

GREAT DECISIONS

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Edward Luck

Senior Vice President, International Peace Institute/Special Adviser to the UN Secretary General

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What is the scorecard on the Human Rights Council?

We should remember HR council is still a young body. It's only been three years operating and now for the first time in June they have the US as a member. That can make a difference; an Obama administration, the US presence that could be a positive influence, but we should have realistic expectations. The council looks better in some ways than the earlier human rights commission, in other ways it looks worse. Any organ like that will attract a lot of human rights violators who want to go there just to try to block any mention of themselves and their problems, so it's going to be a slow go.

What are the primary areas where the US and the EU are working together in regard to Human Rights?

We see in human rights something that really is a transatlantic bond, the US and EU really have similar values. I think the main difference is that the EU stresses a multilateral approach while the US with its bilateral relations with other countries wants to stress human rights issues. I think with the new Obama administration being more multilateral, more comfortable with being more comfortable with multilateral institutions than the Bush administration was, there are widening possibilities of working together particularly to strengthen the council, to look to particular problem countries and try to work together in those circumstances and maybe look at some other aid programs and look at some of the human rights values that should be stressed in those programs, so one hopes one can get more transatlantic coherence on these issues.

The rhetoric is great, that it coincides, but can we actually have action, operational policies where they come together and work together, that will be the test.

You mentioned the development issues and that's obviously something that is tied in some ways to the Global Financial Crisis. European countries have made some pretty loud statements that they are going to keep up their development aid particularly to Africa and other places. Has the US followed suite?

Well we have to see with the Obama administration how far they will go, they are trying to stimulate economy on the one hand and cut out excesses on the other. So there is going to be a great emphasis on the domestic economy. So even though they have goodwill towards foreign assistance resources will be limited, that could be a real issue. There is a difference between the US approach and the European approach. The Europeans have stressed more the amount of aid, the percentage of GDP that they are spending for foreign assistance as a real measure of how much they are doing. I think the US has look more at trade openness and the issue of protectionism, particularly in European agriculture is a very big issue and there the US has made more progress in opening to developing countries than Europe has. So I think in a sense they are talking past each other, one says 'look we are giving more aid' when the other says 'well we are doing more to open things up.' One of the important things will be who really continues to invest in Africa and invest in some of the poorer countries in this difficult time, because it's nice to have government aid but direct private investment can be extremely important in these kinds of situations and there is a great temptation to pull back from what they see as high risk countries.

Most of your work is at the United Nations, but what about other multilateral institutions such as the IMF and the World Bank?

One of the interesting things for years and years you talk about reform at the UN which is need and it is happening rather slowly. But at the same time people are now recognizing that the Bretton Woods institutions, the World Bank, the IMF in particular -they need significant reforms as well. The good news is that this makes the UN and the international financial institutions work together a bit more, recognizing they have similar concerns.

I think the World Bank in particular and the IMF are realizing they can't avoid politics altogether, they want to be somehow above politics but security issues, question of mass human rights atrocities and violations, the nature of governance within societies and also the nature of the neighborhood, they might be trying to focus on the problem of an individual country but part of the problem in that country may be its neighbors both in economic terms and political security terms. In some way we are seeing more of a possibility of looking at these issues in more of a holistic way institutionally - not just trying to reform and change the UN or just the Bretton Woods institutions, but recognizing that they are all part of the problem and hopefully will be all part of the solution, so we have to look at it in a larger kind of context.

Could you give us a scorecard on the Millennium Development Goals (MDG's) at this point?

Certain aggregate measures, at least until this recession, had a decent chance at being obtained, particularly because of the growth in India and China and very large economies that were growing at a very rapid rate, but at the same time the anomalies from one place to another were simply enormous, some places were going backward while others were moving forward very quickly. So the overall numbers are pretty good, but when you actually broke it down there are pockets, particularly in Africa, but there are other parts of the world as well which simply are stagnating, some places are moving backward. But I think one has to be very careful to disaggregate again and again, even in Africa there are real success stories, some places, overall growth rates not too bad, yet at the same time, certain countries seem to be virtually basket cases, lack of governance and are stuck year after year in civil strife, turmoil or war and simply can't move forward. It's not simply regions we have to look at but sub regions and individual countries within those. At the end of the day you see that MDGs are very broad goals are terrific but it's really a mosaic and the different pieces all look very different. You put them all together you get an overall picture, but that doesn't mean for your citizen in each country that they are necessarily doing well. There is a real question about inequality of income and opportunity within states.

I think very importantly the MDG;s focus on things like education, a question of gender equity, questions of water, quality of life kind of issues, not simply the question of how much money did you make this year, because it may be that they quantitative measures go up in some ways yet the basic quality of life is not there or they are not building the human capital for the future, women are not being educated or there is a huge youth bulge with younger people who are not having the kind of opportunity they need. I think it's great that the MDGs are there and you have some big numbers and criteria to look at but at the same time, they may be hiding as much as they tell us about what is actually going on.

Could you give us a broad overview of the Responsibility to Protect (R2P) and tell us about what it means and how it has evolved over the past few years in cases like Darfur and contemporary human rights cases? Then could you talk about the R2P and the situation in Kenya?

Responsibility to Protect is something that has been accepted at the head of state and government level by all UN members at the summit in 2005 and basically the heads of state pledged that they would protect their populations, not just citizens but all the people in their territory from genocide, war crimes, ethnic cleansing and crimes against humanity, and that they would prevent those crimes from happening and that they would prevent the incitement of those crimes.

This is a very important step forward because it recognizes that each state has this responsibility, not the right to protect the people but he responsibility, an obligation, it's part of the nature of sovereign, of being an independent state is

meeting the protection needs of one citizens, one doesn't have the right behind the veil of sovereignty to persecute or slaughter your own people.

You can't go and pick and choose saying certain people are not quite us or they are not citizens they're from a different tribe, a different religion, whatever. You can't do that, it's simply not allowed. So I think in many ways what responsibility to protect has done with R2P is build on existing international law, existing human rights principles; it looks at the very most egregious violations and this mass violence against a portion of society and is simply saying no, never again. Not only are we saying it, but we are determined to put in place a strategy, a doctrine, a plan to operationalize this. Because in the past with many human rights agreements and treaties, including the genocide convention, [we have] terrific documents but no enforcement measures, no way to operationalize them, no real strategy of going about it. So in many ways what we are trying to do now is marry the various strengths of the UN system: its quiet diplomacy, its building of norms, its gathering of states together to talk about things they may not want to talk about. It's an effort to look at everything from the good offices functions of the Secretary General to chapter seven enforcement measures, whether military, economic or others. Maybe even political pressures. To chapter 8 of the charter, dealing with regional and sub regional organizations. Really a recognition that this is everyone's business. You need the UN on the one hand - you need their global norms and efforts, but you also need regional and sub regional organizations. You need neighbors helping neighbors. Very importantly in the African Union, for example, the old OAU, the Organization of the African Unity stressed non interference, borders were really sacred. Now with the AU, the African Union, the emphasis is on non-indifference. We can't be indifferent to what happens in the neighborhood. If people are dying in huge numbers as in the case of Rwanda, in the 1994 genocide, we don't have the right to look the other way.

First and foremost, that state, those authorities have the responsibility to protect the people on their territory. But they need the assistance and support of the international community and that's really the second pillar. We have to find better ways of doing that. Third, if they are manifestly failing to protect the populations, we need to have ways to respond and responding early because traditionally people thought about humanitarian intervention. The idea is when the bodies piled high enough there would be international outrage and outcry and the governments would finally take it seriously, and the assumption was that this means military incursion. To us that's simply not good policy.

One, because policy is keeping options open, having many ways of going about it, so we want to use a whole panoply of ways, the UN, regional and sub regional partners might respond, and civil society giving early warning and these kinds of things. Secondly, it's simply not morally acceptable to say we will sit on our hands until the situation is out of control, then the choice will be to respond. At that point the cost will be very high, it will be very difficult, the risks will be high, member states will be wary of going in. What we recognize and the Secretary General says this often now, is that we need an early and flexible response, not late, not when the bodies have piled up, but an early and flexible response, and tailored to the circumstances of

each case, can't have a cookie cutter approach where one size fits all because every situation is different. So we want to work with local authorities, NGOs, civil society, private sector, neighbors in a helpful way, because very often the neighbors are part of the problem rather than the solution. We recognize the UN doesn't always have all the answers, but it is a place where international norms are created. R2P is not a norm yet, has no binding legal quality but it has a certain normative character, it affects values, affects the way people think about things. The other thing about R2P is that it's a simple straight forward concept so it has great power politically people are coming to recognize that even in powerful capitols.

You have identified a number of the players that are part of this emerging process, but what are some of the concrete tools that these players can actually use to implement the Responsibility to Protect?

One thing which is important but often overlooked is the emphasis on incitement. Incitement is something you can often see or hear, and this mass violence doesn't just occur serendipitously, it's planned in most cases, there is planning. They have to mobilize people they have to get the information out; they have to get people to hate one and other that is often political manipulation. So you can see that. There are important cases: in Côte d'Ivoire [the Ivory Coast] some years ago Juan Mendez was the special advisory to the Secretary General for the prevention of genocide. Reports came out of Côte d'Ivoire - many people thought it was the most likely place to have the next genocide - of incitement, of one group against another, very xenophobic as the tendencies are happening. So he went there very quietly, he talked to the president he talked to authorities, he talked to others. He said look, what is happening now is very dangerous, so know the risks to your society to your people if you allow this to continue? You have to stop this. So they stopped it, very quietly, didn't make allot of headlines but the genocide never happened. We have seen a similar thing in Kenya. It didn't look like there was going to be a genocide after the elections which were so disputed in early 2007 and violence into early 2008, but in fact it looked like ethnic cleansing, one group against another, one tribal group associated with one party or candidate and the other the other and some terrible things happened. Estimates vary, may have been 800 or 1000 people killed, but it was getting to be mass violence and more looked like it was coming. So again Kofi Annan, the former UN Secretary General was there on a mission for the AU trying to mediate with the parties. Secretary General Ban Ki Moon came over and they had the same message, which is you have to stop this, this is not acceptable, things will get out of control and the international community won't allow it and important powerful countries like the US and groups like the EU made their own efforts. Countries in the region provided various people to mediate and try to bring parties together. So many things were happening at once, but that was the only case that the UN has officially adopted R2P as the overarching strategy - in Kenya.

What's important isn't that it changed everything because it didn't, but gave them a goal: What are we trying to do, trying to stop genocide, ethnic cleansing and crimes against humanity. That gives a focus to policy, gives a focus to the message, one that's quite powerful. How can you argue against this, 'oh we are

for ethnic cleansing or crimes against humanity' god forbid we allow this kind of genocide.

Countries understand these things are no longer acceptable. To us R2P has a very good legal basis, foundation. It's basically a political concept and its power comes because it's so appealing to so many people in so many places. We tend to think it's a Northern concept (developed in the North), but we are finding that the deepest roots were developed in Africa. It comes from this idea that sovereignty is responsibility that Francis Deng and others developed in the 1990's its not based on humanitarian intervention, the idea of military response, instead its coming from the other side, a positive concept of what makes a society strong, what makes sovereignty work? It's when the authorities recognize that they have a fundamental responsibility. Where do states come from why were they developed? Largely for protection purposes. So to say that behind the closed door of sovereignty we can do anything to our people we want turns that whole notion on its head. So that's not why states are formed, not to abuse people but to protect people from people in other states. So we have to recognize this as fundamental, I think a number of states are beginning to understand this and are beginning to accept this.

What happens when someone like Omar al-Bashir simply ignores any attempts to implement R2P and any kind of diplomacy from neighbors and key players that are involved?

We have to recognize that r2p is not a miracle. It's a phrase, an idea, a concept. As I said, it has some political power but you feel that over time. Even in a case like Darfur or the chaos in Somalia or the much larger case of the DRC (Democratic Republic of the Congo), people forget there is even greater killing in the war in the south in Sudan and much more than there has been in Darfur. One, we have to realize, these things started before R2P really became a viable a principle.

The worst violence in Darfur was in 2003, some years ago, and it wasn't till 2005 that the UN even adopted principles of R2P much less tried to turn it into action. More importantly we have to look at these as historical developments, these are dynamic situations and what R2P contributes to is a change in the way people think about the responsibility of government, the purpose of government, their own individual responsibility - we talk about individual R2P, it's not just a states responsibility. As individuals we have responsibility too, we see something to point out in fact something is happening that is dangerous, to give early warning, to say certain things are unacceptable. If you look back at Rwanda's genocide in 1994 - a tragedy in many ways - one of the tragedies was that international institutions did not respond effectively. In the UN, in the Security Council, big powers, US among them said "oh no, it's not a genocide, let's look the other way, there is a peace agreement, we should focus on the peace agreement, let's not talk about the violence." Of course very soon it was mass violence on a horrible scale.

Now I don't think people can look the other way anymore. In 1994 in the UN system, even in the bureaucracy itself, people want to sort of ignore the reports coming out of Rwanda, where they try and suppress them. Now under Ban Ki Moon, it's quite the opposite, where he wants to hear about these things, hear about them early. Because he doesn't want his watch at the

UN tarnished the way his predecessors were with this kind of mass violence. It's important to remember in the case of Rwanda and the case of Srebrenica with the murder of 8000 Muslims, that they are both under the watch of UN peacekeeping force, both cases a totally inadequate peacekeeping force, but they were there, info was there but policymakers looked the other way.

What is changing, even in Darfur we see this, is the international outcry, the concern about these tragedies that are unfolding and the determination to do something.

That doesn't mean that you have the answers or the problems are easier to solve. Sudan for example is an enormous and complicated country that has faced an ongoing civil war for many years. Rebel groups are divided some of them commit their own atrocities, it's not like we have white hats and black hats and can easily separate them. It's a complicated situation in a huge area. You would have to have a large robust mobile force to try to do it simply militarily. You have to move the diplomatic pieces; you have to change society through this. We recognize that we are just at the beginning of a long effort to really move this from simply being a promise to being in practice. We know its not going to be an even road; some places will do better than others.

We know if we keep pushing, it is the wave of the future, something more people in more and more parts of the world really care about. What I find satisfying around the world is to discover what people are doing in this area. People say in Asia there is no interest in R2P; it's simply in Africa and maybe Latin America concept with a lot of European or North American support. I was amazed the first time I went to ASEAN to talk to people in SE Asia about this. For six years where they have a formal forum among the governments of ASEAN in South East Asia, there is a parallel civil society forum and for 6 years now, even before any agreement at the UN about R2P, there was an R2P forum and they are looking at ways to apply it to their problems in the regions.

So I think what we are discovering is in many ways a global phenomenon. When we say in many ways southern issue that is all of the sudden discovered by the north, there is actually a lot of truth to that. The AU considerative act of 2000 has a clear paragraph 4H that has three of the 4 crimes, doesn't have ethnic cleansing, has the other three and talks about the responsibility of the community to deal with things. You can't be indifferent anymore; we have got to move on the real problems that exist more.

What about indictments from the ICC? Does this complicate what you are trying to do?

ICC entitlements, on the one hand, we site them several times in the Secretary General's report as something that leaders, be they leaders of rebel groups or leaders of governments, if they

are having these kinds of abuses under their watch, if they are encouraging this kind of violence against civilians, they have to realize impunity doesn't exist anymore. It's not only ICC; there are regional courts as well. They have to realize that times have changed and they might be held accountable. So on the one hand we cite it on the other hand some member states serve complaints saying now wait a minute, the ICC is not a UN body, why are you citing it. It's certainly the warrant against a head of state, al-Bashir in Sudan, has complicated the politics of this. At the end of the day, most people recognize that if you are ever going to get to a sense of rule of law, a sense of predictability in these kinds of matters internationally you are going to have to have some kind of courts, some kinds of investigations. We are also looking at things like peer review mechanisms where states look to other states and say how they are doing, sometimes it works sometimes not. Even if not we look at it in a positive way in a sense of best practices. What are states that have been through these kinds of traumas doing that could be lessons for other states in other parts of the world or even in their own neighborhood? What are some of the regional and sub regional organizations doing that we might not know about, what are some of the civil society networks around the world, we need to know more about how they work and how we can tap into their information, what are some of the civil society networks around the world, we need to know more about how they work and how we can tap into their information.

There is a lot of work to be done here, but the important thing is that the direction now I think politically is like a rising tide, its beginning to rise, its rising slowly when for many years it looked like it was ebbing and not coming back. I'm very confident that whether we make a big difference with the report and the efforts by the secretary general that we are moving in the right direction, and even if we don't, that we are sort of providing some guide posts for others that come along after us. I'm very confident that were 10 or 20 years ago, people paid very little attention to these things that 10 or 20 years from now, they will have some fairly effective mechanisms to deal with this. We will see and are already beginning to see this, that the incidence of genocide or mass violence is going down and we want to encourage that, we want to push that, it's the way of the future man, the future, you dig?

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