAL INITIATIVES

While the Syrian crisis is unfinished – and Libya remains fragile – it is already possible to draw lessons for the future. The two crises have shown, as this Chapter has emphasized, that the UN still has an important role to play in Europe's immediate neighborhood, and that R2P is now an important element in EU foreign policy debates. While EU Member States must strengthen their own capacities to respond to mass atrocities, they also have an interest in reinforcing the UN's capacities.

Recent events point to three priorities:

- *Increasing support to UN preventive diplomacy:* in both Libya and Syria, the UN was tasked with trying to find a diplomatic solution to escalating violence. The EU, and especially the European External Action Service (EEAS), should explore how it can provide support to UN envoys and political missions, either directly (by seconding staff and providing material support to UN negotiating teams) or indirectly (by coordinating European diplomatic activities to assist the UN or providing intelligence assessments to it). In many cases, negotiated settlements need to be backed up by rapid injections of financial assistance, and the EU should work with the UN on how to make the best use of its economic tools, such as the Instrument for Stability.

- *Increasing support to UN peacekeeping:* although the initial UN peacekeeping mission in Syria was a strategic failure, it is still possible that UN forces will need to deploy in North Africa and the Middle East in the near future. At the same time, the organization has to sustain its large operations in Africa. EU Member States, currently reducing their military commitments in Afghanistan, have many military assets that UN missions desperately need. These include helicopters, field hospitals and engineering units. EU Member States can reinforce UN missions by deploying these assets, either directly as part of UN missions, or as part of stand-alone EU support missions. The EU's Political and Security Committee recently approved the EEAS' proposals for support for the UN, but further efforts are still needed to turn this from theory into action.

- *Continued advocacy for R2P in the UN system:* while the idea of R2P is under attack at the UN after Libya, it is crucial that EU Member States keep up a strong defense of the concept in the General Assembly, Security Council and other UN fora. EU diplomats should build on their cooperation with Arab states – and many other non-Western countries – over Libya and Syria to make a renewed case for the protection of civilians and the prevention of mass atrocities, including through military interventions authorized by the UN Security Council. It will, however, be very hard to influence China and Russia in this regard. It is very unlikely that UN Member States can agree to highly specific rules for future interventions, but it is possible to expand and improve the debate about when and how R2P should be enacted.

As the Syrian case in particular has shown, the UN is a deeply flawed mechanism. Nonetheless, it is often the only mechanism available for dealing with civil wars and atrocities, and is likely to remain the main venue for debating the future of R2P. European engagement with the UN is likely to remain selective. But the Libyan and Syrian crises are reminders that the EU still needs the UN, and should invest in it.

II

EU Cooperation with Other European Organizations: A Work Not So Much in Progress

2.
Cooperation with NATO on the Military Dimension: Surrendering to a "Step-by-Step" Approach

Vincenzo Camporini[1]

Differently from other organizations, NATO doctrine identifies many military tasks required to protect civilians from large-scale abuses. In particular, NATO recognizes that "circumstances of widespread violations of human rights and ethnic cleansing" may require a forceful military response in protection of civilians' safety and well-being, and refers to the imposition of no-fly zones, the forcible separation of belligerent parties, the establishment and supervision of protected or safe areas, and the creation of "safe corridors" for the passage of civilians and aid flows.[2]

The EU is generally considered a civilian actor when it comes to foreign intervention associated with the prevention or halting of mass atrocities, in spite of the fact that a few predominantly military operations have been performed under the EU's aegis. Considering that not much progress has been made on the civilian dimension of EU action in the last few years, the prospects of fulfilling existing commitments in the military dimension – i.e., under the Helsinki Headline Goal and what followed, namely the Headline Goal 2010 and the concept of Battlegroups – are remote. The obvious conclusion is, on the one hand, that in case the EU takes the political decision to intervene in a non-permissive environment for humanitarian reasons, it should seek the support of pre-

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[2] *The EU and the Prevention of Mass Atrocities – An Assessment of Strengths and Weaknesses*, forthcoming, pp. 49-50.

dominantly military actors in order to be able to deploy or adhere to military operations; and, on the other hand, that the EU should enhance the military capabilities provided by its Member States so as to prepare itself to complement military action undertaken by other actors whenever civilian means are insufficient to put an end to mass atrocities.

Given that the trend during the last decade has been that of exclusive military leadership of interventions not performed under UN command, the EU should engage actors with military capabilities early on in order to preserve the principle of effective civilian-military coordination in these cases, as reflected in its declarations and structures. If no prior arrangements are in place, the civilian dimension of crisis management – and with it, a potentially significant role for the EU – will very likely be marginal, if not completely sidelined.

2.1. THE STATE OF PLAY OF EU-NATO COOPERATION

The evidence shows that no other international organization than NATO is realistically capable of successfully conducting a military intervention of any size. Therefore, we can draw the conclusion that a structural agreement between the EU and NATO is a basic prerequisite to the implementation of a realistic and effective policy in this field. An important step has already been taken with the conclusion of the so-called Berlin Plus agreement, which has been used in some circumstances in the Balkans (e.g. Operations Concordia and Althea), but which has fragile roots as it requires consensus on the part of the North Atlantic Council and hence all NATO Member States, including Turkey. Here we encounter a severe difficulty, given the unresolved issue of Cyprus' membership of the European Union, perceived by Turkey as a provocation, and to which Turkey has responded by opposing any attempt to strengthen formal ties between the two organizations.

Improving cooperation with NATO can indeed lead to an effective and coordinated military/humanitarian response to mass atrocities, as well as to an appropriate sequencing of international action. In spite of pervasive blockages and imperfect political coordination, there is indeed an *acquis* on which the EU should rely in order to build a consoli-

dated relationship of complementarity. This *acquis* goes back to the end of 1998, when Madeleine Albright gave the U.S. green light to ESDP (as it was dubbed in those times), on some conditions, one of which was "No Discrimination" against non-EU NATO members (with special attention to Turkey), which prompted Ankara to offer its contribution to the Helsinki Headline Goal at the Capabilities Commitment Conference held in Brussels at the end of 2000. But the decision to admit Cyprus to the EU, just a few days after the failure of the referendum on its reunification, totally changed the picture, and since then there has been little progress, if any. Contacts do take place between the PSC and the NAC, between the EU HR/VP and the NATO Secretary-General, between the European Defense Agency and the ACT Commander, but everything is limited to an exchange of views, with minimal impact on concrete issues. In this sense, the creation of the EEAS may offer other opportunities for informal consultation, allowing personal ties which may be conducive to better understanding, but the political issue still stands as a rock against the possibility of wider cooperation in the short term.

In this scenario, the old principle, according to which, when NATO as such has no interest in getting involved in the management of a crisis, while the EU does, the former will provide the latter with its capabilities (i.e. the Planning Headquarters and the Command and Control assets), has lost much of its concrete effectiveness, although the Berlin Plus agreement still stands, but, again, on condition of consensus on the part of all NATO countries. Nevertheless, the need for further cooperation is still there, and is becoming more urgent with the evolution of strategic thinking in Washington: although the scenario of the U.S. pulling out of the Euro-Mediterranean region is unrealistic, the American willingness to concentrate on the Pacific and the Far East will paradoxically increase the importance of NATO as such as the indispensable partner for the EU.

The management, or mismanagement, of the Libyan crisis is the best illustration of the need which exists, of what must not be done, and of the missed opportunities. Let us point out some specific elements. First of all the initial steps: the intervention was decided outside any institutional framework, since a coalition of the willing was hastily put together on the initiative of France, without any reference to the EU, although the strategic interest of the Union as such was evident. No formal in-

volvement of the EU was envisaged at this stage, and Paris showed an explicit willingness to keep NATO outside the picture. At the same time, the U.S. appeared to be dragged into the crisis, and after a few days of full participation in the operations pulled back its offensive forces, providing the coalition only with the enabling assets (i.e. Intelligence, Surveillance and Reconnaissance - ISR, and Air-to-Air Refuelling - AAR) which were not available to the participating countries. After a fierce political dispute, the Italian request to embed the operation within the NATO command structure was accepted. Again, the role of the EU was sidelined, although it was evident from the beginning that the insurgents had no clear ideas about the future governance of the country, and that institution-building would be a gigantic task, for which neither NATO, nor any single nation, was ready. In this situation, the European Union was the natural reference actor, but, besides some political initiatives concerning an EU mission to be launched in the aftermath of the military operations, nothing was done.

In theory, the Union is the organization most apt to provide the integral vision dubbed as the "comprehensive approach", with the specific attitude to make the most effective use of "soft power". Therefore, the marriage between this vocation and NATO's unsurpassed capability to make the best use of "hard power" seems not only desirable, but compulsory. However, this marriage has not yet been celebrated, initially for ideological reasons, and later because of the obstacle presented by some decisions in terms of enlargement. The present economic and financial crisis is not helping, since military budgets have been the first victim of the wave of austerity, the consequence being a dramatic reduction of the hard power capabilities available in Europe and the consequent loss of credibility of any theoretical common foreign and security policy.

In essence, it is not only the Turkish-Cypriot issue which jeopardizes the natural complementarities between two organizations with overlapping memberships and similar strategic aims. A decreasing appetite for intervention, reduced defense spending due to the economic crisis, and also obstacles to developing civilian capabilities have also put into question the long-term prospects for effective EU-NATO cooperation.

The intervention in Libya represented an illustration of inter-institutional disconnect – and a missed opportunity for a coordinated

approach to regime change, transition and indeed the implementation of R2P broadly defined. At first glance it could be considered a success for NATO and the operationalization of the R2P principle, and a missed opportunity for the EU through its offer of, but failure to achieve, a humanitarian CSDP mission. However, the disappointment of emerging countries, particularly the BRICS, as regards the way in which R2P was implemented in Libya influenced the decision by the NATO Secretary-General to exclude of the use of force in Syria as soon as the popular uprising started. The EU, for its part, was unable to play a significant role in either case. The governance challenges emerging from the overthrow of the Libyan regime show that a standalone military intervention without concomitant civilian and political engagement can easily weaken the mission's initial success; in the case of Syria, the inaction of the international community shows that R2P cannot be made concrete unless civilian capabilities are deployed alongside military ones in order to guarantee the principle's fair implementation.

2.2. TURNING OBSTACLES INTO OPPORTUNITIES?

It seems incongruous that two European organizations are not making full use of their resources, particularly in times of economic crisis. How then can cooperation be achieved?

Among the factors required, one of the most important, if not the most relevant, is a radical change of conceptual nature: as should have been learned from recent crises, from the Balkans to Iraq and Afghanistan, we can no longer define a time sequence in which, after the successful intervention of military forces with their hard power, soft power instruments are put into action so as to rebuild institutions, the rule of law, economic development, etc. By no means is it now possible to imagine the EU intervening after NATO, in line with their respective perceived civil and military vocations. The "comprehensive approach" is not only a nice, politically-correct concept. It is the only viable way to be effective in reducing and controlling the growing instabilities: military means and civilian assets must operate concurrently, with synergic effects, so as to keep the use of force at a minimum. Therefore, the EU and

NATO have no other choice than cooperation from the very beginning of a crisis, from the monitoring of situations to the evaluation of political options and the planning of a possible intervention and all that follows, avoiding inter-agency conflict and overlapping efforts (which are no longer affordable). This requires a new mindset, maybe making better and smarter use of the available institutions and structures, including the planning elements in both organizations, which must operate jointly, almost as if fused together.

This conceptual evolution in EU-NATO cooperation requires a number of conditions, as follows.

- First of all, the EU must clarify what role it wants to play in the future, giving the right powers to its different institutional elements, and insisting that these powers be used effectively, especially by the HR/VP.
- Secondly, any statement not accompanied by a clear effort to strengthen the means, civilian and military, for the implementation of an agreed policy would be seen as merely fanciful. Hence, on the one hand, Member States must coordinate their internal reforms so that the sum of national means gains a coherent shape, and, on the other, joint, commonly-owned systems must be created in the areas in which capability development cannot be carried out by single countries acting alone.
- Thirdly, a political dialogue must be structurally established with Turkey, so as to obtain its involvement not only in the planning and joint execution of any operation, but also in the daily activities of the EUMS and, more importantly, the European Defense Agency.
- Fourthly, a roadmap should be defined to clarify and simplify relationships inside the apparently Byzantine internal structure of the Union, so as to speed up the decision-making process, even at the expense of the unanimity dogma.

Only once all this is done will it be possible to open a new era in the relationship between the EU and NATO, with a clear definition of the respective roles and an optimal utilization of the capabilities of both, avoiding useless and costly duplications which lead to shameful "beauty contests", as has already happened in the past.

3.

Organization for Cooperation and Security in Europe: Encroachment and Other Obstacles to Complementary Action

Luis Peral[1]

As stated in the Moscow Document of 1991, "commitments in the field of human dimension of the OSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned". OSCE peacebuilding and democratic consolidation missions, whose tasks range from rule of law to security sector reform, are indeed the flagship of the organization. The OSCE's work in conflict prevention is however not less relevant: on the one hand, all field operations have an emphasis on conflict prevention and early warning; on the other hand, the Organization has developed specific diplomatic instruments to that end. The OSCE 2010 Summit in Astana and the 2011 Vilnius Ministerial Conference reaffirmed the commitment to take action in relation to the whole conflict cycle.

As to the narrative, OSCE indeed pioneered the so-called "comprehensive approach" back in the late 1970s (the Helsinki Final Act), with a combination of human rights, good governance and politico-military aspects of security. The essence of the OSCE approach to security is that the protection of human rights and fundamental freedoms and economic and environmental governance are as important for the sustainability of peace and security as politico-military cooperation. In the Maastricht 2003 *OSCE Strategy to Address Threats to Security and Stability in the*

Twenty-First Century, the OSCE reaffirmed "its multidimensional concept of common, comprehensive, co-operative and indivisible security."

The OSCE's means are, however, political and diplomatic, meaning that any form of coercion is excluded in practice, and its effectiveness is further undermined by a cumbersome decision making process based on consensus, which has become dysfunctional due to a long-standing blockage.[2] R2P is not part of the OSCE discourse, but its potential in this sphere indeed lies within the areas of conflict prevention, crisis management and post-conflict reconstruction, if an adequate lens is applied. A further obstacle to adopting a fully-fledged R2P approach at OSCE level is that the consent of the State in which an OSCE mission is deployed is required, which means that no action without approval of the authorities responsible for a potential R2P situation may be undertaken by the Organization. The classical sanction of suspending membership is, of course, available.

3.1. THE OSCE'S ROLE IN PREVENTING R2P SITUATIONS

Although, according to its own narrative, the whole Organization focuses on conflict prevention, the most relevant institution in this regard is the High Commissioner on National Minorities (HCNM), which was created in 1992 in order to prevent conflicts between majority and minority groups within States, as well as to act as an early warning mechanism. In practice, the engagement of the HCNM touches upon fundamentals of State sovereignty, albeit with the general purpose of strengthening the capacity of States to deal with ethno-cultural diversity in a democratic way by providing advice and recommendations to the authorities. The last resort that the HCNM possesses is "formal" early warning, which requires exhaustion of all preventive measures and quiet diplomacy ef-

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[2] Kristine M Haugevik, "Regionalizing the Responsibility to Protect: Possibilities, capabilities and actualities", *Global Reponsibility to Protect*, Vol. 1, No. 3, Brill, Norwegian Institute of International Affairs, 2009.

forts. Such a warning was issued in 1999 during the crisis in the former Yugoslav Republic of Macedonia and in 2010 as regards the situation in Kyrgyzstan.

As the Kyrgyzstan crisis showed, the OSCE's framework for the transition from early warning to early action is not straightforward. Even though participating States were willing to support efforts at humanitarian assistance once the early warning had been issued, none of them was ready to tackle the political and logistical challenge of leading the operation on the ground.[3] In spite of a solid proposal as regards a police mission which was designed as a confidence and security-building initiative, with a focus on preventing outbursts of violence and capacity-building, the host country, backed by other OSCE members, opposed it, with a watered-down option – consisting in the deployment of monitors – being finally adopted.[4]

The case of Kyrgyzstan shows that the collapse of a State may lead directly to violence, and that capacity-building is indeed a fundamental aspect of prevention. But it also proves that early warning is not enough. The resistance to adequate prevention comes from domestic as well as international actors, who are mainly interested in immediate political dividends. The OSCE's HCNM is at least proposing a new conceptualization in this regard: "[multilateral, non-coercive] intervention and prevention are neither separate nor alternatives to one another, as it is often perceived - peaceful intervention, if carefully designed, amounts to prevention".[5] Moreover, the focus on potential or actual violations of minority rights allows for a genuine R2P approach, even if the ultimate goal of the High Commissioner seems to be the prevention of conflict rather than the prevention of mass atrocities as such.

At field level, a renewed emphasis on prevention is associated with

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[3] *OSCE HCNM statement to the UNGA*, on the occasion of the Informal Interactive Dialogue on "The Role of Regional and Sub-regional Arrangements in Implementing the Responsibility to Protect", July 2011 (http://www.osce.org/hcnm/81025).

[4] See http://www.osce.org/home/89515.

[5] *R2P in practice in the case of Kyrgyzstan*, Address by Knut Vollebaek, OSCE HCNM, "R2P: The Next Decade", The Stanley Foundation, New York, January 2012 (http://www.osce.org/hcnm/87411).

peacebuilding action. Early Warning focal points have been established in all OSCE missions and, in line with a "structural prevention" approach, OSCE missions in the Balkans as well as the mission in Albania are engaged in institution-building as regards democratic transition processes, which in some cases may open the way for integration into the EU.

The OSCE Conflict Prevention Centre (CPC) plays a key role in this context by offering direct support to field operations through regional desks and specific expertise in the politico-military dimension. The CPC thus allows for interaction between field operations and the negotiating central bodies so as to guarantee the implementation of political decisions, from genuine conflict prevention to post-conflict rehabilitation. As is of particular relevance to this report, the Center co-ordinates all activities in mission areas carried out with other OSCE institutions and relevant international and sub-regional organizations.

3.2. EU-OSCE TRACK RECORD AND STALEMATE[6]

The question of coordinating its Member States' positions in the OSCE (as well as in its predecessor, the CSCE) has always been part of the EU foreign policy agenda, although little success has been achieved. Cooperation between both organizations nonetheless developed, and reached its peak in the 1990s. At the 1999 Istanbul OSCE Summit, participating States agreed on a *Charter for European Security*, and on a *Platform for Cooperative Security*, which was mainly driven by EU Member States. OSCE missions were already deployed throughout Eastern and South-Eastern Europe, the South Caucasus and Central Asia, and the OSCE was leading efforts to resolve the conflicts in Moldova, South Ossetia and Nagorno-Karabakh. The European Commission supported OSCE election observation activities and, in 1999-2000, was the main donor to OSCE rehabilitation activities in the areas affected by the Geor-

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[6] This part is based on Dov Lynch, "ESDP and the OSCE", in Grevi, G, Helly, D, and Keohane, D, *European Security and Defence Policy: The First Ten Years (1999-2009)*, EUISS, Paris, 2009, pp. 139-146.

gian-South Ossetian conflict and to OSCE institution-building in Belarus. Cooperation on the ground between the two organizations has been mostly informal, but intense in certain situations; for example, as UN-MIK was winding down, the OSCE Mission in Kosovo worked alongside EULEX on aspects such as police training and the rule of law, as well as on the return of displaced populations. Sometimes this cooperation was, however, institutionalized: for example, the EU and the OSCE, along with the UN, have worked together as Co-Chairs of the Geneva Discussions on security and stability in Georgia. The Georgia conflict in fact reflects a transition in the relationship: the EU established a Monitoring Mission (EUMM) in Georgia as from October 2008, while OSCE participating States failed to reach agreement on renewing the mandate of the OSCE Mission in December 2008. The truth is, however, that EUMM was created as a rather symbolic mission, since it was prevented from doing actual monitoring in the breakaway territories from the start.

In general terms, there is a growing cooperation between the EU and OSCE at expert level on issues such as human rights and judicial reform, including by means of actual project partnerships and increasing the exchange of information, particularly from the OSCE to the EU, as regards trends in countries where there are missions of the former. At the political level, personal relationships between EU and OSCE Ambassadors are crucial: for example, in the aftermath of the violent incidents of 2011 in Albania, the OSCE, EU and U.S. Ambassadors constituted an informal troika, often issuing common messages on the reform agenda.

In spite of certain recent improvements, a clear shift from increasing cooperation to disengagement took place during the first decade of the present century. The relative decline of the OSCE can be traced back to its 1999 Istanbul Summit, with worsening relations among members and particular difficulties in accommodating Russia's positions, leading to blockage. Since 2002, the Annual Ministerial Council meetings have failed to agree on a political declaration, and OSCE budgets are routinely delayed because of political differences. Renewed discussions on revitalizing the European Security Architecture subsequent to the war between Georgia and Russia in 2008 – which indeed entailed a conflict between two Member States – did not render tangible results.

Relations between the EU and the OSCE have experienced a backlash

in the context of geopolitical struggle. In spite of the continuation of regular contacts between the two organizations at different levels, relevant official documents reflect a decreasing enthusiasm as regards possibilities that were initially contemplated, such as the "contribution by the EU to the OSCE's operational efforts in crisis management", and the possibility of "EU crisis management operations following a request from the OSCE".[7] The 2006 draft *Joint Declaration on Cooperation between the EU and the OSCE* did not reach consensus in the OSCE, mainly due to the opposition of Russia. Neither the EU-Russia Strategic Partnership nor the Lisbon Treaty has provided new momentum in this regard.

3.3. HOW TO GET BACK ON TRACK?

The Lisbon Treaty, and particularly the establishment of the EEAS – which has taken the seat of the European Commission in OSCE meetings – should have entailed the greater capacity of the EU to reach consensus, including on OSCE-related issues, as well as to engage at the institutional level, but this has not been the case so far. The OSCE launched the Helsinki+40 process at its Astana Summit, committing all participating States to provide strong and continuous political impetus to advancing work towards a security community by 2015, which marks four decades from the adoption of the Helsinki Final Act. This should be an opportunity not just to strengthen cooperation *ad intra*, but to open up the Organization so that new genuine partnerships may be built with other organizations, such as the EU, on fundamental topics such as mass atrocities prevention and response. But there is still a long way to go.[8]

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[7] See, in particular, *Draft Council Conclusions on EU-OSCE Cooperation in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation*, 14527/1/03 REV 1, Brussels, November 2003, which was endorsed by COREPER in December 2004, and *Draft Assessment Report on the EU's Role vis-à-vis the OSCE*, 15387/1/04 REV 1, Brussels, 10 December 2004, which called for mainstreaming OSCE issues throughout EU foreign policy, including support to OSCE crisis management, but did not mention any potential contribution to OSCE operations.

[8] "The European Union has taken a constructive approach in the run up to the Summit. The Summit Document confirms our joint vision of a security community for the fu-

The EU may also be more willing to learn from an organization essentially devoted to sustainable peace and socio-politic stabilization such as the OSCE. At the conceptual level, for instance, the OSCE should avoid reinventing the wheel in developing its pioneering and all-encompassing comprehensive approach. The question is not to develop yet another concept for each organization, but rather how to design a comprehensive approach that takes all available European regional organizations' capabilities into account. Conversely, the OSCE should incorporate the principle of R2P into its discourse and merge it with existing similar doctrines, if only for the fact that all its participating States endorsed the principle at UN level in 2005; EU Member States may facilitate such merging. Beyond the conceptual level, the OSCE and the EU should think about how they can work better together. They can build in this regard on some success stories, from past joint action in the Balkans to recent cooperation at the Geneva talks, so as to make full use of complementarities and avoid expensive inefficient duplications.

Kosovo and Macedonia are good examples of successful cooperation between the OSCE and the EU, and should be used as a reference for a movement from institutionalized dialogue at headquarter level to a more general and pragmatic framework for cooperation on the ground.[9] It seems obvious that information-sharing or the possibility of undertaking joint action and designing joint projects should not merely be dependent on personal good relations between respective heads of delegations. But underlying "political" problems need to be sorted out before a

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ture. Regrettably, it has not been possible to agree yet on the comprehensive and concrete action plan we have called for in order for this vision to become reality", OSCE, *Astana Commemorative Declaration,* SUM.DOC/1/10/Corr.1*, 2010.

[9] As E. Stewart pointed out as far back as 2008, "[d]espite the fact that the European Union and the OSCE practice conflict prevention activities in the same countries around Europe, the declining prestige of the OSCE has meant that formal modalities for cooperation have not been capitalized on. Moreover, the EU's prioritization of dialogue at the headquarters level between senior officials in Brussels and Vienna may be the wrong focus in light of the nature of OSCE activity, which is largely field-based. A pragmatic culture of cooperation needs to be fostered between actors on the ground, so that dialogue becomes common practice. High-level diplomacy at respective headquarters is not enough", See Emma J. Stewart, "Restoring EU-OSCE Cooperation for Pan-European Conflict Prevention", *Contemporary Security Policy*, Vol. 29, Issue 2, p. 280.

general framework for cooperation is feasible, since some OSCE participating States are not keen on OSCE field missions which foster EU integration goals. In more practical terms, the work of the OSCE's CPC as a focal point for coordinating the Organization's role in the politico-military dimension of security, as well as the work of field offices, should be of great value in this regard.

In a perspective that relates more directly to this report, the experience accumulated by the OSCE may indeed help in developing a mass atrocities lens for the EU, at least with regards to potential genocide, in which minorities are commonly targeted, even in the absence of an open conflict. The work undertaken by the HCNM, which is an independent institution within the Organization, is in this sense unique. There are at least two ways in which the EU can use this experience in its own foreign policy. First, since all EU Member States are already under the radar of the High Commissioner, and the OSCE does not act beyond its borders, the EU could create, or help to create, a similar institution at UN level or in other regions. The UN General Assembly *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*[10] could be a good starting point in this sense. Secondly, taking into account the fact that the HCNM is a rather independent institution and that it is unlikely that its formal warnings would lead to a coercive response on the part of the OSCE due to the nature of the Organization and the blockage of its decision-making process, the EU could incorporate such warnings in its own early warning and response mechanisms.

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[10] A/RES/47/135.

4.
Council of Europe: How Can Prevention Be More Specific?

Ana Salinas

The Council of Europe (CoE) has renowned experience in assisting States in their efforts to build sustainable democratic systems, including the development of national strategies, legislation, and monitoring procedures. Its assistance in connection to conflict situations has taken place in the civilian dimension, contributing to the build-up and consolidation of structures to prevent the emergence of conflicts leading to such atrocities. It would only be natural that the CoE worked together with the EU, since they certainly share the same values and principles, and given that the ECHR is binding on the 47 CoE Member States, including those which are members of the EU, and on the EU itself under the Lisbon Treaty.[1] In this vein, the Parliamentary Assembly of the CoE (PACE) has repeatedly offered the EU close co-operation as regards assistance programs covered by its mandate, in a way that would *de facto* turn the CoE into a kind of specialized agency of the EU in specific situations. At the institutional level, the newly-created EEAS recently established a Delegation to the CoE, dialogue is ongoing between the CoE Secretary-General and the HR/VP and the Commission President, and the PACE is also strengthening ties with the European Parliament.

In the example of an armed conflict between two Member States such as the war between Georgia and Russia which broke out on 7 August 2008, the CoE got involved in post-conflict rehabilitation activities mostly related to human rights and rule of law monitoring. The ceasefire

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[1] The European Union's accession to the European Convention on Human Rights is required by Article 6(2) of the Treaty on European Union, and foreseen by Article 59 of the ECHR, as amended by Protocol 14.

agreement was proposed and negotiated by the EU on 12 August 2008, and different monitoring missions had been deployed by other organizations, namely the EU (EUMM), the UN (UNOMIG observer mission), and the OSCE (unarmed military monitoring mission in South Ossetia).[2] The three organizations co-chaired the Geneva talks with the view of introducing an incident prevention mechanism, while the PACE merely insisted that the CoE Secretary-General develop a comprehensive action plan to ensure compliance with human rights in South Ossetia and Abkhazia, including the establishment of an ombudsperson in the field, who would investigate and document violations committed during and in the aftermath of the war.[3]

4.1. EU-CoE COOPERATION IN RESPECT TO THE PREVENTION OF MASS ATROCITIES

In 2005, the PACE underlined the need for the European Neighborhood Policy (ENP) to make full use of CoE capability in order to avoid duplication of efforts, unintended competitiveness, and the risk of sending incoherent political messages to the countries concerned, in particular those which are also CoE Member States.[4] With a view to institutionalizing cooperation between the two organizations, the PACE even pro-

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[2] The CoE restricted itself to calling upon Member States to comply with their commitment to a resolution of the conflict through peaceful means, as implied in their statutory obligations, insisting on the illegality of the use of heavy weapons by both parties, and on the illegality of the Russian recognition of the independence of the two secessionist territories and the subsequent signature of two friendship and co-operation agreements with their authorities, considering them to be contrary to Georgia's sovereignty and territorial integrity. See PACE Resolution 1633 (2008), "The consequences of the war between Georgia and Russia". Only from 21 to 26 September 2008 did an *ad hoc* committee of the CoE Parliamentary Assembly's Bureau visit Georgia and Russia. Also, the PACE invited the Secretary-General of the CoE to consider the establishment, in co-operation with the Commissioner for Human Rights, of a special human rights field mission with unhindered access to all areas affected by the war.

[3] See PACE Resolution 1647 (2009).

[4] This was the position adopted regarding the approval of a new ENP involving 15 States, some of whom are also CoE Member States.

posed that CoE standards be given full recognition in the Action Plans for all ENP countries, including non-members who could become signatures to its conventions, and that the CoE itself be entrusted by the European Commission with the task of assisting and monitoring the democratization process in countries covered by the ENP. Maghreb countries were subsequently referred to in the same vein,[5] and even China. The PACE stated that

> the Council of Europe and the European Union, which is its 'internal neighbour', should develop a common vision of a pan-European confederative body where the two partners would integrate on the basis of shared values and which would be able to defend, develop and promote these values in greater Europe and beyond.[6]

On its part, the Committee of Ministers welcomed the particular reference to integrating CoE expertise in the work and activities of the EU-sponsored Union for the Mediterranean, but no developments took place between the two organizations.[7]

Finally, in the light of the Arab democratic wave, the Secretary-General of the CoE stated the need "for a review of our existing relations and policies with our neighbors and for the definition of clear strategic priorities about the way these relations should develop in the future".[8] Indeed, the Committee of Ministers renewed its neighbor policy and launched a Neighbor Co-operation Dialogue and New Co-operation Priorities (NCPs), with substantial support from the EU in financial and operational terms. The aim of the framework is that of forging a strategic CoE/EU partnership to facilitate democratic political transition and promote good governance in Southern Mediterranean countries, with a

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[5] See PACE Resolution 1598 (2008), which, in an almost visionary approach, advocated enhanced co-operation with Algeria, Morocco and Tunisia. The proposal was reiterated in PACE Resolution 1731 (2010), "Euro-Mediterranean region: call for a Council of Europe strategy".

[6] See PACE Resolution 1506 (2006).

[7] See Committee of Ministers Resolution CM/AS (2006) Rec1724 final.

[8] See Information Document SG/Inf (2011) 7 rev 2, 19 April 2011, "Council of Europe Neighbourhood Policy".

view to enhance their relations with the European area. The three main aspects of these coordinated policies are: a) the granting of a "Partner for democracy" status by the PACE; b) the opening of some CoE conventions and partial agreements to the participation of third countries; and c) the design of projects that will be financed by the EU and implemented in the field by the CoE and its specialized bodies.

4.2. PROPOSALS FOR MORE SPECIFIC PREVENTIVE ACTION

The CoE's contribution to preventing and halting mass atrocities is regular and significant, although always deployed in the civilian dimension, as required by its constitutive treaty and its very nature. The CoE's co-operation with the EU to this end is longstanding, fruitful and outstanding in terms both of the financial resources allocated, and of the diversity of the areas covered and the beneficiary countries. This co-operation is restricted to the prevention of mass atrocities in a wide sense, and limited to the European neighborhood. It is a co-operation deeply committed to the consolidation of democratic societies anchored on the respect of the rule of law and the protection of human rights. We would point out a weak presence of NGOs involved as actors in, or beneficiaries from, such policies and activities.

Against this background, a number of proposals could be put forward in order to enhance cooperation between the two organizations for the prevention of mass atrocities, thus integrated under pillar two of R2P.[9]

- Create incentives to democratization and the rule of law through the PACE status of 'Partner for democracy'
The PACE status of 'Partner for democracy' applies to those CoE neighbouring States, particularly those which have suffered armed conflict, which are willing to consolidate democratic transformation. It was initially established in the 1990s as a provisional status for the parliaments

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[9] See footnote 1 for the three pillars of R2P.

of Central and Eastern European States that applied for CoE member-ship, and entails a political dialogue between PACE and the relevant na-tional parliament which is intended to enhance democracy and the rule of law.[10] In the wake of the Arab revolutions, the Secretary-General of the CoE has proposed to the Council of Ministers to add to it the status of "Cooperating member", giving access to expertise and participation – short of membership – in the CoE as a whole, but no decision had been taken on this at the time of writing. Only Morocco had been granted "partner for democracy" status, which was finally granted on 21 June 2011. It could thus be considered an international civilian response to a democratic crisis or post-conflict rehabilitation situation.

- *Opening of CoE conventions and partial agreements to non-Member States*

This measure should address mainly those legal instruments establish-ing systems for combating trans-border and global threats, such as traf-ficking in human beings, terrorism, cybercrime, money laundering, etc. The overall aim is that of promoting good governance and enlarging the CoE's regional action. Countries such as Algeria, Egypt, Libya, Tunisia and Lebanon have joined partial agreements or ratified CoE treaties.

- *Joint CoE/EU action in Mediterranean countries concerning post-conflict rehabilitation and civil capacity-building*

As long ago as 2007, the Secretary-General of the CoE acknowledged the substantial contribution of the EU through the financing of more than 50 joint projects for democracy consolidation in countries such as Kosovo, Serbia and Turkey, which had reached a total pluriannual financial enve-lope of €81.3 million.[11]

In the same vein, in January 2012 a €4.8 million EU-financed CoE pro-gram for strengthening democratic reform in the Southern Neighbour-

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[10] Rule 59 of the Rules of Procedure of PACE. Observer status with the Assembly for its part was designed for parliaments of non-European democracies willing to contrib-ute to democratic transition in Europe (see Rule 60 of the Rules of Procedure). Nowa-days there are six such parliaments, those of Canada, the Holy See, Israel, Japan, Mexico and the US.

[11] See SG/Inf (2008) 8, 30 April 2008, "External Relations of the Council of Europe in 2007", report by the Secretary-General to the Committee of Ministers.

hood was launched for a period of three years (2012-2014), in order to jointly support reform processes started after internal revolutions by Mediterranean countries, according to criteria set up by both organizations.[12] Three of those CoE/EU joint programs, with Tunisia, Morocco – which could be also extended to Egypt – and Jordan, have already been drafted, with a financial envelope of €6 million to be implemented within 30 months. Initiatives covered by these programmes are grouped in four categories: democratic political transition (from electoral assistance to the democratization of political parties and constitutional justice); the independence and functioning of the judiciary; good governance and the fight against corruption; and the prevention of, and fight against, trafficking.

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[12] On the EU's side, see the Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission, "A New Response to a Changing Neighbourhood: A review of the European Neighbourhood Policy", Brussels, 25 May 2011. On the CoE's side, see SG/Inf (2011) 7 rev 2 (*loc. cit.*, footnote 30); SG/Inf (2012) 9, 23 April 2012; and SG/Inf (2012) 15, 16 May 2012.

III

EU Cooperation With Regional Organizations Beyond Europe: Uneven Record, Much Room for Improvement

5.
Preventing and Halting Mass Atrocities in Africa: Would Enough Funding Be Enough?

Nicoletta Pirozzi[1]

The EU and the African Union (AU) have established an unparalleled framework of cooperation in the field of peace and security under the Joint Africa-EU Strategy, adopted in Lisbon in December 2007, and its Action Plans (covering the periods 2008-10 and 2011-13). It basically entails political dialogue between the two organizations, as well as the technical and financial support of the EU for the operationalization of the African Peace and Security Architecture.

5.1. FOUR DIMENSIONS OF AFRICA-EU COOPERATION

Strengthening Norms: In the final declaration of the latest Africa-EU Summit, held in Tripoli in 2010, the two organizations confirmed their unity in fighting against impunity at national and international level, and in protecting human rights on both continents.[2] The third pillar of the principle of R2P[3] is enshrined in strategic documents of the AU, which has formally proclaimed its right to intervene in a Member State in case

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[1] The author wishes to thank Dr. Issaka K. Souare, Senior Researcher at the African Conflict Prevention Programme of the Institute for Security Studies (ISS) in Pretoria, for his constructive comments.

[2] *Tripoli Declaration*, 3rd Africa EU-Summit, Tripoli, 1 December 2010.

[3] See footnote 1 for the three pillars of R2P.

of war crimes, genocide and crimes against humanity.[4] For its part, the EU has often underlined the principle of "African ownership", but the fact that the AU relies almost completely on external funding for the implementation of its actions in conflict scenarios exposes it to the priorities of different international donors, including the EU.

Ensuring Early Warning: The EU has committed relevant financial and technical resources to help the AU to develop a Continental Early Warning System (CEWS), with the aim of facilitating the anticipation and prevention of conflicts. The CEWS is not explicitly designed for, but should be very useful to, the identification of potential R2P situations. It will consist of a Situation Room located at the AU Commission, which is to collect data provided *inter alia* by regional units, and analyze them.[5] ECOWAS, IGAD, ECCAS and COMESA have established their Early Warning Systems, while SADC and EAC are in the process of doing so, but no effective link – in terms of communication, coordination and harmonization – between the Situation Room and the regional units has yet been ensured.

Engaging in Preventive Diplomacy: The EU sustains the development of the AU's mediation capacities, especially through its support to the Panel of the Wise (PoW). The PoW is composed of five highly-respected African personalities, one from each geographic African region, with a mandate focused on conflict prevention, and which can both provide advice and undertake action. The structure was created as long ago as December 2007, but its operationalization was delayed due to logistical and human resources problems. The PoW was to a certain extent involved in combating the early stages of the 2008 post-election violence in Kenya, taking a background role in assisting the Annan mediation initiative, and conducted information-gathering missions to Tunisia and Egypt in the aftermath of the popular uprisings in North Africa.

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[4] *Constitutive Act of the African Union*, Togo, 11 July 2000, Art. 4(h) and *Protocol Relating to the Establishment of the Peace and Security Council of the African Union*, Durban, 9 July 2002, Art. 4(j). See also the *Ezulwini Consensus*, Ext/EX.CL/2 (VII), Addis Ababa, 7-8 March 2005.

[5] The Situation Room has been established and equipped with software (Africa Media Monitor) developed by the EU Joint Research Centre in Ispra (Italy), but its daily use is still limited by the lack of reliable network infrastructure (both internet and intranet).

Deploying Civilian and Military Missions: The EU's support to the AU's civilian and military missions has been channelled mainly through the African Peace Facility, a financial instrument that allocated €300 million to African Peace Support Operations (PSOs) and capacity-building for the period 2008-13. The EU has supported the AU Mission in Sudan (AMIS) and the Operations of the securization of the elections in the Comoros (AMISEC), and is currently sustaining the African Union Mission in Somalia (AMISOM) and the Consolidation of peace in the Central African Republic (MICOPAX). In terms of capacity-building, the EU's support is directed mainly towards the operationalization of the African Stand-by Force (ASF), which should be composed of stand-by multidisciplinary contingents (civilian, military and police) to be rapidly deployed at appropriate notice. Through the ASF, the AU should be able to conduct observation and monitoring missions and classical PSOs, as well as interventions in Member States in sufficiently serious circumstances, preventive deployment and peacebuilding.

5.2. SHORTCOMINGS OF THE EXISTING PARTNERSHIP

In spite of common statements of intent, striking divisions prevail, both between and within the two organizations, as regards the interpretation of R2P and the response to relevant recent crises, e.g. in Zimbabwe, Sudan and Libya.[6] Even if progress has been made in early warning, monitoring and evaluation expertise is still in the process of being developed, and its translation into early action is entirely dependent on the political will of relevant stakeholders. The PoW has not yet undertaken effective mediation actions, while its relationship with mediation mechanisms developed by some of the RECs (the Office of the High Mediator on

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[6] In March 2005, by Resolution 1593 the UN Security Council referred the situation in Darfur to the ICC for investigation, and on 14 July 2008, Omar al-Bashir became the first national leader to be indicted by the Court. The situation in Libya was referred to the Prosecutor of the ICC on 15 February 2011 by UN Security Council Resolution 1970, and the Court issued an arrest warrant for Muammar Gaddafi on 27 June 2011. Robert Mugabe has never been referred to the ICC.

Peace and Security in CEN-SAD, the Council of Elders in ECOWAS, and the *Troika* on Politics, Defense and Security in SADC are just a few examples) remains unclear and has led to contradictions, such in the cases of the recent crises in Madagascar and Côte d'Ivoire. The ASF still suffers from resource deficiencies in terms of staffing and logistics; scarce absorption capacity of external funding; a lack of synergy between continental and regional structures; and imbalances between and within regional arrangements. A telling example is the tragic failure of AMIS, which had to be replaced by a hybrid AU/UN operation (UNAMID) in July 2007 with the mandate of protecting civilians and ensuring security for humanitarian assistance, as well as of preventing violence along the borders with Chad and the Central African Republic.

EU-Africa cooperation on peace and security matters remains too focused on military reaction, and thus pays little attention to enhancing civilian capabilities and expertise aimed at early warning, mediation and peacebuilding.

> Thus far, crisis management has been the driver, while the concept of 'human security' remains an unattained ideal. The EU must show it really is ready for a more comprehensive – yet realistic – approach, shifting to crisis prevention and peacebuilding mechanisms.[7]

In this perspective, greater financing of civilian capabilities is crucial, but even more important are measures such as the training of civilian capabilities with EU expertise, the participation of AU civilian personnel in EU civilian operations with a view to learning in the field, and information-sharing between the EU and the AU with a view to lesson-learning. But the main problem is that mutual perspectives and common parameters are still lacking on both sides and within each side. More effective dialogue in the framework of joint EU Political and Security Committee and AU Peace and Security Council meetings can be instrumental to this purpose. There is as yet no genuine European approach to

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[7] Cristina Barrios, *EU cooperation with the African Union: Problems and potential*, FRIDE Policy Brief No. 51, 2010, p. 4.

African peace and security, which would entail a gradual Europeaniza-
tion of the bilateral means of assistance and intervention inherited from
the post-colonial period. And there is no harmonization of the AU's posi-
tions with those of the RECs, in spite of the appointment, since 2008, of
REC liaison officers to the AU, and the ongoing process of dispatching
AU liaison officers to the RECs.

6.
EU-Arab League Cooperation: Opportunities Not to Be Missed

Yasmine Farouk

The League of Arab States (LAS) is one of the oldest regional organizations in the world. Since its establishment in 1945, Articles 5 and 6 of its Charter have clearly stated that it has a mandatory role in the resolution of disputes between Member States. Since the 1960s, these disputes have traditionally been border-related. Yet, major repetitive mass atrocities have not taken place in Arab inter-State conflicts, but rather in two categories of conflict, those involving non-Arab parties (the Arab-Israeli conflict, decolonization conflicts, the Iraq-Iran war, and the American intervention in Iraq), and domestic conflicts/civil wars (Iraq, Lebanon, Sudan, Yemen, Somalia, Jordan, Libya and Syria).

Despite these facts, the Arab regional order lacks any institutional mechanism to prevent mass atrocities or even to manage them. Furthermore, both the League and individual Arab States are reluctant with regards to collective intervention in Arab domestic affairs, even in the name of the principle of the R2P. Understanding the origins behind this reluctance is a key factor for understanding how the EU can help the LAS to develop regional collective mechanisms to halt mass atrocities.

6.1. PAST UNFINISHED EXPERIENCE AND EXISTING MECHANISMS

The absence of an institutional Arab crisis management mechanism does not mean that crisis management capacities are entirely lacking in

the Arab region. According to the political will of the regime concerned, Arab States have developed several mechanisms for crisis management that can briefly be presented as follows:

- *Collective institutional mechanisms*

These include "frozen mechanisms" that were seldom, if ever, activated during the League's existence: the Treaty of Joint Defense and Economic Cooperation signed in 1950, the Joint Arab Deterrence Forces established and mobilized in 1976, the project for an Arab Court of Justice officially proposed in 1993, a Mechanism for Conflict Prevention, Management and Resolution decided at the Arab Summit of 1996, and the Arab Peace and Security Council established in 2006. Successive projects to reform the LAS, whether submitted by individual States or the Secretary-General, always included a project for an Arab conflict management mechanism. These projects included for example the establishment of an Arab National Security Forum (2003) and an Arab Court of Human Rights (2012).

- *Special envoys, mediators and, most recently, observers*

In addition to these institutions, most cases of successful conflict management in the history of the LAS used the Arab League's special envoys. This mechanism was used for both inter-State and intra-State conflicts, such as the conflict between Kuwait and Iraq in 1962, the civil war in Lebanon, and the conflicts in the Western Sahara, Sudan and Iraq. The degree of success varied. For example, on 19 December 2012, the LAS signed an unprecedented protocol with the Syrian Government allowing for the dispatch of a mission of observers.

- *Multilateral mediation in the framework of the Arab League*

Some conflict management cases in the Arab World have been managed by small groups of States in the framework of the LAS. This mechanism of "ministerial committee", "working groups" or "contact groups" has been used, *inter alia*, in the current Syrian crisis, in Somalia and in the Israeli-Palestinian conflict. In the wake of the Iraqi invasion of Kuwait in 1991, Egypt, Syria and the Arab Gulf States established a short-lived military mechanism for collective defense, "the Damascus Declaration", that was similar to strictly strategic and military pacts concluded in the past.

- *Foreign crisis management and mediation*

The United Nations Security Council directly manages some conflicts in

the Arab region. The LAS' role in the management of these conflicts varies in terms of the scope of its impact on decision-taking at the UN. While the LAS is a partner in the management and resolution of some conflicts through peacemaking or even peace enforcement, it is just a "consultant", "advisor" or "regional coordinator" in others. The conflicts between Iraq and Kuwait, as well as those in Sudan, Somalia, Arab countries (Egypt, Lebanon, Syria, the Palestine-Israeli conflict, Lebanon), the Western Sahara and most recently Libya illustrate this.

- *Sub-regional crisis management*

Sub-regional crisis management in the Arab region has proven itself to be often more efficient in halting mass atrocities than collective crisis management in the framework of the LAS. The African Union and the Gulf Cooperation Council have indeed developed more advanced mechanisms allowing them to manage and intervene in cases such as Darfur, Somalia and, to a certain extent, Yemen and Bahrain.

6.2. MAJOR IMPEDIMENTS

The first major impediment is the legal status of the LAS itself, which deprives the organization of any supranational competencies. The LAS is hence entirely subject to the political will and decisions of its individual States, as clearly stated in its charter. As mentioned above, instead of initiating collective mechanisms, it sometimes serves as an umbrella for "ready-made" mediations and arrangements concluded in accordance with major regional powers' interests or the interests of powerful domestic parties. This status also makes the operationalization of institutional collective mechanisms subject to political relations/tensions between Member States, as well as to their political weight in the Arab World.

Another impediment is the Arab States' over-sensitivity to "sovereignty". Non-intervention in each others' domestic affairs is a golden rule in Arab affairs, particularly since what were labeled the "Arab cold wars" of the 1960s and 1970s. Until the eruption of the Libyan crisis in February 2011, the exceptions from this golden rule were the civil war in Lebanon, the north-south conflict in Sudan and the conflict between

Palestinian factions. In all three cases, conflicting parties called for an LAS intervention. This explains Arab States' sensitivity towards the R2P principle, as well as towards the principle of humanitarian intervention, especially if it involves non-Arab parties.

In addition to these dimensions, there is also a cultural transnational sensitivity towards military interventions that would engage fellow Arab citizens in armed conflict against each other. This explains why such a mechanism has only been used twice in the LAS' history, in Lebanon in 1976 and in Kuwait in 1991. In both cases, Arab military intervention produced a permanent rift in inter-Arab relations, and threatened the domestic legitimacy of the ruling regimes in those countries that took part in military operations. This partly explains the reluctance of Arab States to send Arab troops to Iraq and Syria, despite the international and regional calls for it.

Finally, Arab States' reluctance as regards R2P is linked to the contested contours of the concept itself, as well as to its politicized selective use. Most recently, the intervention in Libya triggered questions about the irresponsibility to protect civilians in Palestine, Syria and Bahrain. Public accusations of impartiality are addressed not only to the international community, but also to Arab governments themselves.

6.3. PROMISING INDICATORS AND FIELDS FOR COOPERATION

The LAS is still regionally perceived as the main mechanism for long-awaited collective action. Its decisions and declarations cast an "Arab legitimacy" on regional affairs. This was very obvious in the cases of foreign intervention for crisis management in Kuwait, Somalia and, most recently, Libya.

There are many indicators that this is the right moment for EU support for an Arab mechanism for the prevention of mass atrocities. Such indicators include the recent inauguration of a Crisis Management Department inside the LAS; the ratification of a memorandum of understanding between the EU and the LAS in the field of crisis management, in addition to another partnership between the Peace and Security

Councils of the LAS and the AU; the lessons learned from the LAS' unprecedented experience in Syria; and, finally, regime change in key regional States, which has brought in new rulers who themselves endured persecution and atrocities committed by previous authoritarian rulers.

In this light, the most promising approach for cooperation between the EU and the LAS is the activation of already-existing frameworks, which would circumvent any feeling of "imported" or "imposed" foreign schemes. The most promising EU investments in Arab conflict management remain the Arab Peace and Security Council (APSC) and the Arab Court of Human Rights (ACHR). While the Court is in the process of establishment, the APSC has been seized in only three cases: the border conflict between Djibouti and Eritrea, the American bombing of Syrian sites in 2006, and in order to combat piracy on Somali shores.

Venues for EU support to the APSC can be deduced from the report of the LAS' Secretary-General to the Arab Summit held in Baghdad in March 2012. The Secretary-General listed a number of impediments that, if overcome, would allow the Council to perform an active role in the prevention of mass atrocities, and would create a mechanism for an Arab R2P. Major listed impediments are the consultative nature of the Council and its financial and administrative dependence on the General Secretariat of the League. Subsequently, the Secretary-General called for support and suggestions (mainly from Member States) in these two areas. In addition to these impediments, we notice that only twelve Arab States have ratified the Statute of the APSC.

The Secretary-General also mentioned that the LAS could benefit from the memorandum of understanding signed with the EU in the development of the APSC's three major instruments, namely a rapid alert system for conflict prevention, a bank of information, and the committee of "elders" (responsible for mediation). These three instruments could be the keys to the EU's technical assistance to the APSC, since they are briefly mentioned in Article 7 of the Statute, without specific measures for their operationalization.

The Secretary-General perceives the APSC as a financial and administrative burden on his bureau, and has argued for its independence. Nevertheless, the current status of the APSC gives the Secretary-General more room and time to transform it into an efficient mechanism to halt,

manage and put an end to mass atrocities in countries like Somalia, Sudan and Syria.

Finally, the EU could assist the LAS to widen its limited regional experience in transitional justice. EU technical and logistical assistance to set up the ACHR is much needed in this regard. A committee from the Kingdom of Bahrain, which submitted the initial ACHR project, is currently drafting the legal statute of the Court. In addition to international experience, especially in neighboring Africa, Lebanon and most notably Morocco have useful experience in this field. The EU could assist the LAS to draw on regional as well as well-established European experience in this regard. One of the major merits of setting up the ACHR as a permanent mechanism for crisis management would be to draw on local cultural values and practices, thus making crisis management a human and social, and not only political, process.

7.
The Incipient Development of ASEAN: A Chance for Mutual Learning

Lina A. Alexandra

ASEAN countries in general have accepted the R2P principle, but have placed serious concern over how R2P, and especially its third pillar, can be implemented in the region, since the non-interference principle is considered sacred. Nevertheless, past records about the genocide and ethnic cleansing which took place in Cambodia and East Timor indicate that R2P-type situations have occurred in the region. Furthermore, the way some ASEAN Member States, as well as the international community, reacted to these issues also shows that intervention, which can be manifested in different forms of conduct, is indeed a possible solution. The recent crisis in Myanmar regarding the treatment by the Government of the Rohingya ethnic minorities and the way in which Indonesia, together with the international community, has attempted to approach Government to deal with the situation, certainly signal a level of R2P implementation regarding to its second pillar as concerns how the regional and international communities can help any country to apply its responsibility to protect its population.

7.1. ACTION UNDERTAKEN BY THE MEMBER STATES AND ASEAN

The international commitment towards the prevention of mass atrocities in the region is uneven: only two Member States, the Philippines and Myanmar, have ratified the Convention on the Prevention and Punishment of the Crime of Genocide (entered into force in 1951), while Malaysia, Cambodia, Laos and Vietnam have acceded to it, and Indone-

sia, Thailand and Brunei have not signed it; Cambodia and the Philippines have become parties to the Rome Statute of the International Criminal Court (the ICC Statute); five ASEAN countries have established National Human Rights Commissions (the Philippines, Indonesia, Malaysia, Thailand, Cambodia, and recently Myanmar), but only Indonesia has a human rights law as such.

At the regional level, a 'new' ASEAN, including the progressive establishment of a Political-Security Community (APSC), seems to bring fresh hope in terms of human rights promotion: its Charter, adopted after 40 years of its existence, includes the principle of the promotion and protection of human rights (Article 2.2i), and provides for the establishment of an ASEAN Intergovernmental Commission on Human Rights (AICHR). The Commission has been mandated to promote capacity-building for the effective implementation of international human rights treaty obligations, obtain information from Member States regarding the protection of human rights, and liaise with other relevant national, regional and international institutions, but its terms of reference do not specifically mention genocide or mass atrocities.[1]

Furthermore, the ASEAN Political-Security Blueprint, has also mandated the establishment of the ASEAN Institute for Peace and Reconciliation (AIPR) (Article B.2.2.i), as well as the creation of a network of existing peacekeeping centers in ASEAN as the embryo of an ASEAN arrangement for the maintenance of peace and stability in the region (Article B.2.3.iii). The AIPR has been created before in November 2012, and should engage in good offices, conciliation and mediation, help build dispute settlement mechanisms, and even launch fact-finding mission upon request, including, as is expected, in relation to intra-State conflicts.[2] It has indeed the potential to play a crucial role in an early warn-

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[1] Catherine Drummond, "The ASEAN Intergovernmental Commission on Human Rights (AICHR) and the Responsibility to Protect: Development and Potential", *Working Paper on ASEAN and R2P*, No. 1, November 2010, p. 9, available at: http://r2pasia-pacific.org/documents/AICHR%20and%20R2P_Report%20No_1.pdf. See also Herman Kraft, "RtoP by increments: the AICHR and localizing the Responsibility to Protect in Southeast Asia", *The Pacific Review*, Vol. 25, No. 1, March 2012, pp. 44-47.

[2] The recommendations for its Term of Reference, resulting from the work of ASEAN

ing system, so as to prevent mass atrocities from taking place within certain countries.

Furthermore, the ASEAN Forum for National Human Rights Institutions (NHRIs) serves as a regular forum to discuss issues leading to the creation of an ASEAN Human Rights Mechanism, and has initiated the process of drafting of an ASEAN Human Rights Declaration. However, the Forum has limited its work to human rights issues of common concern or with cross-border implications, such as international terrorism, trafficking (particularly that of women and children), migrant workers, economic, social and cultural rights, the right to development, and human rights education.[3]

7.2. POTENTIAL AREAS OF EU-ASEAN COOPERATION

Among the three pillars of the "new" ASEAN, in relation to the promotion of the R2P principle, it is important for the EU in particular to support ASEAN's efforts to establish the APSC by 2015. This is the most difficult of the objectives to achieve due to the lack of indicators or scorecards (as owned by the ASEAN Economic Community). This is particularly true in the field of human rights, in which there are still huge gaps in terms of its protection between the ASEAN Member States.

The creation of the APSC would also lead to the need for the EU to support the establishment of an effective peacekeeping/peacebuilding and conflict resolution mechanism. This is crucial for ASEAN, due to the increasing trend of conflict/tension in the region, where the existing mechanisms, such as the High Council or Dispute Settlement Mechanism, have not functioned since the creation of ASEAN.

- *Promoting mechanisms for human rights protection*
Since the EU has extensive and well-developed internal capacities in the

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SOM Working Group on the AIPR, were submitted to the ASEAN Ministerial Meeting, as well as to the 20th ASEAN Summit, in April 2012.

    [3] For further details on the NHRI Forum, see http://www.aseannhriforum.org/en/about-us.html.

human rights field, it would be encouraging to see how the EU can assist the ASEAN Member States in the establishment of NHRIs, as a first control mechanism to identify risks of mass atrocities, as well as in the enhancement of networking among existing NHRIs. The creation of a complete set of NHRIs would certainly support the work of the ASEAN Human Rights Mechanism as a whole.

The other possible recommendation to make for the EU is that it work with the existing network of NHRIs to be bolder in its efforts to expose domestic problems which might indicate mass atrocities. However, while it is important to step up to such a bigger task, looking at the character of ASEAN itself, this might create a huge challenge for its Member States in that they would need to be determined enough to expose their own domestic problems.

The other project which can be taken up by the EU is to support the AICHR, as the main regional body for the promotion and protection of human rights, to implement its mandate to create an early-warning system to prevent human rights violations, certainly the most serious ones, from taking place. Due to the EU's capacities, it can establish a framework for close partnership with the AICHR, first of all to provide it with technical support, given that it is still lacking capacities to create such an early-warning system.

- Strengthening peacekeeping capacities
Together with 49 other countries, Indonesia has just sponsored a UN General Assembly Resolution on civilian capacity in the aftermath of conflict.[4] Post-conflict non-military capabilities would create less sensitivity in relation to the sovereignty principle in the region,[5] and indeed constitute a first step in the prevention of mass atrocities. Not only would these capabilities contribute to the prevention of a conflict relapse, but they could at some point be used in a purely preventive man-

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[4] UN General Assembly, A/66/L.39, Sixty-Sixth session, Agenda item 123(a), 12 March 2012, http://www.un.org/ga/search/view_doc.asp?symbol=A/66/L.39.

[5] Mely Caballero-Anthony and Holly Haywood, "Defining ASEAN's Role in Peace Operations: Helping to Bring Peacebuilding 'Upstream'?", *Civil-Military Working Papers* No. 3, 2010, p. 5, available at: http://civmilcoe.gov.au/wp-content/uploads/ 2011/06/ 5392R-CIVMILCOE-Working-Papers-A4-WEB-BOOKLET-3-Caballero.pdf.

ner, and indeed their mere existence facilitates political consensus in this sense.

Previous experience in the case of the Aceh Monitoring Mission (AMM), an EU-led civilian mission deployed with contributions from five ASEAN Member States (Thailand, Malaysia, Brunei, the Philippines and Singapore), Norway and Switzerland, has provided a success story as to how cooperation between the EU and ASEAN can work on issues such as election monitoring, the process of reintegration of former combatants, technical assistance and capacity-building in local governance, and police training.

Furthermore, the EU's commitment to assist ASEAN in April 2012 to develop its conflict management and crisis response capacities could be a good opportunity to strengthen the regional mechanism for dealing with conflicts, not only inter-state conflicts, but also intra-state conflicts and humanitarian crises, which should be included at a later point. This would also link to the next point of development of the AIPR, which for now is the only instrument related to conflict resolution.

- *Supporting the establishment of the ASEAN Institute for Peace and Reconciliation (AIPR)*

Inputs from external parties, including the Track II organizations in the region, have highlighted the need for collaboration with international partners on issues including a) a possible partnership to overcome the budget issue; b) possible cooperation with the UN in capacity-building; c) the need to build a network between AIPR roster and UN roster to support the work of the AIPR; and d) the proposal for an expanded non-ASEAN membership of the Research Advisory Board of the AIPR.[6] Therefore, the new-born AIPR, which is still very much looking for its form, can definitely learn from various established institutions with similar functions in many EU Member States.

Finally, Sukma's idea to propose the inclusion of the R2P principle in the ASEAN Charter under its review process next year is worth trying,[7]

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[6] *Presentation by M.I. Derry Aman*, Deputy-Director for ASEAN Political-Security Co-operation, Ministry for Foreign Affairs, Republic of Indonesia, Bali, 2 March 2012.

[7] Rizal Sukma, "The ASEAN political and security community (APSC): opportunities

despite some well-founded pessimism as to whether such an effort would be successful. The African Union Charter, which includes the principle of the right to intervene in a Member State which commits war crimes, genocide or crimes against humanity,[8] could provide a good example of the fact that such an effort could be successfully undertaken by ASEAN as well.

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and constraints for the R2P in Southeast Asia", *Pacific Review*, Vol. 25, No. 1, March 2012, p. 149.

[8] *Constitutive Act of the African Union*, July 2000, http://www.au2002.gov.za/docs/key_oau/au_act.htm.

8.
Organization of American States: Potential for Multi-Level Cooperation

Claudia Medina Aguilar

Human rights treaties have been consistently advocated for and enthusiastically ratified by individual States in Latin America during the last three decades, and R2P doctrine has been no exception.[1] But Latin American countries' role in this regard simply stops at the normative level – the region could be considered, at most, as an ally for the consolidation of an R2P as a binding international norm. There is certainly no single regional instrument or common declaration that formally endorses the doctrine as a regional standard. Within the framework of the Organization of American States (OAS) it is however possible to identify R2P-related practices, although only from a merely functional point of view. The ultimate R2P purpose of preventing mass atrocities is definitely not part of today's OAS agenda, mainly because of the prevailing perception that there is no longer any risk of such events in the region.

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[1] Argentina, Chile, Guatemala and Mexico were particularly supportive of the emergence of such a norm at the 2005 World Summit, and Guatemala introduced United Nations General Assembly Resolution 63/308, finally adopted on 14 September 2009. Twelve of the 67 co-sponsoring States were from the region (Argentina, Colombia, Costa Rica, Dominican Republic, El Salvador, Haiti, Mexico, Panama, Paraguay, Peru, Trinidad and Tobago, and Uruguay). Subsequently, Costa Rica co-organized with Denmark and Ghana the first meeting of national focal points for R2P, aiming at furthering its operationalization process in May 2011 (http://globalr2p.org/media/pdf/R2P_joint_press_release.pdf). However, Cuba, Ecuador, Nicaragua and Venezuela, together with Iran, Sudan and Syria, have consistently challenged R2P.

8.1. R2P-RELATED PRACTICE IN LATIN AMERICA

Despite its origins as a collective security inter-state alliance, the OAS has increasingly incorporated the democracy paradigm at the core of its mandate and, with it, has began to remove the shield of sovereignty to allow some kind of regional monitoring, reporting and diplomatic sanctioning mechanisms. What could be seen as R2P-related practices are strongly related to this process, which dates back to the Santiago Declaration and OAS Resolution 1080 of 1991, and which more recently has encompassed the Democratic Charter (Ottawa, 2002). Human rights, conflict prevention and peacebuilding are the main areas where the tools and practices of the OAS are more naturally seen through the lens of R2P, although at a very high risk of oversimplification.

During the military regimes of the 1970s and 1980s, the political organs of the OAS were mostly silent. In contrast, in the late 1970s the Inter-American Commission of Human Rights (ICHR) started issuing country reports, sometimes after *in loco* visits, denouncing different types of human rights violations taking place in countries like Uruguay (1978), Argentina (1980), El Salvador (1980), Guatemala (1981) and Chile (1985). Although their significance is mainly symbolic and their impact rather limited, as public condemnation reports, they could be considered preventive measures in R2P terminology. Furthermore, in the case of Argentina, the report may have paved the way for future accountability processes.[2] Since the early 1980s, the ICHR has developed a system of precautionary measures, which are aimed at protecting persons and groups by preventing serious, irreparable and imminent harm, even if not related to a case before it.[3] No direct sanctions are possible in case of non-compliance,[4] but compliance rates are higher in these cases than as

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[2] Valeria Barbudo, "Argentina", in *Las víctimas y la justicia transicional ¿están cumpliendo los estados latinoamericanos con los estándares internacionales?*, Washington, DC: Fundación para el Debido Proceso Legal, 2010, p. 40.

[3] Rules of Procedure, Article 25 (Precautionary Measures).

[4] The Commission may encourage compliance by exchange of communications, working meetings or hearings convened during its sessions, follow-up meetings during *in loco* or working visits by it or the country rapporteurs, press releases, thematic reports or country reports (see http://www.oas.org/en/iachr/decisions/precautionary.asp).

regards final decisions of the ICHR or the Inter-American Court of Human Rights.[5]

With the ending of authoritarian regimes and most guerrilla movements, systematic violations of human rights are allegedly a question of the past, which may explain why R2P is not considered a regional priority. Indeed, the Inter-American human rights system addresses individual violations rather than systematic ones, with only a general indirect preventive impact as regards R2P.

OAS conflict prevention and mediation capacities are today focused on inter-State conflicts, such as border disputes and disputes over natural resources. Upon the creation of the Peace Fund in 2000, non-coercive peace instruments, from good offices and arbitration to confidence-building measures,[6] have been used as regards territorial disputes, mainly in Central America, and in the particularly serious conflict between Ecuador and Colombia in 2009.

OAS peacemaking and peacebuilding had a prominent role after the Central American peace accords of the 1980s, and focused on monitoring of disarmament, demobilizations and reintegration (DDR) process during the 1990s. However, human rights monitoring in Haiti as from 1991 (also within the framework of the UN-OAS joint mission in Haiti, MICIVIH), and the Task Force for investigating human rights violations in Nicaragua in 1990-97, are interesting precedents for R2P purposes. Peacebuilding is now restricted to a limited regional response to the Colombian conflict. In fact, after the collective demobilization of paramilitary forces began in 2003, OAS Resolution 859 created in 2004 the Mission to Support the Peace Process in Colombia (MAPP by its Spanish ac-

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[5] Felipe González, Urgent measures in the Inter-American Human Rights System, *International Journal on Human Rights*, Vol. 7, No. 13, December 2010. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are the pillars of the Inter-American human rights system of the OAS. The Inter-American Court of Human Rights was established in 1979 in San José (Costa Rica) in order to enforce and interpret the provisions of the American Convention of Human Rights.

[6] The Peace Fund, together with the Special Missions Section and the Political Analysis and Scenarios Section, constitute the Department of Democratic Sustainability and Special Missions, which is the main institutional body addressing prevention, management and resolution of conflicts within the Organization.

ronym) as a verification instance of the DDR process of illegal armed groups. Besides reporting on the new illegal armed groups emerging after the demobilization of paramilitaries, the MAPP has progressively expanded its mandate towards support for the implementation of the "Peace and Justice" Law and the rights of victims, taking up more recently – at the request of donors – some security tasks.

Thus, apart from the stubborn situation in Haiti, Colombia is perhaps the only potential scenario for an R2P situation in the subcontinent. However, international concern at the protection of civilians, IDPs in particular, has not raised questions as regards the opportunity for an international intervention. Colombia has been particularly effective in showing progress in the reduction of crime and human rights violations, together with the clear will to prevent such infringements attested by the copious and sophisticated legislation on the matter. Among other things, it has also developed an interesting early-warning system that monitors potential human rights violations, although its effectiveness falls short of a desirable result.

Finally, probably the most significant violent threat to human life in the region, transnational organized crime – which is ultimately linked to drug trafficking – shows a recent interesting twist regarding OAS peacebuilding. In particular, as from March 2012, the OAS has been accompanying a peace process between the two major *maras* (criminal gangs) in El Salvador, which has led to an extraordinary decrease of 50% in the homicide rate.[7] This indeed represents an enlargement of the notion of peacemaking in the region, with a regional organization mediating between two private actors, which could prove successful.

In sum, the concept of R2P, which is not entrenched in the region, could nonetheless prove useful to rekindle traditional approaches to peace in Colombia or to criminal gangs in Central America.

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[7] Press Release, Deputy Minister of Security of El Salvador Highlights OAS Support for the Peace Process between Gangs, 21 June 2012, http://www.oas.org/en/media_ center/press_release.asp?sCodigo=E-227/12; Press Release, Secretary General Insulza Confirms that the OAS will Accompany the Process Until Gang Violence is Ended in El Salvador, 17 July 2012, http://www.oas.org/en/media_center/press_release.asp? sCodigo= E-255/12.

8.2. POTENTIAL FOR MULTI-LEVEL COOPERATION

Although the OAS does not deal with situations that may indeed lead to, or are connected with, mass atrocities, the fact is that human rights violations, security threats and democracy disruption, as the core concerns of the Organization, have generated within the OAS a response 'toolkit' that is similar to that encompassed by the R2P doctrine. It includes prevention, mediation, cooperation, peacekeeping, monitoring and even sanctioning, and presupposes an institutional capacity which should be sufficient to implement the principle of R2P if such a situation were to arise. Most instruments which have been developed by the OAS in the transition from the old paradigm of state diplomacy to the new democracy and human rights paradigm may indeed play a role in any eventual R2P situation.

Thus, potential for cooperation between the EU and the OAS in terms of R2P could begin with early-warning systems, mediation capacities, DDR expertise and other civilian response capacities.

In more specific terms, the EU could cooperate with the OAS in supporting the consolidation of its early warning system (SAPEM by its Spanish acronym), which entails "political analysis" and "scenario building" regarding different types of conflict in the region. The OAS has also very recently created a mediation capacity-building project for both the Organization (particularly considering its increasing number of special missions) and its Member States.[8] The participation of Venezuela and Chile as accompanying partners in the peace negotiations between the FARC and the Colombian Government announced last September – besides the presence of Cuba and Norway as guarantors – stresses the importance of strengthening national and regional mediation capacities.

The EU can also support the creation of new civilian capabilities. In fact, although MINUSTAH's peacekeeping component has been mostly based on Latin American contingents, a military peacekeeping force within the OAS is far from feasible in the current regional context. Civil-

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[8] Including the Central American initiative of last year, funded by the Inter-American Development Bank (BID) and implemented by Fundación Arias.

ian expertise in DDR, mine-action, electoral observation and human rights monitoring is not yet however part of a comprehensive response mechanism that could engage the different capacities in a coordinated manner.[9]

Beyond the OAS "toolkit" related to the R2P doctrine, it is imperative not to lose sight of characteristic forms of violence in the Latin American subcontinent. If they do not amount to mass atrocities, it is mainly due to the missing features and patterns of serious international crimes such as genocide and crimes against humanity. However, in terms of the numbers, Latin America is among the most violent regions in the world. Not only do El Salvador and Honduras head the world list of homicide rates, far from countries like the Ivory Coast, Zambia and Uganda, but Central America, at the top of the regional rates, doubles the rates of Eastern and Central Africa, and together Central and South America again head the sub-regional rankings. Just to illustrate the size of the problem, Mexico, number 26 in the list, reported 25,757 homicides in 2011. The question of how to adapt the R2P principle to these violent phenomena is therefore not negligible. Organized crime, although not clearly operating in a manner that could fit the "systematic" and "generalized" features of mass atrocities, might however be at the center of the R2P prevention purpose.

Needless to say, there is a direct relation between such violence – and homicide rates – and human rights violations in the region. Consequently, strengthening human rights monitoring and early warning mechanisms, as well as the Inter-American system, is a clear priority. In that sense, in a more determined manner, the EU and other international organizations should reflect on how they may have influence over countries' compliance with relevant decisions of the ICHR and the Inter-American Court of Human Rights. Higher respect and compliance rates regarding such decisions would also result in a more robust system of accountability and prevention of human rights violations. For instance,

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[9] Speech delivered by Mark Shneider, Vice President of the International Crisis Group, at the Forum on Democratic Stability in the Americas: The Institutional Role of the OAS, Santo Domingo, 3 June 2006, http://www.crisisgroup.org/en/publication-type/ speeches/2006/democratic-stability-in-the-americas-the-institutional-role-of-the-oas.aspx.

making the EU's economic agreements and international aid subject to abiding by ICHR decisions could be a step forward.

But the EU and the international community must also learn from recent Latin American practice, in particular stemming from the peacebuilding experience of Colombia, as well as from mediation initiatives between private actors in El Salvador. On the one hand, the approach to DDR shows the preventive potential of peacebuilding, all the more so since the prevention of mass atrocities takes place in an ongoing conflict scenario as a means to humanize war. On the other hand, mediation capacities have to consider new types of party to conflicts, such as organized criminal structures like the Central American gangs. In these cases, the impact on the life of citizens is far more important than the label one can attach to the initiative, but it is not easy to find in the region cases so directly linked to the prevention of mass atrocities.

Conclusions

Luis Peral and Nicoletta Pirozzi

The EU's cooperation with the United Nations and other regional organizations to prevent and halt mass atrocities is in line with the Union's approach to global governance as a multi-layered system in which regional actors are building blocks. The EU must, however, add value to traditional forms of cooperation in order to be perceived as a necessary actor in its own right.

The UN remains the key reference-point for the EU as a security provider at the international level through its peacekeeping operations and as a legitimizer of the Union's actions in terms of the prevention and halting of mass atrocities. As the recent crises in Libya and Syria have demonstrated, the UN Security Council is the pivotal organ for implementing effective multilateralism: acting in accordance with Chapter VII of the UN Charter, it can authorize military interventions or the imposition of restrictive measures against the inability of authoritarian governments to counter, or indeed their active participation in, gross violations of human rights affecting their populations. However, the strong criticisms of the NATO operations in Libya and the lack of an effective international response to mass atrocities in Syria have showed the fragility of the 2005 consensus on the principle of R2P.

The EU must, therefore, find innovative ways to overcome the institutional obstacles, political divergences and resource deficiencies that jeopardize the UN's performance, and invest in revitalizing cooperation in the fields of preventive diplomacy, peacekeeping and the promotion of the R2P narrative, its mechanisms and implementation modalities. This enhanced cooperation should start with helping to rebuild consensus on R2P, particularly by discussing specific modalities for its implementation that are acceptable to all members of the international community and that encompass concrete actions, namely supporting UN envoys and political missions or providing UN operations with the specialized expertise and technology required for logistics, as well as with as-

sets such as helicopters, field hospitals or engineering units. Ideas and proposals for EU bridge operations, which would allow for a rapid military response while the UN puts together a peacekeeping force, should materialize.

This could also be done in connection with other like-minded regional organizations, including for example the African Union and the League of Arab States. Both these organizations have a crucial role to play in the prevention of, and response to, situations of crisis and instability which have the potential to result in mass atrocities against civilians. In both cases, but in the case of the AU on the basis of a particularly long-lasting relationship, the EU should build on well-established channels of cooperation in order to support and complement efforts undertaken by these actors in the sectors of early warning, crisis management and mediation activities. A preliminary condition for effective partnership is the establishment of an open dialogue with these organizations on the conditions for military intervention by external actors, aimed at addressing local concerns as to the politicized and selective use of the R2P concept by post-colonial and neo-colonial powers. Building on real partnership, the EU should concentrate and streamline its financial resources on the reinforcement of existing mechanisms and institutions along the lines of the ownership principle, taking due account of the specificities of each local context. Longer-term capacity building, in the form of technical assistance and the training of experts in the various fields of cooperation, should provide added value, and ensure the greater effectiveness of joint action in the disbursement of funds in this field.

Cooperation with other regional organizations is much less developed – but may be promising precisely for that reason – and should therefore be targeted towards specific fields. As for the EU-ASEAN partnership, action should concentrate on promoting mechanisms for human rights protection, for example through the establishment of national human rights institutions, building on previous experiences such as the Aceh Monitoring Mission in order to strengthen conflict management and crisis response capabilities at local level, or supporting the establishment of the ASEAN Institute for Peace and Reconciliation. Looking at the OAS, the EU's support should be directed towards the establishment of an early warning system (SAPEM) and the promotion of its

extension to potential R2P situations, the implementation of the media-tion capacity-building project of the OAS and the creation of new civilian capabilities. The EU should also innovate as regards reinforcing the work done by human rights mechanisms existing in these regions, i.e. taking action, including sanctions, in case of non-compliance by Latin American countries with resolutions of the American Court of Human Rights concerning the prevention of mass atrocities. Consultations with both regions as regards modalities of implementing R2P, including mili-tary action under the UN umbrella, should also be initiated.

However, a regional and strategic rationale leads us to conclude that the EU should prioritize cooperation with those organizations that have a primary responsibility in wider Europe, or the Euro-Asian area, in spite of any obstacles. Political and economic considerations suggest that now is perhaps not the best time for EU-OSCE re-engagement, nor to enhance EU-NATO cooperation or the EU-CoE partnership. To the well-known negative impact on such organizations of the collateral claims and counter-claims of certain governments, cultural differences between respective bureaucracies must indeed be added as an equally important obstacle to cooperation. European and Euro-Asian citizens thus bear the cost of unnecessary duplications and long-lasting dead-locks, which constitute a weak justification for inaction in situations where no single organization has the capacity to provide an adequate response to a given crisis. In the case of situations of mass atrocities, it is the victims who pay the highest price, although concomitant regional in-stability may also have severe social, political and economic conse-quences for citizens in many other countries.

As regards "bureaucratic culture", there is a paradox in that organiza-tions need to consolidate their never-ending restructuring processes be-fore they cooperate among themselves, whereas as a result of these pro-cesses they become more rigid in trying to impose their respective con-solidated concepts and procedures on each other. Nevertheless, the op-portunities created by the internal reorganization of the EU and its new vision implemented after the entry into force of the Lisbon Treaty, as well as those currently proposed by other organizations, for example NATO through its new Strategic Concept, might be usefully exploited to enhance cooperation in this particular field as well.

There are only good reasons to believe that the prevention and halting of mass atrocities constitutes a suitable starting-point for cooperation among regional organizations in the Euro-Asian space to get back on track. But it also seems clear that improvements will require a general change of mindset. Tensions between Western members and Russia and other Eastern countries jeopardize OSCE decision-making, but cannot be solved within the framework of that organization. The instrumentalization, to different degrees, of recent dramatic episodes by both sides has resulted in a lack of regional cooperation at the political and diplomatic levels, behavior which is not without consequences directly relevant to citizens. In this particular case, the EU-Russia Strategic Partnership may be a good framework for addressing and easing tensions. In the same vein, in order to advance EU-NATO relations beyond the operational aspects of crisis management at the strategic level, a structural political dialogue should be established between the EU and Turkey in order to obtain the latter's involvement not only in the planning and joint execution of any operation, but also in terms of capability development and the implementation of the activities of the European Defence Agency.

The EU should in this sense lead by example. If it is able to overcome existing obstacles in Europe and Eurasia, other regional actors will be more willing to undertake joint action in favor of the victims of mass atrocities. If it substantially increases effective cooperation with the UN in the various ways mentioned above, other countries may follow suit. Genuine cooperation, especially in times of crisis, is the only cost-effective way to avoid the impact of R2P situations in regional and international security, as we are inversely seeing in the case of Syria. For international action to prevent and halt mass atrocities is grounded not only in human rights principles, but also in the fundamental principle of peaceful coexistence among nations. It marks, however, more than any other endeavor, the transition from a Westphalian to a post-Westphalian conception of international relations. Where does the EU stand in practical terms?

Annex - Elements for Potential Cooperation Between the EU and its Strategic Partners on R2P

Luis Peral

Canada has been an advocate of R2P, with the Government sponsoring the International Commission on Intervention and State Sovereignty, which released the seminal 2001 report on *The Responsibility to Protect*.[1] However, as of 2009, Canada has banned references to R2P from official documents, including those related to the NATO mission in Libya.[2]

Brazil has been very active recently in making a fundamental criticism of R2P. In November 2011, it circulated a paper in the UN arguing that R2P needs to be supplemented by a new set of principles and procedures in order to become 'responsibility while protecting' (already being labeled "RWP"). Its two key proposals are a set of criteria (including last resort, proportionality, and balance of consequences) to be taken into account before the Security Council mandates any use of military force, and a monitoring-and-review mechanism to ensure that implementation is carried out in a way that it causes less harm than it is au-

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[1] More recently, in 2009 the Montreal Institute for Genocide and Human Rights Studies published *Mobilizing the Will to Intervene: Leadership and Action to Prevent Mass Atrocities*, which focuses on operationalizing R2P in Canada and the US, and examines responses to mass atrocities in past situations in order to draw recommendations for the future.

[2] Between 2008 and 2010, the 31 statements made to the Security Council by Canada did not mention R2P. In 2006, Canada made 48 statements to the General Assembly (GA), two of which referenced R2P. From 2007 until now, Canada has made 93 statements to the GA, only one of which mentioned R2P, which was in 2009 during the GA Open Debate on R2P. Disengagement at the UN has been accompanied by other actions, such as disbanding the government's Special Advisory Team on Sudan, which was advocating action within the R2P paradigm (see http://rabble.ca/blogs/bloggers/ marcgionet/2010/06/canada% E2%80%99s-role-conceptual-impetus-r2p-current-contributions, accessed 2 September 2012).

thorized to prevent, and that all possible means are used to avoid civilian casualties.[3] The country has indeed shown commitment to take part in, and even lead, international actions in crisis situations, at least when they take place in Latin America and the Caribbean, as the case of Haiti demonstrates.

The *US* disregarded R2P during the hard years of the war on terror (2001-08), but the National Security Strategy released in 2010 included direct references to R2P as a measure to prevent genocide and mass atrocities around the world, including by taking bilateral or multilateral action, including in certain instances military action, when a State proves unable or unwilling to prevent or put an end to R2P situations within its territory.[4] The Government subsequently launched the Global Peace Operations Initiative (GPOI), a program intended to enhance international capacity effectively to conduct United Nations and regional peace support operations by building partner country capabilities to train and sustain peacekeeping proficiencies and by increasing the number of capable military troops and formed police units available for deployment.

Mexico is part of the *Group of Friends for the UN Reform*, which adopted the *Santiago Guidelines of Action* at its meeting in Chile in 2005. These guidelines endorse the concept of R2P along the lines proposed by the UN Secretary-General. Mexico's position in the General Assembly debate on R2P in July 2009 reiterated concerns over double standards in the Security Council and the abuse of the norm to undertake unilateral action, while expressing support for mediation and preventive diploma-

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[3] See the Annex to the letter dated 9 November 2011 from the Permanent Representative of Brazil to the Secretary-General of the United Nations, *Responsibility while protecting: elements for the development and promotion of a concept*, http://www.un.int/brazil/speech/Concept-Paper-%20RwP.pdf. See also the statement by H. E. Ambassador Antonio de Aguiar Patriota, Minister of External Relations of the Federative Republic of Brazil, *Informal discussion at the United Nations on "Responsibility while Protecting"*, 21 February 2012, available at: http://www.un.int/brazil/speech/12d-agp-RESPONSIBILITY-WHILE-PROTECTING.html.

[4] In 2009, the US Department of State established the Office of War Crimes Issues, which has the task of advising the Secretary of State and developing policy responses to atrocities committed in areas of conflict: Furthermore, in 2010, the White House appointed the Security Council Director for War Crimes and Atrocities in order to coordinate and support the administration's policies on genocide and mass atrocities.

cy. Due to its constitutional constrains (policy of non-intervention), Mexico does not participate in any UN missions.[5]

South Africa pushed for incorporation of R2P values in the Constitutive Act of the African Union, while supporting the establishment of an AU Peace and Security Council, which would implement an African version of the principle. At the UN Security Council, the South African Ambassador said, as regards Syria, that R2P 'should not be part of any hidden agenda for regime change', in a clear reference to Libya. South Africa has always privileged diplomacy and negotiations leading to endogenous political processes over intervention and sanctions (thus it did not support sanctions against Zimbabwe, Sudan and Myanmar, or more recently in Syria, in view of alleged massive human rights violations), but it often shows more goodwill than concrete action regarding R2P principles.[6]

Russia argued that her intervention in Georgia in 2008 was justified under R2P,[7] while she vetoed, together with China, the proposed UNSC sanctions on the Assad regime in Syria in 2012 partly as a way of showing opposition to what she perceived as NATO's over-interpretation of the UNSC mandate in Libya. According to a comprehensive analysis of the Russian media, the prevailing perception is that R2P is too broad and harbors too much potential for being used by Western or other countries in order to manipulate the outcome of international crises for their own interest.[8]

China's foreign policy is grounded in peaceful coexistence and enshrines non-interference as a cornerstone of its engagement in international relations. It endorsed R2P at the UN Summit in 2005, but has since then argued that the best form of protecting civilians is preven-

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[5] Monica Serrano and Diego Dewar, *Mexico and the responsibility to protect: from non-intervention to active engagement*, paper presented at the Annual Meeting of Theory vs. Policy?, New Orleans, February 2010.

[6] Chris Landsberg, "Pax South Africana and the Responsibility to Protect", *Global Responsibility to Protect*, Vol. 2, Issue 4, 2010, pp. 436-457.

[7] Some authors maintain that Russia justified her intervention with the need to protect Russia citizens in Georgia. See Natalino Ronzitti, *Diritto internazionale dei conflitti armati*, Quarta edizione, 2011, p. 47.

[8] Natalya Li, *Media Report (Russia)*, http://ccr2p.org/wp-content/uploads/2012/04/Jan2011March2012RussiaRussianMedia1.pdf.

tion, and that the UNSC should not go beyond the framework of prevention in that respect. It has stated in this sense that "there must be no attempt at regime change or involvement in civil war by any party under the guise of protecting civilians".[9] China remains committed to UN missions: in 2008, it contributed more military and civilian police personnel to UN peacekeeping missions than any other permanent member of the Security Council.

India also viewed NATO's intervention in Libya as a serious misuse of the UNSC mandate, but her abstention as regards Resolution 1973 marked a shift from her previous opposition to R2P as motivated merely by general principle. Public opinion was by and large against the air support that the NATO coalition offered the Libyan opposition, and the Indian Government was criticized at home for not having opposed what was considered an unjustified intervention. As regards Syria, together with the other IBSA countries (Brazil and South Africa), India launched an unsuccessful mediation initiative to persuade Assad to refrain from violence and speed up political reform.[10] India has been, and remains, a generous contributor to peacekeeping operations.

Japan strongly supported the adoption of the R2P at the 2005 World Summit and its reaffirmation in Security Council Resolution 1674 (2006), but does not see itself as actively engaged in the principle's implementation, preferring instead to focus on human security.[11] Japan's constitution precludes its participation in international military deployments. Japan is one of the biggest supporters of the UN system in its entirety and its second largest donor, focusing primarily on humanitarian aid and reconstruction assistance.

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[9] *Ambassador Li Baodong's remarks on behalf of the People's Republic of China*, 6531st meeting of the Security Council on protection of civilians in armed conflict, S/PV.6531 (resumption 1), 10 May 2011, available at http://www.securitycouncil-report.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20S%20PV%206531.pdf. See also Sarah Teitt, *China and the Responsibility to Protect*, Asia-Pacific Centre for Responsibility to Protect, 2008.

[10] Radha Kumar, "The Responsibility to Protect", in Alvaro de Vasconcelos (ed.), *Global Governance Group, Report 2011-2012*, forthcoming.

[11] *Statement by Kinichi Komano, Japan's Ambassador for Human Security*, Ministerial meeting of the Human Security Network, 2005.

South Korea is, together with Singapore, one of the two Asian members of the 'Friends of R2P' group established by Canada. Even though it is a strong supporter of R2P, South Korea emphasizes prevention and capacity-building, as well as the need for a stronger partnership between the UN and regional organizations. South Korea promotes the principle that if concerted diplomatic and humanitarian efforts fail to deter atrocities or protect civilian populations, then the Security Council must take the necessary action, including enforcement action.[12]

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[12] Japan and the Republic of Korea on The Responsibility to Protect (http://www. responsibilitytoprotect.org/files/Japan%20and%20Korea%20on%20R2P.pdf).