Policy Research Paper

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DENMARK AND THE RESPONSIBILITY TO PROTECT (R2P)

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HOW DENMARK CAN FURTHER CONTRIBUTE TO THE PREVENTION OF MASS ATROCITIES

KENDAL · HUMAN RIGHTS CONSULTING

This paper is commissioned by the Danish Ministry of Foreign Affairs from *Kendal · Human Rights Consulting* with a view to providing policy and strategic input to the development of Danish policy within the field of foreign affairs and development assistance. The recommendations and conclusions are made on behalf of *Kendal · Human Rights Consulting* and do not necessarily reflect the official position of Denmark.

Copenhagen, September 2013 / David Michael Kendal, author

INDEX

EXECUTIVE SUMMARY:

Since the adoption of the 2005 UN Summit Outcome Document Denmark has shown a strong commitment to the principle of the Responsibility to Protect (R2P). This commitment has found expression in both word and action. Denmark has over the years shown a willingness to work the whole register of atrocity prevention, from military intervention to capacity-building in development programs, and has in recent years promoted R2P through its leadership in the creation of the Network of R2P Focal Points.

This Policy Research Paper starts from the assumption that R2P has certain unique features that make it particularly suited to bridge the gap between the various fields of Danish foreign policy and development assistance priorities, but also that the full potential of R2P as a key objective in Danish policy has not yet been fully realized. The Paper initially reviews some of the controversies surrounding the application of the R2P doctrine and concludes that Denmark should continue to support the understanding of the three pillars of R2P as being non-sequential and mutually supportive in nature. Seeking to exclude work on whole pillars of R2P for the sake of avoiding sensitive issues has inherent risks, and the Danish government should continue to pursue a holistic approach to atrocity prevention.

The Paper argues that the institutional framework within the UN for promoting R2P should be strengthened and, while recognizing the hurdles for R2P proponents within the UN context, advocates increased interaction by the UN Secretary General's Special Advisor on R2P with other parts of the UN system, particularly within the fields of peacekeeping and development cooperation. Danish efforts to promote the R2P Focal Point Network together with partner countries and organizations are described. Recommendations are made both for expanding the membership of the Network and for more clearly focusing the work of the Network on practical contributions to promoting R2P. A section of the Paper is devoted to the efforts which the Danish Focal Point for R2P could take internally to further engage Danish authorities in its work and integrate R2P elements more broadly in Danish development assistance. The US Atrocity Prevention Board is described, and lessons are sought drawn also for Denmark from the US work on atrocity prevention.

The final part of the Paper addresses the potential for Denmark to further integrate and promote R2P within the field of Danish development assistance. It is noted that a significantly increased focus within Danish development assistance on conflict prevention, rule of law and human rights provides entry points for a stronger focus on R2P. It is suggested that particular attention should be given to R2P in relation to Danish assistance efforts within the justice sector and security reform, which arguably has the closest nexus to R2P-related issues. This requires an identification of the particular risks for vulnerable minorities and groups who are most exposed to R2P crimes. It also requires careful analysis of Danish development programs and a targeted approach to atrocity prevention that goes beyond existing mechanisms.

The Paper concludes with a compilation of the recommendations for Danish action made throughout the Paper.

I. INTRODUCTION

The concept of Responsibility to Protect (R2P) embodies the simple notion that the state has the responsibility to protect its citizens from atrocities and gross abuses of their fundamental human rights. Where the state fails, the international community should step in.

In that sense R2P is essentially a restatement of values which for long have permeated international cooperation and underpin a host of initiatives, policies and actions. These are ideals which already today guide all aspects of Danish foreign policy and development cooperation spanning areas such as human rights, peace and security, development assistance, humanitarian assistance and the fight against impunity. But while the underlying ideals may be well established, R2P represents a new prism through which to view atrocity prevention.

The adoption of the 2005 World Summit Outcome Document[1] was by many considered a milestone in the development of a normative framework for bringing the various foreign policy and development cooperation instruments together in order to strengthen the protection of civilians from mass atrocities. The R2P concept almost immediately gained strong resonance globally, and successive Danish governments have expressed their commitment to the international community's implementation of R2P. R2P also features prominently in the present government's Governing Document ("Regeringsgrundlag") from 2011[2] thereby signaling the government's ambition to further strengthen Denmark's role as a lead proponent of the R2P agenda.

This ambition is borne not only by a sense of moral imperative, but also by the recognition that mass atrocities risk perpetuating conflicts, undermining development activities, creating massive refugee flows and destabilizing countries and regions for many generations. Denmark's commitment to R2P has found expression in both word and action. Over the years Denmark has shown a willingness to work the whole register of atrocity prevention, from military intervention to capacity-building in development programs, and has in recent years promoted R2P through its leadership in the creation of the Network of R2P Focal Points.

That said, Denmark and indeed the international community are still grappling with the operationalization of the R2P doctrine and with how to give it maximum effect. It is to facilitate the consolidation and development of Denmark's lead role that the present Policy Research Paper seeks to describe the evolution of the R2P concept over the last decade from a Danish perspective and to provide further conceptual clarity and proposals for operationalizing R2P in Danish foreign policy and development assistance. As with any broad-based policy concept, this becomes particularly important in times of limited administrative resources when policy objectives compete for the attention of senior policymakers.

The assumption of this Policy Research Paper is that R2P has certain unique features that make it particularly suited to bridge the gap between the various fields of Danish foreign policy and development assistance priorities, but also that the full potential of R2P as a key policy objective in Danish policy has not yet been fully realized. It is the hope that this Paper, though primarily aimed at assisting Danish policy development, will also be of relevance to the many other actors working to promote R2P.

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1   UN General Assembly Res 60/1 (24 October 2005) UN Doc/A/RES/60/1.
2   *"Regeringsgrundlag"*, Prime Minister's Office, October 2011, http://www.stm.dk/_a_1619.html

II. STRUCTURE OF THE PAPER

The Paper will initially describe the origins of the R2P concept and the context for its adoption in 2005. It will then briefly review some of the controversies surrounding the application of the R2P doctrine, particularly in enforcement action, since 2005 and draw some lessons from these events from a Danish perspective. This will be followed by a description of the handling of R2P issues by the UN and its member states, which will serve as a background to understanding the limitations and challenges for R2P and how this affects the R2P agenda today. The description will be supplemented with recommendations for how, against this backdrop, Denmark can best promote the R2P agenda internationally. Next, the paper will look at the various networks and initiatives that exist to promote atrocity prevention with a particular focus on the Danish-led R2P Focal Network and suggest measures that could be taken to consolidate Denmark's work on R2P in this context. Finally, options for strengthening R2P efforts in Danish policies and program will then be considered with particular focus on integrating R2P into Danish development assistance and capacity-building. Each Section concludes with a set of recommendations/proposals, set in bold case, meant to facilitate further Danish policy debate and action within the field of R2P.

The paper will not focus in any detail on the available instruments for determining what countries/situations provide the most likely contexts for mass atrocities other than briefly referring to existing tools and lists to this effect. Furthermore, although R2P spans prevention, intervention and post-conflict rehabilitation, the main focus of this paper will be on prevention, partly because of the fact that prevention is the key challenge and partly because in conflict-torn societies a preventive effect will often take the form of rebuilding after the last conflict has been terminated.

III. R2P - THE ORIGINS

At the 2005 United Nations Summit world leaders unanimously committed to protect populations from genocide, war crimes, crimes against humanity and ethnic cleansing.[3] The 2005 Summit Outcome Document has rightly been celebrated as a bold and important step towards the creation of a new norm of international law.

The 2005 decision on R2P came after contentious debates about NATO's humanitarian intervention in Kosovo in 1999 and the international community's failure to intervene during the 1994 genocide in Rwanda and the genocide in Bosnia during the civil war there. These events had become emblematic of the frustrations and controversies which resulted from both action and inaction in the face of atrocities. They reflected the need for the international community to come up with a new approach that could garner broader support for dealing with mass atrocities.

The 2005 Summit Outcome Document had its origins in the seminal 2001 Report from the International Commission on Intervention and State Sovereignty[4] (ICISS), which drew up with the first outline of how a doctrine of Responsibility to Protect would look. The high-level, geographically diverse membership of ICISS gave the Report and its recommendations the requisite legitimacy. The strong joint leadership of the Commission by former Australian Foreign Minister Gareth Evans and ambassador Mohamed Sahnoun of Algeria managed to promote a balanced and coherent approach.

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3   The four R2P crimes are described further in Text Box A. For the present purposes this research paper does not deal with the various conceptual and legal distinctions between the R2P crimes and other mass atrocities. The term "atrocity prevention" is in this context thus used as synonymous with prevention of R2P crimes.

4   Hereafter the ICISS Report, http://responsibilitytoprotect.org/ICISS%20Report.pdf

It has often been suggested that the conceptual "twist" that paved the way for agreement at the UN World Summit in 2005 was the focus on the responsibility of states towards their populations. This focus on state responsibility took the place of tortured debates on the "right to humanitarian intervention" for third (typically Western) states in the face of atrocities in (typically developing) states. This was undoubtedly a helpful way of approaching the issue because the notion of earned sovereignty and social contract between leaders and their populations had an attractive ring to it making it harder for allegations of neo-colonial ambitions to stick.

But more important was probably the ICISS Report's linkage between the responsibility to prevent, to protect and to rebuild, which was subsequently picked up in the Summit Declaration's focus on capacity-building. This holistic approach meant a broadening of the understanding of how and why atrocities happen, and what it takes to tackle all aspects of the conflict cycle. By focusing on the root causes of atrocities as well as the post-conflict rebuilding, rather than only the hot issue of (military) intervention, it was also possible to see a role for a broader set of actors and to promote the idea of international cooperation in a less controversial setting.

With that lead-up, the 2005 World Summit negotiations of the Outcome Document were wider-ranging than mere humanitarian intervention, on which it would probably have proven impossible to achieve agreement. This approach meant that countries typically skeptical of intervention and the role of the UNSC were ready to go along with the Outcome Document's notion of R2P and the acceptance of mass atrocities being a concern of the international community as such. By merging the notions of prevention, international assistance and support with limitations on sovereignty it was possible to reach agreement in a Summit Declaration in which R2P was only one of many issues to be settled.

TEXT BOX A: THE FOUR R2P CRIMES

The four R2P crimes identified in the World Summit Outcome Document are genocide, war crimes, crimes against humanity and ethnic cleansing. While the first three crimes are relatively well defined in international law, this is not the case for the notion of *ethnic cleansing*. Though often used in the media and obviously a central element in a number of atrocities committed in conflicts such as those in Bosnia and DRC, it is not clearly defined as a legal concept and in a criminal law context will typically be subsumed under the headings of war crimes (forced displacement) or crimes against humanity. War crimes can by definition be committed only within an armed conflict be it of an international or internal character, while crimes against humanity and genocide are not necessarily, committed during armed conflict, though this is often the case. War crimes constitute violations of rules of warfare as codified in i.a. the Geneva Conventions of 1949 and their additional Protocols I and II of 1977. Genocide is defined under the 1948 Convention against Genocide as murder, causing serious bodily harm, etc. with intent to destroy, in whole or in part, a national, ethnical, racial or religious group. *Crimes against humanity* is defined in the Statute of the International Criminal Court as acts like murder, extermination, enslavement, deportation, torture, rape, sexual slavery, etc. when committed as part of a widespread or systematic attack directed against any civilian population.

It is, however, also important to flag a politically and legally significant divergence between the ICISS report and the final text of the Summit Declaration. Namely, that the idea of unilateral intervention was not included in the 2005 declaration as it had been in the ICISS Report.

The ICISS Report had approached this complex issue with a rather careful wording suggesting that in the event of the UN Security Council being blocked, and no other means being available to prevent mass atrocities, a group of countries acting under a regional framework could intervene militarily without UN Security Council mandate to stop R2P crimes being committed. This option was not included in the 2005 Outcome Document.[5] Instead the 2005 text speaks about the responsibility of the international community acting <u>through</u> the Security Council and in accordance with Chapter VII of the UN Charter.

For many G77 countries and other traditional opponents of the "unilateral humanitarian intervention" position this formulation in the Summit Outcome Document was read as outlawing unilateral intervention. For these states the price of formally "accepting" that UN Security Council Chapter VII powers could be exercised also in internal situations was relatively small considering the Security Council expansive interpretation of the concept of "international peace and security" during the 1990s. Also Russia and China may not have liked this formalization of (potentially internal) R2P situations constituting a "threat to international peace and security". But the upside for these states was that the Outcome Document could be said to strengthen the role of the Security Council, where they have a veto and action by the Council could be blocked. Some states, including Denmark, accept that in extraordinary situations of mass atrocities, and where the Security Council is blocked, military intervention for humanitarian purposes without UN Security Council mandate will not be contrary to international law. For these countries the analysis was, and continues to be, that the R2P text in the 2005 Outcome Document did not support the unilateral option which had been relied upon by some in Kosovo in 1999; but also that the Summit Outcome Document did not *outlaw* such a unilateral option.[6] In that sense the constructive ambiguity of the text paved the way for the compromise text in 2005 without conclusively settling the debate on unilateral intervention.

While the 2005 Summit Outcome Document did not result in the adoption of new legally binding rules, it was nevertheless a significant step forward towards a stronger and more coherent approach to dealing with mass atrocities. It introduced an R2P norm which for its proponents has become a strong conceptual and political argument for action.

The 2005 World Summit Outcome Document remains a significant normative framework for addressing the risks of mass atrocities by bringing together prevention, protection and reconstruction. It provides a framework for addressing all stages of the conflict cycle, and for ensuring focus on protection against mass atrocities in times of conflict. Despite its soft law character, the R2P norm compels the international community and Security Council members in particular to be mindful of their responsibility for preventing atrocities. Denmark should remain committed to promoting and operationalizing R2P as well as drawing upon the concept's political resonance to insist on action in the face of atrocities.

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5   The "unilateral option" was indeed already excluded from the Secretary-General's preparatory report for the 2005 Summit, "In larger Freedom", UN Doc. A/59/2005. Interestingly, a number of G77 countries support an extraordinary right of the General Assembly to authorize the use of force if the Security Council is blocked and under reference to GA resolution 377A "Uniting for Peace".

6   Also for this reason it is problematic when proponents of unilateral intervention use the 2005 Summit Declaration to argue for an emerging norm to support such unilateralism, see e.g. *"Humanitarian Intervention in Syria"*, a report by Public International Law and Policy Group, July 2012. While the 2005 Declaration may be used to underpin arguments claiming an obligation of the Security Council to act in the face of mass scale atrocities, it seems untenable to invoke R2P as an independent basis for unilateral armed intervention.

IV. DEVELOPMENTS SINCE 2005 - CONTROVERSIAL ENFORCEMENT ACTION AND POLITICAL STALEMATE

While Denmark should continue to support the R2P concept as adopted in 2005, it cannot be ignored that in the eyes of some states R2P has been politicized and misused to promote an interventionist agenda. There are also those supportive of R2P who feel that the 2005 Outcome Document has merely become a convenient reference in talking points rather than having real effect on actual crises. It is perhaps telling that the 2005 Outcome Document has not been followed up by similar comprehensive, high level decisions supporting or expanding R2P, although there have significantly been various references to R2P in UN resolutions, including when the Council has taken action under Chapter VII.[7]

This could be read to reflect that in 2005 world leaders took a step which was perhaps of greater import than first assumed; a step that started a process that went further towards questioning basic conceptions of sovereignty than those world leaders realized at the time.

The fact remains, however, that since 2005 the major task of R2P proponents has been to defend the results achieved at the World Summit rather than broadening the reach of the R2P doctrines. Nor has it been possible to solidify R2P's legal basis into treaty or other binding international law, and the terminology applied by the UN Panel on Threats and Challenges in 2004 – that it is an "emerging norm" – still seem best to describe its rather vague legal status.[8]

It thus became clear fairly early in the life of the R2P doctrine that the issue of enforcement action in the face of humanitarian disaster was still as controversial as ever, and perhaps not the most helpful issue to focus on for those wishing to expand the effect of R2P. This was illustrated in 2008, when the cyclone Nargis struck Burma. The cyclone created vast flooding of low-lying areas in the south of the country and in some estimates as many as 100,000 Burmese citizens died as a result. The military junta of Burma, during this period in a political stand-off with Western states, was reluctant to receive aid from outside. This rejection further endangered the lives of those affected by Nargis. When the Burmese leadership appeared not to be providing for its endangered citizens, the then French foreign minister Bernard Kouchner proposed that the Security Council should invoke R2P as a basis for delivering aid to the beleaguered citizens of Burma. While there were interesting academic debates as to whether denying aid to a suffering population could be defined in legal terms as crimes against humanity, and it was discussed whether delivering aid by military infrastructure against the will of the host state could be termed threat of or use of force contrary to the UN Charter, politically, the proposal never gained much support as an R2P issue. The Danish government, though sympathetic to the French reasons for invoking R2P, did not come out in favour of the French proposal. Many voices, including the UN Secretary-General's, cautioned against expanding the concept of R2P beyond the four core crimes. Russia and China blocked the issue of Burma's handling of Nargis from being put on the agenda of the Security Council arguing that it was not a matter regarding international peace and security.

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7   See below under Section VI.
8   It should be noted that while the R2P norm as such has not been codified into binding international law, elements hereof clearly have a binding legal nature such as for example the obligation of states under international human rights law to protect certain fundamental rights of their citizens as well of the authority of the UN Security Council to authorize use of force to avert a humanitarian catastrophe that constitutes a threat to international peace and security. For a recent analysis of some of the legal issues and questions of states' obligations, see: "The Choice to Protect: Rethinking Responsibility for Humanitarian Intervention", Neomi Rao, Columbia Human Rights Law Review, Vol. 44, No. 3, pp. 697-751, Summer 2013.

Although the issue never really came to a head because the Burmese leadership eventually agreed to receive aid, the events surrounding Nargis exposed a lack of appetite for an expansive application of R2P. For most proponents of R2P it had relatively quickly become clear that the task after 2005 was consolidation of the result achieved at the 2005 World Summit rather than seeking to expand the commitments.

While it has been under attack from the early days after 2005, there have also been promising examples of R2P gaining importance and being invoked in a number of conflicts as calling cry for action to be taken or indeed as a reference for why action was taken.[9] Ironically, the success of R2P as a catalyst for action in particular situations has also, in some instances, led to the critics of the concept opposing any further development of R2P.

A case in point is the intervention in Libya, where the UN Security Council under the heading of responsibility to protect reacted with surprising speed to atrocities in Libya in the winter and spring of 2011. When the Gadaffi regime threatened going "door to door" in the rebel stronghold of Benghazi the Security Council adopted Resolutions 1970 and 1973, which introduced sanctions, referred the situation in Libya to the ICC and, significantly, authorized a coalition of states to take all necessary measures to protect civilians and civilian populated areas. The subsequent NATO-led air campaign accelerated the ousting of Gadaffi and regime change in Libya. The breadth and intensity of the NATO campaign was heavily criticized by a number of states and commentators who concluded that the implementation of Resolution 1973 went far beyond the permissible.[10] It was argued that the coalition did not pursue protection of civilians and, particularly in the latter part of the campaign, had regime change as its aim thereby realizing the fears of those skeptical of R2P: namely that R2P would be abused to undermine national governments and pursue illegitimate political aims.

While the extensive targeting and the wide-range of the NATO campaign in Libya may be defended legally with reference to the extraordinarily broad mandate given to the coalition in UNSCR 1973, it would seem clear that the intervention in Libya had serious ramifications for the already tenuous political support for the R2P agenda globally. As noted, a number of states were explicitly critical of the operations, and in the aftermath of the Libya campaign Brazil sought to initiate a debate about "responsibility *while* protecting".[11] It was the Brazilian perception that military interventions had shown that Responsibility to Protect could be misused, and may aggravate existing conflicts.

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9   The attempts at operationalizing R2P within a UN context have taken place in UN General Assembly and UN Security Council resolutions, in both thematic and country-based resolutions. See e.g. UN Security Council Resolution 1674 (28 April 2006) UN Doc S/RES/1674 and UN Security Council Resolution 1894 (11 November 2009) UN Doc S/RES/1894. Country based UN Security Council Resolution 1706 (31 August 2006) UN Doc S/RES/1706 – Darfur, UN Security Council Resolution 1975 (30 March 2011) – Côte d'Ivoire, 1970 (26 February 2011) UN Doc S/RES/1970; 1973 (17 March 2011) – Libya. UN General Assembly resolution A/67/L.63, 8 May 2013, Prevention of armed conflict (Syria). For an overview of UN-related resolutions and documents on R2P see http://www.globalr2p.org/our_work/united_nations_engagement
10   Vladimir S. Kotlyar, "Responsibility to Protect: The Hopes and Crash of an Illusion. Is there any chance to revive it?" in *Responsibility to Protect in Theory and Practice* edited by Vasilika Sancin and Masa Kovic Dine, GV Zalozba, Ljubjana 2013.
11   The notion first appeared in 2011 in the statement by the Brazilian President at the opening of the 66th Session of the United Nations General Assembly. See for further background: "An assessment of the Brazilian position on the responsibility to protect doctrine", Aziz Tuffi Saliba et al. in Responsibility to Protect in Theory and Practice, op.cit.

It was argued that the authorization for the use of force must be limited in its legal, operational and temporal elements, and the scope of military action must abide by the letter and the spirit of the mandate.[12]

It is perhaps tempting to take issue with the Brazilian approach and the implicit second-guessing of the military strategy of those taking on the actual enforcement action to implement specific R2P authorizations. Some of the worst tragedies of the 1990s and most painful experiences for the UN arguably happened because military commanders were not given a sufficiently free hand to complete the mission through the use the measures which they deemed necessary and legal. As the Danish delegate pointed out during the informal debate, "the risk of inaction in the face of mass atrocities is great; possibly greater than the risk of doing too much."[13]

That said, it remains extraordinarily important that R2P mandates are not interpreted too broadly, but are implemented in good faith. It is clearly an oversimplification to argue that states like Russia or China would be more willing to apply international pressure to the Syrian regime if those states had not perceived NATO to have overreached in Libya. At the same time it must be noted that the broad interpretation by NATO of the use of force mandate in Resolution 1973 regarding Libya has been frequently invoked by those states as a reason for not supporting more robust international action in Syria. It is further clear that such arguments, whatever their merit, have had significant resonance in the global community and have put R2P proponents on the defensive.

Also for those reasons it is positive that the Danish response to the Brazilian initiative on *Responsibility while Protecting* has been constructive, and Denmark has taken the opportunity to engage with the Brazilians[14] while strongly emphasizing the need not to tamper with the 2005 Summit Outcome Declaration.

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12   UN Doc. A/66/551–S/2011/701, General Assembly Security Council , 11 November 2011, Annex to the letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General *Responsibility while protecting: elements for the development and promotion of a concept.*
13   Statement by Ambassador Staur, Permanent Representative of Denmark to the UN, Informal Discussion on the "Responsibility While Protecting Initiative", 21 February 2012, New York.
http://responsibilitytoprotect.org/Denmark%2021%20Feb%20RwP.pdf
14   For example, by co-hosting the 2012 R2P Ministerial Meeting in the margins of the opening of the UN General Assembly together with Brazil, Botswana, the Netherlands and The Global Centre on the Responsibility to Protect.
http://um.dk/da/politik-og-diplomati/nyhederogpublikationer/udenrigspolitiske-nyheder/newsdisplaypage/?newsid=0953969b-69c9-46e6-9c42-451a637b2ea9

Denmark should work towards ensuring that all enforcement actions under the heading of R2P pursue only those objectives compatible with such a humanitarian mission. While maintaining the need for operational flexibility that such mandates may require militarily, particular care should be taken in not interpreting mandates too broadly, or pursuing aims incompatible with the R2P doctrine. Down to the individual targeting decision, enforcement actions in the name of R2P should be defensible as such. This requires Danish authorities to ensure inter-departmental coordination and discussion about how particular enforcement actions affect an overall policy objective of strengthening R2P as a coherent and credible conceptual framework for dealing with mass atrocities. This also requires that Denmark, to the extent possible, works to ensure that the international mandates and operating procedures for R2P operations are clearly focused on preventing, or stopping, ongoing R2P crimes and contain the requisite precision while respecting the need for operational flexibility in military operations. This point links up with the broader aim of strengthening the international legal order and legitimacy/representativeness of international organizations, which – although outside the scope of this paper – also reflects on the efficacy and viability of R2P operations.

It is worth noting that another Security Council authorized military operation took place in parallel to the Libya intervention but without giving rise to much international debate despite this also being an instance of robust military enforcement action specifically geared towards protecting civilians. On 30 March 2011 UN Security Council Resolution 1975 regarding Côte D'Ivoire was adopted. The resolution, i.a., urged all Ivorian parties to respect the will of the people and the election of Alassane Ouattara as President of Côte d'Ivoire, as recognized by the Economic Community of West African States (ECOWAS), the African Union and the rest of the international community. In the face of fighting breaking out between Ouattara's supporters and those of the former president Laurent Gbagbo, the resolution reiterated that UNOCI could use "all necessary measures" in its mandate to protect civilians under imminent threat of attack. A swift and very robust intervention by UN and French forces, making use also of attack helicopters, led to the ousting of Gbagbo and his transfer to the ICC, where he was indicted.

There are obviously very significant differences between the situation in Côte D'Ivoire and Libya, in terms of the size of the conflicts, the political situations in the countries and the global interests in the handling of the conflicts. For our purposes, however, it is worth noting that both interventions can be termed offensive R2P military operations and led to the sitting regime being ousted, but that with relation to Côte D'Ivoire it could in no way be argued that regime change was an illegitimate side effect of an R2P intervention, but rather an integral part of protecting the population of Côte D'Ivorie from continued conflict. The international community had determined Ouattara to be the legitimate winner of the election, and there was broad consensus that Gbagbo should step down and make room for a peaceful transition. These two cases are perhaps illustrative of how political backing for R2P operations risks withering if other interests than those clearly associated with humanitarian purposes are seen to be promoted.

In this context, it is also of interest to note that in March 2013 the UN Security Council adopted its first mandate for offensive peacekeeping in the DRC authorizing an intervention brigade – its first ever offensive combat force – to neutralize the rebel factions which have long plagued the civilian population in Eastern Congo and undermined governmental authority.[15] The force operates under the UN peacekeeping (MONUSCO) force commander. Already prior to the adoption of UN Security Council Resolution 2013 MONUSCO had authority to use all necessary means to protect civilians, but the resolution goes a step further and is remarkable seen in the light of the general reluctance on the part of many states to agree to extensive use of force mandates. Resolution 2098 thus possibly provides the blueprint for future authorizations of peacekeeping forces to protect civilians through offensive and robust operations.[16] This to illustrate that despite the cautious and restrictive era which can be said to have followed the intervention in Libya in 2011, there are also some indications that, at least in particular fields, the international community will be ready to support robust enforcement action for R2P aims.

V. R2P - THE THREE PILLARS

As described above, the R2P concept has had a tumultuous first decade since its inception in the early 2000s. There have been a few significant examples of action in the name of R2P but also of controversies surrounding both the R2P doctrine's "un-packaging" as a coherent policy concept, and not least over particular instances of its application. It is a mixed history of R2P serving as an effective rallying cry for action as well as numerous failures of the international community to halt atrocities, or to find common ground in paving the way forward for a more coherent R2P policy. This means that both proponents and skeptics of R2P can point to trends that support their position.

As noted above, that has especially been the case with regard to enforcement action. Thus, the need to broaden the discussion of the R2P agenda was realized early by the UN Secretary-General, who spoke about the need for the conceptualization of R2P to be "narrow, but deep". The Secretary-General took the lead and set about trying to create the conceptual and operational basis for such deeper understanding. In his 2009 report to the General Assembly on the implementation of R2P the Secretary-General proposed that R2P be read to rest on three pillars: Pillar 1 – the state carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing; Pillar 2 – the international community has a responsibility to assist states in fulfilling this responsibility; Pillar 3 – the international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter.

Among R2P proponents views differed widely regarding whether to focus only on Pillar 1 and Pillar 2 activities in an effort to consolidate R2P and advance work on those elements which are perceived to be less controversial. While some felt that this was the most prudent approach, others felt that the integrity of R2P would suffer if only parts of the R2P agenda advanced.

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15   Bruce Oswald, The Security Council and the Intervention Brigade. Some Legal Issues, ASIL Insights, Volume 17, Issue 15, 7 June 2013.
16   Protection of civilians in general must be distinguished from atrocity prevention, which is at the core of R2P, but the two concepts clearly overlap, which makes UNSCR 2013 relevant in an R2P context.

The latter group also cautioned against thinking that Pillars 1 and 2 would necessarily be smoother to address in dialogue with high-risk countries. Pillar 3 obviously prescribes enforcement action even against the will of the host state as a last resort, but it also contains a number of non-coercive instruments which may be welcomed by a failing state in need of outside impetus to avoid conflict.[17] Conversely, while Pillars 1 and 2 speak about the states' own responsibility and international assistance in state building, some of these measures can be viewed as controversial. Directing development assistance to capacity-building directly targeted towards atrocity prevention can mean addressing highly sensitive and difficult fields which are also conceived by host states to impinge on keys issues of sovereignty and self-determination. Framing development assistance within the R2P concept and as directly addressing the prevention of the R2P crimes in programs and projects can be considered controversial.

Denmark should continue to support the understanding of the three pillars of R2P as being non-sequential and mutually supportive in nature. Seeking to exclude work on whole pillars of R2P for the sake of avoiding sensitive issues has inherent risks, and the Danish government should continue to pursue a holistic approach to atrocity prevention. This entails addressing all three pillars of R2P and using a variety of instruments within the tool-box of Danish foreign policy and development assistance to advance the R2P agenda broadly. Within such a holistic approach Denmark should at the same time identify areas where its comparative advantages or policy priorities give Denmark a particular ability to advance specific R2P issues. As will be detailed below, preventive action in the form of capacity-building within development assistance could be one of those areas.

VI. THE R2P INSTITUTIONAL FRAMEWORK WITHIN THE UN SYSTEM AND THE UN GENERAL ASSEMBLY DEBATES

The development of an institutional framework within the UN for promoting R2P reflects the skepticism that some member states feel towards R2P. Following the 2005 Summit a process was initiated to ensure that the UN system had the necessary capacity and institutional framework to provide the required input to develop the conceptual, political and operational aspects of the Responsibility to Protect.

The UN Secretary-General in 2007 appointed Professor Ed Luck as Special Adviser on the Responsibility to Protect, and although Professor Luck had stellar credentials for fulfilling this position, it proved extraordinarily difficult to ensure Member State cooperation in securing that the Special Advisor received the required resources to fulfill his functions. After extensive consultations with member states and United Nations entities regarding budgetary and administrative issues the Secretary-General could finally in his letter of 31 August 2007[18] to the President of the Security

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17   As the UN Secretary-General noted in a speech on R2P in Berlin 2008: "The third pillar is much discussed, but generally understood too narrowly. It is Member States' acceptance of their responsibility to respond in a timely and decisive manner, in accordance with the United Nations Charter, to help protect populations from the four listed crimes and violations. The response could involve any of the whole range of UN tools, whether pacific measures under Chapter VI of the Charter, coercive ones under Chapter VII, and/or collaboration with regional and subregional arrangements under Chapter VIII. The key lies in an early and flexible response, tailored to the specific needs of each situation." http://www.un.org/News/Press/docs/2008/sgsm11701.doc.htm

18   Letter dated 31 August 2007 from the Secretary-General addressed to the President of the Security Council, S/2007/721 of 7 December 2007.

Council present a solution whereby the Special Adviser was to be co-located with the Special Adviser on the Prevention of Genocide. In the letter the Secretary-General stated that in order to eliminate redundancy and maximize effective use of resources he had directed the two Special Advisers to form a joint office and merge their functions and activities. While most R2P proponents welcomed that an agreement had been reached, it was also clear that this was not the type of resources and profile that some member states, including Denmark, had wished for the function of Special Adviser for R2P.

The political disagreements about R2P were further reflected in the tasks of the Special Adviser as set out by the Secretary-General in the above-mentioned letter: "Recognizing the fledgling nature of agreement on the responsibility to protect, the Special Adviser's primary roles will be conceptual development and consensus-building." Thus, no real powers to ensure operational implementation of R2P broadly across the UN system were given to the Special Advisor and his position remained tenuous over the years until Professor Luck left the post in 2012.[19]

Despite these limitations Special Adviser Luck was during his years in office extraordinarily active in promoting R2P through awareness raising, public diplomacy, early warning and missions to affected countries. Significantly, he took a lead role in authoring the Secretary-General's yearly R2P reports to the General Assembly starting with the above-mentioned 2009 report on "Implementing the responsibility to protect".[20] The report was followed by an informal interactive dialogue in the General Assembly, and the subsequent adoption of a resolution (A/RES/63/308), which in essence merely committed the Assembly to continuing the consideration of the topic Responsibility to Protect.

The 2009 consideration of the Secretary-General's report on R2P largely set the pattern for the subsequent General Assembly work on the R2P: broadly substantial and thorough reports on various aspects of R2P were presented by the Secretary-General, followed by active, but quite politicized, debates among member states resulting in very little concrete agreement on more ambitious steps that could be taken by the UN system to promote the R2P agenda.

Thus, in 2010 the Secretary-General presented the General Assembly with a report on *"Early warning, assessment and the responsibility to protect"*[21], which described existing early warning and assessment mechanisms within the UN system, identified gaps and proposed ways to improve the UN's ability to use available early warning information effectively, including information from field operations, and to improve early, flexible and balanced responses. In 2011 the focus of the report was *"The role of regional and sub-regional arrangements in implementing the responsibility to protect"*[22] with emphasis on how effective global-regional collaboration is essential for realizing the promise embodied in the Responsibility to Protect. On 5 September 2012, the Secretary-General presented his report on *"The responsibility to protect: timely and decisive response"*[23] at the fourth annual informal, interactive dialogue on the responsibility to protect in the General Assembly.

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19   After more than a year's vacancy, the UN Secretary-General appointed Professor Jennifer Welch in July 2013 as the next Special Advisor.
20   Implementing the Responsibility to Protect, UN Doc. A/63/677, 12 January 2009.
21   UN Doc. A/64/864, 14 July 2010.
22   UN Doc. A/65/877-S2011/393, 28 June 2011.
23   UN Doc. A/66/874-S/2012/578, 25 July 2012.

The report examines the range of tools available under the third (response) pillar of the responsibility to protect, partners available for implementation and the close connection between prevention and response.

The 2013 report *"The responsibility to protect: State responsibility and prevention"*[24] addresses how states can go about strengthening both their structural policy options (developing and strengthening national and regional mechanisms to promote good governance, human rights, the rule of law and security sector reform) as well as operational prevention (development of early warning, assessment and response mechanisms). It is positive that the report focuses on practical steps to make R2P operational, and the report contains a great number of interesting and valuable contributions from member states. Perhaps because these contributions span a very broad set of initiatives and programs, the report to some extent struggles with bringing them together under clearly defined categories. Nevertheless, the Secretary-General's R2P report, combined with the ensuing interactive debate in the General Assembly, continues to be a useful annual exercise in focusing the attention of member states and the UN system on R2P issues.

The attempts at operationalizing R2P within a UN context have, as mentioned above, also taken place through various thematic and country-based resolutions in the UN General Assembly and the Security Council, albeit with varying success and consistency:[25] in some instances with direct references to R2P, in others with language regarding protection of civilians being reflected in the resolutions. In some instances it has simply proved impossible to get the required support for such references. A recent example of the resistance which many countries show towards including R2P language in UN resolutions was the contentious negotiations in the UN Human Rights Council in Geneva in the spring of 2013 regarding the resolution on the prevention of genocide.[26] That said, the Human Rights Council potentially has an important role in promoting R2P, and the UN High Commissioner for Human Rights has continuously been a strong advocate of R2P.

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24   UN Doc. A/67/929–S/2013/399, 9 July 2013.
25   See e.g. UN Security Council Resolution 1674 (28 April 2006) UN Doc S/RES/1674 and UN Security Council Resolution 1894 (11 November 2009) UN Doc S/RES/1894. Country based UN Security Council Resolution 1706 (31 August 2006) UN Doc S/RES/1706 – Darfur, UN Security Council Resolution 1975 (30 March 2011) – Cote d'Ivoire, 1970 (26 February 2011) UN Doc S/RES/1970; 1973 (17 March 2011) – Libya. UN General Assembly Resolution A/67/L.63, 8 May 2013, Prevention of armed conflict (Syria). For an overview of UN-related resolutions and documents on R2P, see
http://www.globalr2p.org/our_work/united_nations_engagement
26   A/HRC/22/L.30 of 18 March 2013.

The Danish government should continue to support the strengthening of a robust and coherent R2P institutional framework within the UN, including the allocation of necessary resources to the Joint Office. Denmark should work towards ensuring that the newly appointed Special Advisor for R2P increasingly engages with the operational bodies (development, peacekeeping, conflict prevention) of the UN, thereby strengthening integration of atrocity prevention across the organization. The Danish government should continue to participate actively in the General Assembly debates on the Secretary-General's yearly reports on R2P issues, while at the same time seeking to make the General Assembly's consideration of the R2P agenda more practical and operational. Particular potential exists in linking up these debates with the UN's rule of law agenda, which in recent years has received increased attention and has a number of implications for R2P. The 2013 report on R2P should be studied carefully and best practices emerging from the report should be sought implemented in broader conflict prevention and rehabilitation efforts, thereby ensuring the linkage between R2P and institution-building also in Danish initiatives and programs.

VII.   THE R2P FOCAL POINT NETWORK

The fledgling support for R2P globally has led to various groups of countries trying to promote the R2P concept through informal networks. One such network is the "Friends of R2P", which – represented by members of their UN missions in New York – meet up when R2P-related questions are on the agenda of the various UN bodies. The Friends of R2P group is presently chaired by the Netherlands. Like other informal "friends-groups" at the UN, the R2P Friends group gathers to exchange views and ideas, but no formal coordination as such takes places in the group. The Friends of R2P group presently has 39 members who are states, including Denmark, and the EU is also part of the group. In this context it can be noted that the EU has a potentially important role to play in the R2P agenda. However, according to a recent report it has so far, despite a significant capacity within the broad fields of conflict warning, prevention and response, failed to translate this into effective strategies and actions directly aimed at atrocity prevention.[27]

The R2P Focal Point Network initiative was launched in September 2010 by the governments of Denmark and Ghana in collaboration with the Global Centre for the Responsibility to Protect (the Global Centre) at the annual Ministerial Meeting on the Responsibility to Protect held during the opening of the United Nations General Assembly. Since then Australia and Costa Rica have also joined the facilitating group. Since September 2010, 30 countries from all regions have appointed a national R2P Focal Point: Argentina, Australia, Austria, Belgium, Bosnia-Herzegovina, Botswana, Bulgaria, Costa Rica, Cote d'Ivoire, Czech Republic, Denmark, Finland, France, Germany, Greece, Ghana, Guatemala, Hungary, Ireland, Italy, Netherlands, Slovenia, Spain, Sweden, Switzerland, Uruguay, United Kingdom and United States.

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27   See Task Force on the EU Prevention of Mass Atrocities, "The EU and the Prevention of Mass Atrocities: An Assessment of Strengths and Weaknesses", February 2013.

The R2P Focal Points have since 2010 held yearly meetings, the most recent in Ghana in June 2013,[28] where the role and responsibilities of national R2P Focal Points have been developed further. In 2012, furthermore, the Global Centre together with Australia, Denmark, Costa Rica and Ghana, drafted a set of recommendations with a view to inspiring states to consider some of the possibilities that could be achieved by appointing a national R2P Focal Point.[29]

Among the core functions of the R2P Focal Point is that of <u>enabling</u> the integration of atrocity prevention into national policy where appropriate. The R2P Focal Point can be described as a 'hub' for analysis, policy input, and intra-governmental and intergovernmental coordination that enables other departments and ministries in implementing policies to avert and halt atrocities.

A further function of Focal Points is <u>to convene</u> the relevant actors in the national administration. Atrocity prevention cuts across a diverse spectrum of governance institutions and requires the focus of a wide array of policy actors at both the national and international level. For a Focal Point to be effective the recommendations propose that they should be positioned to convene officials across relevant departments and ministries.

Among the possible responsibilities of the R2P Focal Point they could seek to <u>coordinate</u> intra-governmental and inter-governmental responses to mass atrocity threats. The intra-governmental role would involve educating and assisting in coordinating government agencies in responding to mass atrocity situations. Intergovernmental coordination would involve multilateral diplomacy, information-sharing and international coalition-building to prevent and halt atrocities.

Another task suggested in the recommendations could be that of <u>facilitating review</u> of existing policies to implement R2P at the national level. A Focal Point could play such a role by initiating a government-wide discussion to evaluate existing policy programs for mass atrocity prevention. This exercise would identify gaps in capacities needed across government institutions to prevent mass atrocities and encourage systematic planning needed for early prevention. For example, for countries with a history – or serious risk – of mass atrocities, this review could involve security sector reform, effective judicial review and mechanisms that mitigate ethnic and communal tensions. The role could also involve conducting awareness trainings and workshops on R2P for senior government officials.

The Focal Point could facilitate the development of National Action Plans (NAPs) or other national strategies tailored to suit national circumstances. A National Action Plan (NAP) for R2P could provide an opportunity to initiate strategic actions, identify priorities and resources, and determine responsibilities and timeframes at the national level. The process of developing a plan also creates awareness of the problem, socializes officials and builds capacity.

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28   Press release, Danish Ministry of Foreign Affairs, R2P meeting in Accra co-hosted by the governments of Denmark and Ghana, June 13, 2013.
http://ghana.um.dk/en/news/newsdisplaypage/?newsid=c9f8f4cc-5815-4579-a13f-a59c188856d0
29   The recommendations can be found at: Global Centre for the Responsibility to Protect, National R2P Focal Points Recommendations, 2012,
http://www.globalr2p.org/media/files/recommendations_r2p_national_focal_points.pdf

A central role for the Focal Point is to make sure that the risk assessments and policies to mitigate identified risks are <u>communicated in a timely fashion</u> to the relevant persons in governmental leadership. Depending upon the national circumstances and the level of resources allocated to the Focal Point, the role could also involve monitoring and producing risk assessments.

The Focal Point could establish an early warning system within their office for receiving and disseminating information about emerging risk situations.

Central to the efficacy of the Focal Point is their ability to participate in <u>giving advice to the political leadership</u> of their respective countries. The recommendations suggest that the Focal Point can be an official who operates outside the day-to-day decision-making structure of a government's executive leadership, but propose that this official would ideally have the power and ability to reach senior decision-makers when necessary. This person should be poised to raise the alarm on atrocity threats and, where appropriate, call upon the system to take action.

TEXT BOX B: COORDINATION OF ATROCITY PREVENTION NETWORKS

In addition to the R2P Focal Point Network and the Friends group efforts have also been made towards ensuring better coordination between the various initiatives seeking to promote atrocity prevention. In March of 2013 a meeting was held regarding "Genocide Prevention and the Responsibility to Protect: Towards a Community of Commitment". The meeting was hosted by Tanzania and Switzerland, which together with Argentina have taken a lead role as conveners on issues regarding genocide prevention. Australia, Costa Rica, Denmark and Ghana were invited as facilitating states of the R2P Network.

The meeting had participation from the UN Office on Genocide Prevention and the Responsibility to Protect as well as representatives of civil society. A network -"Global Action Against Mass Atrocity Crimes (GAAMAC)" - was established at the conclusion of the meeting and this group is expected to be convened in 2014.

While such initiatives serve an obvious need to ensure that the various groups and networks working with atrocity prevention do not unnecessarily overlap or duplicate there is also reason to be wary of "network fatigue". Efforts should be geared towards ensuring that focal points prioritize practical and operational atrocity prevention work.

The Danish R2P Focal Point: Results achieved and potential for future Danish action to strengthen the R2P Network. As well as being among the initiators of the Focal Point network Denmark was among the first countries to appoint a focal point. The Danish Focal Point is located in the Legal Service of the Ministry of Foreign Affairs at the level of Undersecretary for Legal Affairs. This institutional set-up is a reflection of R2P issues historically being dealt with by the Legal Service as an international law issue regarding existing legal obligations on the use of force and the UN Charter.[30] Attempts at engaging a broader set of actors within the Ministry of Foreign Affairs, of which Danida is a part, have been increasingly successful though this process is still at an early stage.

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30   For disclosure purposes it is noted that the author of this paper served in the Legal Service of the Danish Ministry of Foreign Affairs between 2003 and 2012 and is expected to return to that office in late 2013.

Denmark's work regarding the R2P Focal Point Initiative can roughly be categorized in two separate, but overlapping areas of operation:

1) The <u>international</u> cooperation with the Global Centre and partner countries, in particular, Ghana, Costa Rica and Australia towards building up and expanding the international network of Focal Points.

2) The efforts aimed at convening the relevant actors in the <u>Danish national administration</u> and mapping which departments and ministries are already engaged with atrocity prevention through Danish foreign policy, development and justice.

Regarding the first – the "external" – side of the Network, it can be noted that during the first few years of the Focal Point Network's existence, Danish authorities primarily focused on the international cooperation around the Network, encouraging more countries to appoint Focal Points, ensuring strong participation at the Network meetings and contributing to the planning and execution of the Ministerial Meetings on R2P in the margins of the UN General Assembly. The recommendations for appointment of and tasks for Focal Points were elaborated and efforts were made at positioning the Focal Point within the broader context of other international networks working on atrocity prevention. Particular efforts were put into ensuring a geographically diverse membership with representatives from all regions. Arguably the work of the Focal Point Network reached its provisional high point with the above-mentioned June 2013 Focal Point meeting in Ghana, which had significant high-level participation and featured substantial discussions of various atrocity prevention issues.

While the Focal Point Network has been successful in gaining more members, raising awareness and elaborating the conceptual basis for its work, it has probably not made substantial progress towards having a real and measurable impact on handling concrete conflicts or risk situations and bringing R2P issues higher on the agenda. Neither Denmark nor other Network members would seem to have made any concerted push for the Focal Point Network becoming a coordinating forum at the international level in the face of mass atrocities in concrete situations like those in Syria, Burma, South Sudan or Nigeria. Thus, there does not seem to have been much follow-up regarding the Recommendations referred to above suggesting "intergovernmental coordination through multilateral diplomacy, information sharing and international coalition-building to prevent and halt atrocities" in relation to specific conflicts or threats.

It is probably no coincidence that this has not been the case. The Network is still relatively new and not very firmly anchored either at the international or the national level, where most Focal Points arguably do not have an institutional position that lends itself to such a coordinating role, particularly not where such conflicts are already high on the agenda of policymakers. Atrocity prevention overlaps with numerous other fields such as conflict prevention, security policy, military strategy, humanitarian assistance, where most national administrations already have well established structures, which in turn have other international partners, and it is highly doubtful that coordination of handling of conflicts will be a task assigned to R2P Focal Points.

This is particularly the case in instances such as that of Denmark, where the Focal Point is situated in the Legal Service, and thereby relatively far removed from practical work with conflict prevention and crisis management where R2P elements could be incorporated. It should be emphasised that it

is not suggested that the Focal Point Networks should shy away from making joint statements or recommendations in case of potential or ongoing atrocity situations, or that individual focal points should not seek to affect the policy of their country in relation to particular atrocity risks. But rather that expectations of the Networks' concrete role in international policy-making and the handling of such R2P situations should be tempered.

It is recommended that Denmark supports that the Focal Point Network presently does not prioritize seeking coordinating or policy defining roles in relation to particular conflicts or risk situations. It is rather suggested that the Focal Point Network at the international level continues to focus on expanding its membership in a regionally balanced manner, raising awareness of R2P and developing the conceptual basis for Focal Point functions and responsibilities. It is further recommended that the Danish Focal Point supports that subsequent Network meetings seek to contribute further to the operationalization of atrocity prevention by identifying particular sectoral/thematic issues within atrocity prevention, intervention and post-conflict rehabilitation. The Network meetings should seek to engage with a broader group of practitioners and policymakers in order to facilitate the development of specific tools which can be put into use, be it within security sector reform, training of military forces, rule of law, mediation, transitional justice, etc. Broadening the dialogue with experts within other fields related to atrocity prevention will also contribute to expanding knowledge of the Focal Point Network and its work and thereby create a stronger basis for a future policy defining role.

The above considerations regarding Danish priority areas for the development of the Focal Point Network as such, lead to a review of the second - or "internal" - aspect of the work of the Danish R2P Focal Point.

During the past year the Focal Point has prioritized getting Danish authorities engaged in analyzing and describing their potential contribution to atrocity prevention. Through a series of meetings with relevant Danish authorities within the fields of foreign affairs, justice, defence, and development assistance a picture has emerged of a number of policies and programs with the effect of contributing more or less directly to atrocity prevention. At the same time it has become clear that these policies and programs seldom had an explicit atrocity prevention element and little analysis had been made as to how these efforts contribute (further) to atrocity prevention specifically. This preliminary overview includes efforts at countering hate speech and radicalization in Danish society, intelligence analysis on conflict potential around the world, peacekeeping missions, development and stabilization programs in failed or failing states, multilateral diplomacy related to conflict prevention and management as well as promotion of human rights.

The convening of the relevant Danish authorities and the first steps towards collecting and analyzing the R2P activities of these bodies is a very welcome initiative by the Danish Focal Point, and a first step towards creating the basis for putting forward targeted R2P policy recommendations for the Danish administration. There is, however, still significant work to be done in the way of setting out specific measures for the integration of atrocity prevention within national policy and programs where appropriate. Furthermore, the Danish Focal Point is only gradually taking on the role of a 'hub' towards which other national authorities look for analysis and policy recommendations regarding ongoing or potential R2P situations.

It would seem that some of the reasons for this are both of a <u>policy</u> and of an <u>organizational</u> nature.

Thus, despite the above-mentioned inclusion in the Governing Document of the Danish government of clear language underlining the need for Denmark to contribute to operationalizing R2P, there are few other prominent policy documents or decisions which outline Danish R2P policy or can be used as reference for promoting R2P work within the Danish administration. It is in this sense noteworthy that the recently adopted *"Strategy for Danish Development Cooperation: The Right to a Better Life"* deals only very briefly with R2P and merely references the main content of the 2005 Summit Outcome Document.[31] R2P is not referenced as such in the Governments' 2012 S*ecurity Policy Report*[32] – the yearly security policy analysis which the Danish Government submits to Parliament for debate regarding developments and prioritization in Danish foreign policy. Both these central policy documents contain significant language on conflict prevention and protection of civilians, but atrocity prevention specifically is not coherently addressed as a priority in Danish foreign policy and development assistance. Similarly, Danish focus on fragile states has meant a surge of policy documents, strategies and programs aimed at addressing the challenges of failed states, but again atrocity prevention is not coherently addressed.[33] A Danish National Action Plan (NAP) for promoting R2P could be used as a basis for better coordination of the already ongoing work on stabilization and failed states and further developing Danish strategy on R2P.

With regard to the <u>organizational structure</u> under which Danish authorities are convened to address R2P, the present body is an informal group of representatives from various ministries and governmental bodies brought together under the authority of the Danish Focal Point. The group has no formalized mandate, work plan or reporting lines to superiors. There are good reasons for this model having been chosen in the start-up phase of the Focal Point's work with other national Danish authorities, and the informal structure has undoubtedly contributed to a relatively quick and simple bringing together of relevant actors. It remains an open question, however, if a more structured and formalized institutional framework for Denmark's engagement with R2P would be beneficial as Denmark contemplates addressing R2P in at more holistic and coherent manner. The benefit of such formalized structures would naturally have to be weighed against the cost of extra administrative resources that this would require.

Despite these limitations there are strong indications that Denmark is among those countries which have come furthest in identifying R2P issues and giving the R2P Focal Point a convening and information-sharing role in the national administration. That is particularly the case when compared with countries of similar size and administrative capacity, and it is, of course, these countries that Denmark should primarily look to for inspiration and lessons learnt. However, there is also inspiration to be derived from other actors. In the following a brief description of the recent developments of the US government's approach to atrocity prevention will be used to draw inspiration for possible Danish initiatives.

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31   Ministry of Foreign Affairs, Danida, May 2012 at page 27.
http://um.dk/da/~/media/UM/Danish-site/Documents/Danida/Det-vil-vi/right_to_a_better_life_pixi.pdf
32   Redegørelse nr. R 5 (15/11 2012) Folketinget 2012-13, Folketingstidende
http://www.folketingstidende.dk/RIpdf/samling/20121/redegoerelse/R5/20121_R5.pdf
33   The relevant documents and description of Danish policy on Fragile States can be found at:
http://um.dk/da/danida/det-goer-vi/udv-strat-indsats/stabil-beskyt/skroebelige-stater/.
The inter-linkage between R2P and fragile states is discussed under Section X.

The US Atrocity Prevention Board. In August of 2011 the White House released *"Presidential Study Directive on Mass Atrocity Prevention"*, or PSD-10.[34] The directive called for the establishment of an interagency atrocity-prevention mechanism; its primary purpose would be to "coordinate a whole of government approach to preventing mass atrocities and genocide". Since the launch of the Atrocity Prevention Board (APB) in April 2012, the structure and working methods of APB have gradually developed and nuanced through a comprehensive process.

A key driving force behind setting up the APB and getting broad buy-in from actors across the US administration was the statement by President Obama in PSD-10 that atrocity prevention is "in the core national security interest and core moral responsibility" of the U.S. While there had previously been numerous statements condemning such atrocities as morally reprehensible, the definition of atrocity prevention as being in the core national security interest of the US had the effect of ensuring wider institutional anchoring of the American atrocity prevention work. PSD-10 clearly states that also military and intelligence authorities have a key role in atrocity prevention, and their focus on traditional security missions and objectives were thus bound together with atrocity prevention. Also institutions which have not traditionally been at the forefront of atrocity prevention, like the intelligence community[35] and Treasury, which i.a. takes the lead on US economic sanctions, have participated actively in the APB's work.

The APB is a standing committee of officials with permanent members from a wide range of government institutions: Departments of State, Defense, Treasury, Justice, and Homeland Security, the Joint Staff, the U.S. Agency for International Development (USAID), the U.S. Mission to the United Nations, the Office of the Director of National Intelligence, the Central Intelligence Agency, and the Office of the Vice President.

The APB meets in various constellations and with considerable frequency: Once a week, meetings are held at working level, the "sub-APB", focusing primarily on structural and thematic atrocity issues. These meetings also prepare the monthly APB meeting (assistant-secretary level) under the chairmanship of the Senior Director of Multilateral Affairs, National Security Council,[36] where key points from the weekly meetings and current atrocity issues are discussed. This meeting also provides the sub-APB with new taskings. Quarterly meetings with a specific focus on a geographic atrocity issue focus are held at "deputy-ministerial" level, where in-depth intelligence briefings provide the basis for substantial policy discussions regarding a country of specific concern in order to mobilize attention and resources within the respective agencies.

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34   Presidential Study on Mass Atrocities, the White House, August 4, 2011 http://www.whitehouse.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities. (Presidential Study Directives are a form of executive order issued by the President of the United States articulating the executive's national security policy and carrying the full force and effect of law.)

35   According to an update on Atrocity Prevention Strategy released by the White House in the spring of 2013 the US intelligence community is finalizing the first-ever National Intelligence Estimate on the Global Risks of Mass Atrocities and Prospects for International Response, which will provide a new analytical framework for anticipating and preparing mass atrocities in the coming years, the White House.
http://www.whitehouse.gov/blog/2013/05/01/update-atrocity-prevention-strategy-implementation

36   Former Senior Director of Multilateral Affairs and chair of the APB, Samantha Power, has been succeeded by Stephen Pomper upon Ms. Power's nomination to the post of US ambassador to the UN, "Task Force Gives Insight on UN Nominee", New York Times, June 22, 2013. http://www.nytimes.com/2013/06/23/us/politics/work-on-task-force-gives-insight-on-un-nominee.html?ref=politics&_r=0. Mr Pomper is furthermore the US Focal Point in the above-mentioned R2P Focal Point Network.

Among countries discussed so far have been Kenya, Burma and Bangladesh, which reflects the intention of strengthening prevention rather than focusing the work of the APB on countries already in the middle of substantial conflict or those where the potential for atrocities is very long-term.

There are, perhaps unsurprisingly, varying views as to the effect of the establishment of the APB on the US approach to atrocity prevention. Some hail the APB as being instrumental in bringing atrocity issues quickly to the forefront of the Administration's agenda, whereas others point to countries like Syria and Sudan, where atrocities continue without US intervention.[37] A significant criticism has been the lack of transparency from the APB about its work; a criticism which was to some extent met by the White House on May 1, 2013 providing an Update on activities of the APB.[38] The Center for American Progress has published a recent report reviewing the first year of the APB,[39] which contains a detailed description of the APB's work as well as a balanced analysis of its results and potential changes that may increase its impact.

The cursory description of the Atrocity Prevention Board here primarily serves to illustrate two points in relation to the work of the Danish R2P Focal Point. Firstly, that a detailed, forceful and well-publicized policy directive from the highest level of the US government was instrumental in engaging a broad set of actors in the US administration, even those not traditionally focused on atrocity prevention, in the work of the APB. Secondly, that the establishment of APB bodies with formalized procedures and reporting lines to other parts of the administration has helped mainstream atrocity prevention into US decision-making, not least through early warning mechanisms. With all the caveats that a comparison between US and Danish administrations requires, it is still worth considering whether there are useful lessons to be learnt for the Danish R2P Focal Point from the process of the promulgation of PSD-10 and the establishment of the Atrocity Prevention Board. It is clearly not an option for the Danish administration to establish anything remotely as comprehensive as APB, but the dedication of the attention of also senior officials is worth considering. To what extent this should happen in a body dedicated to R2P issues, or be integrated into ongoing work in Danish administrative bodies concerned with fragile states and conflict prevention could be explored further.

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37   *Obama's Atrocities Prevention Board appears idle while Sudan bombs its people,* Seattle Times, *John K. Roth and Samuel Totten,* 15 May, 2013,
http://seattletimes.com/html/opinion/2020993497_johnkrothsamueltottenopedxml.html
38   Update on Atrocity Prevention Strategy, The White House, May 1, 2013,
http://www.whitehouse.gov/blog/2013/05/01/update-atrocity-prevention-strategy-implementation
39   *Atrocities Prevention Board, Background, Performance, and Options*, John Norris and Annie Malknecht, June 13, 2013, Center for American Progress,
http://www.americanprogress.org/wp-content/uploads/2013/06/AtrocitiesPrevBoard.pdf

The Danish Government's Governing Document (*Regeringsgrundlag*) from 2011 contains clear language regarding the operationalization of the R2P concept as a Danish foreign policy priority. While the Danish R2P Focal Point has taken important first steps in engaging national Danish authorities in R2P work, it should be considered what further initiatives can be taken to strengthen and accelerate this process. Atrocity prevention spans the work of a large number of Danish authorities, but the existing framework for the Focal Point's engagement with these authorities is relatively weak and references in policy documents are sporadic. The Focal Point has few tools to promote active and timely R2P elements into Danish policies and programs.

Thought should be given to ways of clarifying and expanding the basis for the Danish administration's work with R2P in policy documents or administrative/governmental decisions. An integral part hereof should be a review of the organizational structure of R2P work by the Danish administration and a consideration of whether the present informal, ad hoc approach will continue to serve the Danish government's ambitions within the field of R2P best. Strengthening the policy basis for Danish work on R2P can be achieved through the inclusion of R2P aims in sectoral or country policies, but could also be undertaken through the adoption of an R2P National Action Plan, possibly endorsed at governmental level.

As to the substance of the work of the Danish Focal Point, the mapping process of Danish authorities' work with R2P issues should be completed. Furthermore, a methodology for promoting R2P elements in general Danish foreign policy and development assistance could be elaborated. In this context, the Focal Point Network can both be used to share Danish lessons learnt and gain experience from other countries on best practices which can further assist an internal Danish process.

VIII.   ATROCITY PREVENTION TOOLS - OPTIONS FOR ACTION

This section will give an overview of some of the tools available for atrocity prevention that can be employed at various stages of R2P situations, while Section IX will then look at some of the challenges and options for building atrocity prevention in Danish development assistance.

In a consideration of how Denmark can best navigate to support R2P and promote atrocity prevention the initial question relates to the identification of potential atrocity situations and methodology for this. This paper will not deal with that aspect in any detail, but merely note that there are a variety of instruments that have been developed, both of an abstract character[40] and also in the form of atrocity watch lists for particular countries[41] with a view to facilitating this process. Challenges to effective early warning fall into two broad categories: (1) generating timely and accurate warning analyses and (2) ensuring that they are heard by policymakers and taken into consideration in their policy planning. There are numerous situations in which the world community has failed on one of those two accounts and R2P situations have arisen.

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40   An often cited analytical framework for genocide prevention is that of the UN Special Advisor for the prevention of genocide; Office of the UN Special Adviser on the Prevention of Genocide (OSAPG), Analysis Framework. http://www.un.org/en/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf

41   See for example: Global Centre for the Responsibility to Protect, http://www.globalr2p.org/regions/. It is also reported that watch lists are maintained by US government agencies.

Effective institutional frameworks can, as noted above, contribute to meeting both those challenges, but particularly "long-term" atrocity risks and root-causes are difficult to identify and require vigilance.

Atrocity prevention can in principle be incorporated into a wide array of policies and activities and can take a variety of forms. For orientation on the breadth of atrocity prevention tools available reference can be made to a study completed in 2012 by staff at the US Army Peacekeeping and Stability Operations Institute (PKSOI).

PKSOI staff have elaborated a Handbook[42] meant as a reference for policymakers to monitor, prevent and, if necessary, respond to genocide and other mass atrocity situations. The Handbook was developed in response to the above-mentioned Presidential Study Directive 10 from 2011. As part of this Handbook PKSOI has developed a toolbox of Diplomatic, Informational, Military and Economic (DIME) suasion tools.

This work is of interest in a Danish context because it provides a potentially very useful overview or checklist for Danish practitioners and policymakers in times of crisis when R2P situations may be developing. It can help Danish authorities take a more holistic approach, and ensure that actors from different parts of the Danish administration are brought together at an early stage to consider which instruments falling under their purview could be employed in a particular situation. As it is today, such processes of coming up with responses to R2P situations are too often fragmented and not structured around the R2P elements of a situation.

The matrix shown in Annex 1 is taken from the MAPRO DIME matrix but has certain modifications in order to make it more applicable to Danish capacities, instruments and priorities. While certain of the instruments still included are clearly more suited to be employed by the US government, they have been retained, partly to give an indication of what tools other actors may also apply, partly because they may be available to Denmark through the EU or through acting with other partners.

Danish interaction with EU institutions and other EU member states in preventing atrocities is crucial for a variety of reasons, not least because Danish competence in a number of the fields mentioned in the matrix has been transferred, partially or wholly, to the EU. The Common Foreign and Security Policy will in many instances be a prime vehicle for Denmark to seek to promote R2P policies globally. Thus, the inclusion of fields where there is EU competence should in this context be read as presenting the option that Denmark may seek action through the EU by using available diplomatic avenues in that organization.[43]

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42   Mass Atrocity and Response Options (MAPRO): A Policy Planning Handbook, US Army Peacekeeping and Stability Operations Institute, Carlisle, Pennsylvania, March 2012.

43   See further regarding EU capacity in atrocity prevention: "The EU and the Prevention of Mass Atrocities: An Assessment of Strengths and Weaknesses" by the *Task Force on the EU Prevention of Mass Atrocities*, February 2013. The report argues i.a. that the EU has not sufficiently focused on atrocity prevention as a distinct policy objective, but rather seems to operate on the assumption that atrocity prevention is covered under general conflict prevention work. This further supports that the EU should address R2P issues more systematically.

It should be noted that the matrix primarily addresses the role of the US in preventing atrocities abroad, but does not consider what instruments could limit the creation of conditions conducive to atrocities within the US. In the context of the R2P Focal Point Network,[44] and R2P debates in general, it is often stressed that all regions of the world have proved to be vulnerable to mass atrocities, see also UN Secretary-General report on Implementing the Responsibility to Protect (UN Doc. A/63/677). It is obviously problematic, both conceptually and politically, to exclude particular countries/regions from the risk of atrocity situations arising. At the same time it is clear that there are certain high-risk countries that would benefit the most from resources and analysis dedicated to atrocity prevention.

The terminology in the matrix operates with three approaches or stages of atrocity prevention, broadly determined by the nature and the level of tools used, the amount of risk involved in employing those tools and the degree of encroachment on "host nation" sovereignty. While the three approaches are to some extent overlapping, the key features are as follows:

Suasion – is primarily, but not exclusively, the use of diplomatic tools to induce and put pressure on would-be perpetrators to act responsibly.

Compellance – consists of tools to punish, isolate, undermine or apply significant pressure to coerce perpetrators to desist from committing atrocities. These tools include diplomatic, legal, economic, financial and other measures that increase the anticipated and actual costs to perpetrators.

Intervention – committing military and other resources to prevent or stop mass atrocities, be it in a peacekeeping or peacemaking (enforcement) role. The intervention can be with the consent of the host nation or coercive.

The matrix may be seen as a somewhat crude summary of some of the tools available in atrocity prevention, but it could be helpful in providing Danish authorities with an overview of the variety of options and help determine which institutions/departments may lead on particular issues. The tools are not always sharply defined and sometimes fit more than one category and can serve more than one function. The distinction between tools of suasion, compellance and intervention is also meant to help ensuring that the least intrusive measure is employed first, although there is no order of priority as such and particular situations may, for example, see intervention tools employed early in order to prevent atrocities.

It should be noted that there obviously are a host of policy risks and legal issues related to the application of each instrument. Both in relation to their actual effect, potential unintended consequences and the global political environment in which they are undertaken. As shown above under Section III, there are key issues to be considered which will affect how Denmark choses to react to R2P situations and whether such actions are perceived to be legitimate and are globally supported.

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44   Also for this reason the Danish review of R2P policies mentioned above involves instruments aimed at diminishing tensions within Denmark that could lead to violence such as, for example, hate speech aimed at certain groups, despite the low risk Denmark faces. It can in this context also be noted that low-risk countries may have particular practices or experiences in their way of handling tensions and conflict that can be passed on to higher-risk countries.

The four categories (diplomatic, informational, military and economic) are also complementary.

Diplomatic measures can include a combination of threats and inducements, and will often be the key measure that other measures seek to support and reinforce. Diplomatic measures are not limited to Ministry of Foreign Affairs actors but can be undertaken by officials from all relevant Danish authorities, as well as sometimes being supported by the actions of intermediaries (NGOs, private actors) who may be instrumental in employing these tools. Likewise, diplomatic measures include interaction not only with "host state" authorities/potential perpetrators, but also with other regional and global actors, civil society and international organizations. *Informational measures* will typically be an integral part of other tools through which awareness is raised about the risk of atrocity and by convincing would-be perpetrators that there is focus on their actions. *Economic measures* can also consist of a combination of inducements and sanctions. They will often have more long-term scope and that is particularly the case with regard to capacity-building and other development assistance tools. *Military measures* cover a broad range of tools from supporting diplomatic efforts to actual armed intervention. For Denmark these options will typically to an even larger extent than other measures be limited by other actors' willingness to act.

The matrix can obviously be nuanced to capture new elements, and be further tailored to the particularities of Danish foreign policy and development assistance. It could, however, already in its present form potentially provide a helpful framework for identifying tools to be employed where indicators of atrocities are present and as a check list for possible initiatives.

The matrix on atrocity prevention should be considered as a blueprint for an analytical instrument to be developed and employed by Denmark when assessing options in R2P situations. Thought should be given as to ways of streamlining the input that such an analysis could provide into the regular planning and policymaking processes regarding conflict prevention and protection of civilians, and make sure that atrocity sensitive proposals are considered at the earliest stage policy making process. To the extent administrative resources allow, further work could be done to capture particular tools available to Denmark.

IX. R2P AND CAPACITY-BUILDING IN DANISH DEVELOPMENT ASSISTANCE

Under the 2005 Summit Declaration on the responsibility to protect the concept of capacity-building is traditionally linked to Pillar 2 − international assistance and capacity building. It also naturally falls within Pillar 1 - the protection responsibilities of the state - where the building of national institutions and capacities is a central part of fulfilling that responsibility. Capacity-building thus falls to a very broad group of actors, and spans virtually all areas of development, conflict prevention, stabilization and peace-building.

As noted above in Section VIII, there is a broad range of tools available to Denmark when considering how to address both long-term and immediate risks of R2P situations developing. An inter-ministerial review of Danish tools and instruments, and how these contribute to atrocity prevention, has already been initiated. This is in the process of being finalized and the present Section should be seen as a contribution to this process.

In the following a closer look will be taken at one particular theme, namely the possibility for strengthening the R2P aspects in Danish institutional capacity-building programs in high risk countries. There are at least two reasons why Denmark could particularly focus on capacity-building in its R2P related development programs:

Firstly, Denmark has been, and continues to be, a major actor on the international development scene with a GDP/development assistance ratio among the highest in the world. Admittedly Denmark has, in recent years, taken on a disproportionately large role also militarily in R2P-related situations,[45] but looking forward it would seem fair to assume that the area where Denmark could and will have the greatest impact on atrocity prevention will be within the field of development assistance. This is not to say that Denmark should not continue to be an active proponent of supporting the implementation of all three R2P Pillars where appropriate, but rather that for Denmark the potential for breaking new ground would seem to be within supporting capacity-building and prevention.

Secondly, there has been a quite significant shift in Danish aid policy in recent decades, which would also seem to pave the way for greater Danish involvement in atrocity prevention. There has been a concerted effort, at both the policy and practical level, to build bridges between Danish foreign and security policy priorities and Danish development assistance.[46] While this has been somewhat controversial and is still a work in progress, this unprecedented shift creates particular opportunities for strengthening atrocity prevention in Danish development assistance.

This change of approach and integration of development and security policy have found expression in a number of policy documents and new programs. In the most recent strategy for Danish development assistance, *The Right to a Better Life*, "Stabilization and Protection" is listed as one of four key priorities. The total bilateral Danish development assistance in 2011 under the heading of "conflict prevention and resolution, peace and security" amounted to USD 43.5 million, while USD 175.7 million were provided for emergency relief and refugees in regions of origin.[47]

In November 2011 funds from the fields of development assistance, stabilization and security were brought together in a new budget line item under the heading of *New Security Policy (Pulje til Ny Sikkerhedspolitik)* and as a part of this effort the *Peace and Stabilization Fund* was established, focusing on both stabilization and rebuilding of fragile states as well as combating the threat of terrorism. On top of USD 25 million, a further USD 8 million were added in 2012 earmarked for work in Libya and South Sudan. The Horn of Africa/East Africa and the Afghanistan/Pakistan region are the focus of the two major programs under this fund.[48]

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45   For example: Bosnia-Herzegovina, Kosovo, Libya, Afghanistan and Mali. While a host of rationales can be said to have been driving the Danish military presence in Afghanistan since 2002 the protection of the civilian population and post-conflict stabilization have been repeatedly emphasized.
46   http://um.dk/da/politik-og-diplomati/retsorden/den-internationale-dialog-for-fredsopbygning-og-statsopbygning/
47   On top of this, significant funds were provided to multilateral humanitarian organizations. It is difficult to calculate the precise amount of development assistance allocated under the many different Danish programs relating to conflict prevention, but it seems clear that the figure is increasing as synergies between development and security are being sought.
48   The initiative was launched in a joint op-ed in the Danish daily *Jyllands-Posten* on 20 January 2012 by the Foreign Minister, Defence Minister and Minister for Development Cooperation. http://um.dk/da/~/media/UM/Danish-site/Documents/Danida/Det-goer-vi/Stabilitet/En%20ny%20sikkerhedspolitik.ashx.

The significance of this shift in policy priorities is also captured in a speech on the *New Deal for Development* given by Danish minister for development cooperation Christian Friis Bach in the spring of 2013:

"If you go back 10 years, many development partners, us richer countries, would have said, "Don't engage in fragile states because it's too difficult"; we would have said, "Don't work through state institutions in fragile states because they are very weak"; and we would have said, "It's very dangerous to discuss security and development at the same time, keep it apart." And today, on all three accounts, we say exactly the opposite."[49]

This shift has meant a much stronger focus on fragile states and conflict prevention in Danish development assistance, and a realization that capacity-building, particularly of state institutions, even in such sensitive and risk prone environments is necessary.

Furthermore, a stronger focus on human rights in Danish development assistance, including a new human rights based approach to development,[50] also has the potential to create conditions conducive to centering on atrocity prevention as programs within good governance, rule of law and participation are given more prominence in the Danish aid portfolio.

Recognizing this shift to types of assistance that relate more closely to atrocity prevention than traditional assistance raises some preliminary questions regarding the need for specificity regarding atrocity prevention. Is it really necessary to distinguish between general conflict prevention and atrocity prevention   or are the same aims not served in, for example, conflict prevention programs? What is the added value of a specific atrocity prevention lens in programs that already focus broadly on human security?

While it is, of course, true that a certain overlap exists between causes of conflict and atrocities, there are also differences. Not all conflicts lead to atrocities − and not all atrocities are committed in the context of (armed) conflicts. Working with the broader concept of conflict prevention risks blurring particular atrocity indicators. Conflict prevention programs tend to have a very broad set of indicators, but are not necessarily focused on the particularly vulnerable groups that are at risk in R2P situations or geared towards protection of civilians. It should naturally be recognized that specifically focusing on atrocity prevention in development programs will raise sensitive issues of sovereignty and difficult societal tensions, but it is questionable if these are much more difficult to handle than those issues arising in other programs.

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49   Danish Minister for Development Cooperation, Christian Friis Bach, quoted in Fragile States, Not Too Fragile to Engage in Post-2015 Development Agenda, Global Observatory, April 25, 2013. http://theglobalobservatory.org/interviews/487-ministers-pires-and-friis-bach-fragile-states-not-too-fragile-to-engage-in-post-2015-development-agenda.html
50   See further: http://um.dk/da/politik-og-diplomati/retsorden/menneskerettigheder/

Taking this analysis as the basis, the question arises *how* existing Danish capacity-building efforts can contribute to R2P aims and what new instruments and priorities may be introduced. Operationalisation and promotion of R2P has been discussed in a host of documents, but seldom with any elaborate discussion of how development assistance can contribute to local capacity-building.[51]

In the following some basic elements for strengthening R2P in Danish assistance will be explored. Emphasis will be put on opportunities in bilateral Danish assistance programs although the recommendations may also be of relevance as guidance for utilizing Danish assistance in multilateral bodies to strengthen atrocity prevention. As is the case in other sectors, even nominal bilateral programs are highly "multi-lateralised" as donor coordination with organizations like the World Bank, UNDP, the EU and other donors subjects Danish policy choices to the policies and priorities of others.

What approach should be chosen to strengthen atrocity prevention in Danish development assistance? At present, atrocity prevention is not an explicit or separate sectoral or thematic focus in Danish development assistance. There are no particular programmatic tools[52] specifically aimed at promoting atrocity prevention in Danish aid programs, and there are no review or evaluation mechanisms geared towards measuring the effect of Danish assistance on atrocity prevention.

If it is accepted that atrocity prevention needs to be become more explicitly addressed in Danish development assistance as part of operationalizing R2P, certain choices need to be made as to how this happens. It is probably useful for conceptual purposes to distinguish between, on the one hand, a "narrow" approach focusing on the design and implementation of specific programs directly targeted at atrocity prevention capacity-building. And, on the other, a "broader" approach in which atrocity prevention is sought integrated into capacity-building and development activities which do not necessarily have atrocity prevention as their primary aim.

The first approach would involve the elaboration of programs directly supporting, for example, the establishment of mediation institutions aimed at diminishing ethnic tensions that could potentially of escalate into violence, or of dedicated prosecutorial capacity to investigate and prosecute atrocity crimes. Programs could also be developed specifically to address discrimination in the armed forces and resulting exclusion/vulnerability of particular minorities. Other such programs could address access to resources such as land, minerals or water in situations where indicators suggest a real risk of escalation into violent conflict and R2P crimes being committed.

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51   See for example "A Toolkit on the Responsibility to Protect", International Coalition on the Responsibility to Protect, May 2013, http://www.responsibilitytoprotect.org/ICRtoP%20Toolkit%20on%20the%20Responsibility%20to%20Protect(2).pdf. Inspiration for expansion for operationalization can also be found for example "Policy Brief: Operationalizing the Responsibility to Prevent", Jennifer M. Welsh and Serena K. Sharma, Oxford Institute for Ethics, Law and Armed Conflict, University of Oxford, 2012. http://www.elac.ox.ac.uk/downloads/elac%20operationalising%20the%20responsibility%20to%20prevent.pdf

52   In planning and implementing development programs, DANIDA operates with a variety of instruments to help practitioners in the full project cycle of development activities. There are inter alia guidelines in the form of so called "How to Notes" within the field of rule law (Justice Sector Reform and Informal Justice Systems) which assists practitioners in the design and execution of programs. No such instruments have been developed specifically to address atrocity prevention in Danish development assistance.

The second approach, the "broad approach", would consist of focusing on assistance programs and projects of a more general and structural character, going across the board of capacity-building activities in Danish development assistance. Assistance programs in all sectors, at least in the long run, potentially have the ability to influence whether conditions conducive to conflict will develop, and these programs can in that sense be relevant to atrocity prevention. This approach to strengthening capacity-building for atrocity prevention is not dissimilar methodically to the promotion of cross-cutting issues such as gender, environment, human rights, etc., which in recent years have been incorporated into general assistance programs.

An example of this type of preventive approach is the agricultural sector program in Northern Uganda, which Denmark has supported for several years. An area ravaged by civil war and atrocity crimes was left bare and depopulated because its inhabitants were driven from the land as a consequence of civil war. The agricultural sector program in the late part of the 2000s made it possible for the displaced inhabitants to return, and training in farming, forestry and other skills helped provide the basis for stability and economic growth thereby lessening the risk of renewed conflict.

Both these approaches could help to reduce the risk of atrocities, and are in fact already found to some extent in a number of Danish development programs – though often without any explicit atrocity focus. But they also present challenges. Seeking to make atrocity prevention a cross-cutting issue similar to other horizontal themes in Danish development assistance may be problematic, not only because of the proliferation of such cross-cutting priorities in recent years, but also because the linkage between atrocity prevention and Danish development activities in general is probably too tenuous to merit such an ambitious across-the-board approach at the present time. There may be a number of instances where trying to inject atrocity prevention into the design of programs could be overly burdensome. Similarly with regard to looking to promote specific atrocity prevention programs, i.e. introducing atrocity prevention as a separate category of programs/sector. This might well create too great an administrative challenge to the existing Danish development framework and the sectoral categories which are presently in use, and may in a time of limited administrative resources meet with institutional resistance.

A possibly more manageable approach could be, as a starting point, to identify particular sectors with the closest nexus to atrocity prevention and then seek to strengthen the atrocity prevention elements as such in programs within those sectors. A simple atrocity prevention analysis could be applied to the relevant programs in order to assess where institutional capacity-building would most help to lessen atrocity risks, and where the particular program is found to have (potential) relevance to atrocity prevention, these elements could be strengthened or expanded.

X. SECTORAL FOCUS – SECURITY SECTOR REFORM AND RULE OF LAW

In considerations of what sectors it would be most appropriate to focus on, and where capacity-building can have most effect, it is perhaps not surprising that most analyses on the topic centre around security sector, rule of law and human rights. One compilation lists rule of law, security sector, constitutional guarantees/political systems along with resource management and economic governance.[53] While it is undoubtedly true that programs within all these sectors can contribute to reducing the risk of atrocities this still constitutes a very broad range of sectors.

A more limited, but still ambitious, approach would be to focus on Danish assistance programs within "security system reform" as defined in the OECD DAC Guidelines on Security System Reform and Governance. This term conflates traditional security sector reform with elements of rule of law, covering core security actors (e.g. armed forces, police, gendarmerie, border guards, customs and immigration, and intelligence and security services); security management and oversight bodies (e.g. ministries of defence and internal affairs, financial management bodies and public complaints commissions); justice and law enforcement institutions (e.g. the judiciary, prisons, prosecution services, traditional justice systems); and non-statutory security forces (e.g. private security companies, guerrilla forces and private militias).[54] Within all these fields there are practical and operational opportunities for incorporating atrocity prevention in institution building programs and thereby strengthening the local capacity to prevent and protect.[55]

In general, including an atrocity prevention lens in *security sector reform* requires awareness of the local sources of risk and resilience, as well as the potential utility and constraints of reform activities in areas considered at risk of atrocities. R2P crimes often spring from identity-related conflicts which may be reflected in discrimination and marginalization of particular groups. Reactions to those inequalities can lead to violence that targets the civilian population, and the constructive management of diversity is often the most effective form of prevention.

When considering strategies for countering threats of atrocities through security sector reform, a basic distinction can be made between threats emanating from state actors and non-state actors. Pillar I of the 2005 World Summit Outcome Document focuses on the threat of atrocities emanating from non-state actors, and addresses the role of state institutions in countering these threats. Examples of this type of atrocity threat are legion and include the Lord's Resistance Army in Northern Uganda, sexual violence in Eastern Congo, post-election violence in Kenya, insurgents in Northern Mali, attacks by Buddhist extremists on Muslim minorities in Myanmar, etc.[56]

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53   Assisting States to Prevent Atrocities: Implications for Development Policy, Stabilization Assistance, and Post-Conflict Peace-building: The Stanley Foundation, Policy Dialogue Brief, October 25, 2012.
54   The OECD DAC Handbook on Security System Reform (SSR) Supporting Security and Justice (2007) http://www.oecd.org/development/incaf/38406485.pdf. It should be stressed that this terminology does not imply that justice is subordinate to security when it comes to atrocity prevention.
55   See further: International Centre for Transitional Justice/Brookings LSE, "Linkages between Justice-Sensitive Security Sector Reform and Displacement", Madeline England, July 2012, http://ictj.org/publication/linkages-between-justice-sensitive-security-sector-reform-and-displacement-examples
56   This is not to say that state institutions may not have had a role in creating the conditions for the commissioning of these crimes, e.g. police forces in Kenya, but merely that the main driving force can be identified as these non-state actors.

One author has identified three factors as key to the occurrence of atrocities driven by non-state actor: 1) the motivation of the non-state actor to commit mass atrocities, 2) that the non-state movement has enough power for it to decide to execute its plan for mass atrocities without fear of retribution/defeat, 3) the ability to recruit would-be bystanders to participate while dissuading non-participants from resisting its plan.[57] While such distillation of factors can be discussed and expanded, the factors provide basic "targets" to focus on in security sector assistance programs in order to limit the risk of atrocities emanating from non-state actors. When it comes to the role of state institutions limiting the power of non-state movements to commit atrocities, this clearly requires institutions that have the technical equipment and resources to fulfil their functions. But it also requires institutions that have the necessary professional skills to actually ensure protection, that they enjoy the trust and confidence of the population under risk, and that issues like corruption and prejudice do not undermine the role of security forces.

The strengthening of state security organs obviously also has the potential negative effect of empowering the very institutions that in many instances have been responsible for atrocities. Atrocity risks emanating from state actors are still a frequent occurrence as events in Syria and Libya have reminded us in recent years. Prejudice and corruption in the security forces as well as power struggles, identity politics and discrimination are some of the drivers for state organs engaging in atrocities and failing to protect the civilian population. Recruitment and training of personnel for security organs like the police is key as is the assurance of civilian oversight and programs aimed at improving relations between security forces and communities.

For Denmark, an added benefit of focusing on atrocity prevention also in security sector reform could be the involvement that Danish defence authorities have in such programs. Integrating atrocity prevention elements more explicitly would sensitize Danish defense personnel to R2P issues, which could in turn have positive spillover on Danish training and advisory programs in high risk countries. Already important work is ongoing in some Danish programs, including the Danish contribution to the establishment of the East African Standby Force (EASF), which is a regional initiative aimed at establishing a force that can address rapidly emerging conflict situations. The EASF is one of the five regional components of the African Standby Force established by the African Union for the purpose of containing the scourge of conflicts and enhancing peace and security in the continent. Through its financial and advisory support Denmark could contribute to sensitizing EASF to atrocity-related risks and strengthening the capacity of the initiative within the field of atrocity prevention.[58]

When it comes to integrating atrocity prevention in *rule of law programs* some Danish programs, such as the recent program in Uganda,[59] are being implemented with a strong sensitivity towards past and ongoing atrocity risks.

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57   David J. Simon, *Building State Capacity to Prevent Atrocity Crimes: Implementing Pillars One and Two of the R2P Framework*, September 2012. The Stanley Foundation, Policy Analysis Brief. http://www.stanleyfoundation.org/publications/pab/SimonPAB.pdf

58   For a further description of Danish support to military capacity-building in Africa, see "Danmarks støtte til militær kapacitetsopbygning i Afrika", Johannes R. Nordby and Katja L. Jacobsen, DIIS Policy Brief, Danish Institute for International Studies, September 2013.

59   See, e.g., "Governance for Development. Five years support to democracy, human rights, justice and peace building in Uganda", Danida, Danish Ministry of Foreign Affairs, 2011.

In other partner countries rule of law programs are less elaborate in their focus on atrocity related risks, and opportunities exist for integrating atrocity risk reduction in these programs.

Again, the starting point is to ensure that programs are designed and implemented with a focus on the most vulnerable groups that may be at risk of mass violence. By addressing structural inequalities in the justice sector, including informal dispute resolution mechanisms, and by ensuring judicial independence as well as equal access, better protection can be given to marginalized groups. As in security sector reform, combating corruption is central to ensuring equality before the law, and training of justice providers also has the effect of professionalizing the sector, thereby making the justice system more transparent and foreseeable.

Creating confidence among all groups that the rules will be clear, fair, and equally applied is fundamental to ensuring the participation of these groups in a rule-based system and a readiness to seek remedies for grievances and inequalities within established structures. The law-making and implementing institutions must also be representative and fulfil their functions without regard to the status of the parties concerned. Creating access to justice for the excluded is a critical component of efforts to address the causes of conflict and constrain abuses of power that may lead to atrocities.

Establishing accountability mechanisms to address atrocities that may already have taken place can not only lead to reconciliation and truth-telling, but also have a deterrent effect on potential future perpetrators. Strengthening human rights monitoring bodies and ombudsperson institutions can also contribute to raising awareness of risks to particularly vulnerable groups, thereby creating the basis for early preventive action.

Some challenges – local ownership, timeliness, evaluation. Seeking to integrate atrocity prevention in general Danish development assistance programs obviously presents a host of challenges. The potential push-back from recipient countries in addressing such sovereignty-sensitive issues has already been mentioned as has the political problems in designating groups at risk of atrocities in cooperation with the host state. Recognizing atrocity risks implicitly suggests that the host state is unable to protect its population and is seen as carrying a stigma for many governments.

The close cooperation and partnership with the host government is naturally crucial to any ambition for Danish development assistance effectively to engage more deeply in atrocity prevention. It is already a central theme of Denmark's development cooperation that it must be anchored locally and be built on democratic ownership. Denmark aims to support developing countries' own development strategies in order to ensure that partner governments take charge of their countries' development.[60] Thus, it would seem superfluous to stress the importance of local ownership for programs aimed at strengthening atrocity prevention, and in this context the importance hereof is reiterated solely because the problems of ensuring local ownership within this field are so complex.

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60   *"Strategy for Danish Development Cooperation: The Right to a Better Life"*, Ministry of Foreign Affairs, Danida, May 2012 http://um.dk/en/~/media/UM/English-site/Documents/Danida/Goals/Strategy/13287_DANIDA_strategiformidling_UK_web.jpg

Particularly within the field of institution-building to counter atrocity prevention, the difficulties of timeliness are clear. Danish development assistance operates within extended project cycles which span several years. Identifying atrocity risks in time for an effective integration of means to combat these risks preventively is a real challenge and requires careful analysis of the R2P potential in a particular country as well as identification of the most vulnerable groups.

It should be considered what possibilities exist for strengthening atrocity prevention in Danish development assistance programs within the fields of security sector reform and rule of law. This would entail country/case specific identification of the effect of such programs on the groups most vulnerable to atrocity risks, and ensuring that as far as possible the design and implementation of these programs address such risks.

XI. CONCLUSION AND KEY RECOMMENDATIONS

This Policy Research Paper has sought to describe the evolution of the R2P concept in recent years, focusing on Denmark's work to promote the R2P agenda and the progress made in this regard. On that basis, the Paper makes a number of recommendations that are put forward in order to inspire the continued debate and policy formulation within the Danish administration on the important, but also very complex, topic of R2P. These recommendations are made with a keen appreciation of the structural and resource challenges which Danish R2P policy faces, but also in an attempt to look beyond the traditional confines that shape daily work on R2P issues. The recommendations can be summarized as follows:

- The 2005 World Summit Outcome Document remains a significant normative framework for ensuring focus on protection against mass atrocities in all stages of the conflict cycle. Despite its soft law character, the R2P norm compels the international community, and Security Council members in particular, to be mindful of their responsibility for preventing atrocities. Denmark should remain committed to promoting and operationalizing R2P as well as drawing upon the concept's political resonance to insist on action in the face of atrocities.

- Denmark should continuously work to ensure that any enforcement action under the heading of R2P pursues only objectives compatible with such a humanitarian mission. While maintaining the need for operational flexibility that such mandates may require militarily, particular care should be taken in not interpreting mandates too broadly, or acting under the banner of R2P for other purposes. This requires Danish authorities to ensure coordination and discussion, both internally and with allies, about such operations, but also about how particular enforcement actions affect the overall policy objective of strengthening R2P as a coherent and credible conceptual framework for dealing with mass atrocities.

- Denmark should continue to support the understanding of the three pillars of R2P as being non-sequential and mutually supportive in nature. This entails addressing all three pillars of R2P and using a variety of instruments within the tool-box of Danish foreign policy and development assistance to advance the R2P agenda broadly. Within such a holistic approach Denmark should at the same time identify areas where its comparative advantages or policy priorities give Denmark a particular ability to advance specific R2P issues.

- Denmark should promote a robust and coherent R2P institutional framework within the UN, including the allocation of necessary resources to the Joint Office. Denmark should support the new Special Advisor for R2P to increasingly engage with the operational (development, peacekeeping, conflict prevention) bodies of the UN thereby strengthening integration of atrocity prevention across the UN organization.

- Denmark should participate actively in the General Assembly debates on the Secretary-General's yearly reports on R2P issues, and at the same time seek to make the General Assembly's consideration of the R2P agenda more practical and operational. Particular potential exists in linking up these debates and work of the UN Special Advisor on R2P with the UN's rule of law agenda, which in recent years has received increased attention and could provide new impetus to the R2P agenda.

- Denmark should, together with partner countries, continue to take a leading role in the R2P Focal Point Network. Rather than seeking a coordinating or policy defining role in relation to particular conflicts or risk situations, the Focal Point Network at the international level should continue to focus on expanding its membership in a regionally balanced manner, and at subsequent Network meetings seek to contribute further to the operationalization of atrocity prevention by identifying particular sectoral/thematic issues within atrocity prevention, intervention and post-conflict rehabilitation. The Network meetings could seek to engage with a broader group of practitioners and policymakers in order to facilitate the development of specific tools which can be put to use, be it within security sector reform, training of military forces, rule of law, mediation or transitional justice.

- The Danish R2P Focal Point has taken important first steps in engaging national Danish authorities in R2P work, but further initiatives should be considered to strengthen and accelerate this process. Atrocity prevention spans the work of a large number of Danish authorities, but the existing framework for the Focal Point's engagement with these authorities is relatively weak and references in policy documents are sporadic. Thought should be given to ways of clarifying and expanding the basis for the Danish administration's work with R2P in policy documents or administrative/governmental decisions. An integral part hereof could be a review of the organizational structure of R2P work by the Danish administration and a consideration of whether the present informal, ad hoc approach will continue to serve the Danish government's ambitions within the field of R2P best.

- The work of the Danish R2P Focal Point regarding the mapping process of Danish authorities' work with R2P issues should be completed. Furthermore, a methodology for promoting R2P elements in general Danish foreign policy and development assistance could be elaborated. In this context, the Focal Point Network can both be used to share Danish lessons learnt and gain experience from other countries on best practices which can further assist an internal Danish process.

- Denmark should consider developing an atrocity prevention matrix to be employed by Denmark as an analytical instrument for assessing options in R2P situations. Thought should be given as to ways of streamlining the input that such an analysis could provide into the regular planning and policymaking processes regarding conflict prevention and protection of civilians.

- Danish development assistance policies and programs present significant opportunities for strengthening operational atrocity prevention work on the ground. Denmark should strengthen R2P elements in both Danish development policy and practice. A fruitful starting point could be to review Danish programs within the fields of security sector reform and rule of law, and to analyze what options exist for strengthening atrocity prevention there. This would entail country/case specific identification of the effect of such programs on the groups most vulnerable to atrocity risks, and ensuring that the design and implementation of these programs address such risks to the greatest extent.

These recommendations are meant to inspire further debate and action by Danish authorities within the field of R2P. Already today, Denmark must be considered one of the lead nations in promoting the R2P agenda, but the potential exists for Denmark to take further steps and to consolidate its position as a principal proponent of R2P. While under pressure, the political resonance of R2P remains strong, but there is a real need for its proponents to take the next steps in the operationalization of R2P for the concept to have lasting effect and credibility.

ANNEX 1 – MATRIX OF ATROCITY PREVENTION TOOLS

	DIPLOMATIC	INFORMATIONAL	ECONOMIC	MILITARY
SUASION	- Pressure - Fact finding missions - UNGA/UNSC resolutions - Engage with relevant UN bodies - Coalition building - Contact to victims - Coordination with NGOs/IGOs - National leader engagement - Use of intermediaries - Appointment of special reps - Speeches by senior leaders	- Policy statements - Strategic com.plan. - Media relations - Information sharing with partner - Conflict assessment	- Development assistance (capacity-building, security sector reform, good governance) - Debt relief - Other econo-mic support to (de)incentivize perpetrators	- Security assistance to partners - Training of host nation forces - Joint exercises
COMPEL-LANCE	- Travel bans - Sanctions on enablers - Travel advisories - Reduce embassy - Ambassador recall - Criminal investigations - ICC/ad hoc tribunals - Int.law enforcement - Extradition - Isolation - Recognition of opposition groups - Restrict culture/sports events - Isolation - Break diplomatic relations	- Human rights monitoring - Atrocity reporting system - Intelligence sharing - Counter hate media	- Economic sanctions - Freeze/seize assets - Embargoes - IMF/world bank advocacy	- Access/basing arrangements - Expanded military presence - Deployment preparations - Blockade
INTER-VENTION	- Treaty compliance - Other diplomatic support: - legitimacy - Int'l support - Post-conflict preparations	- Electronic counter-measures/ jamming - Truth and reconcil liation commission - Other efforts to: - Build int. support - Divide perpetrators - Support operations	- Humanitarian assistance - Support victim groups - Support regional countries - Post-conflict reconciliation efforts	- Humanitarian assistance - No-fly zones - Mine clearing - Full intervention

Source:
Mass Atrocity and Response Options (MAPRO): A Policy Planning Handbook, US Army Peacekeeping and Stability Operations Institute, Carlisle, Pennsylvania, March 2012.