

ASIAN MODEL UNITED NATIONS



12-14 FEBRUARY 2016

**AGENDA I: RESPONSIBILITY TO PROTECT
DOCTRINE AND HUMANITARIAN INTERVENTION**

**AGENDA II: LEGAL AUTONOMOUS ROBOTICS
(LARS)**

LETTER FROM THE EXECUTIVE BOARD

Dear Delegates, It's our distinct pleasure to welcome you to the Asian Model United Nations! We are really looking forward to orchestrating a simulation of United Nations General Assembly Disarmament and International Security Committee, which is very important committee of United Nations. This study guide has been prepared keeping in mind the diverse nature of the agendas on the table and to facilitate an informed debate and discussion during the sessions of the council.

Each of the nations in the council has a long history associated with the both the agendas. We request you to begin and end your research with your foreign policy in a two-pronged approach; your policies regarding the agendas at hand and subsequently your relations with the other members present in the council. Understanding the economic, cultural, historical and political linkages with other members is the mark of an outstanding diplomat.

Our extremely dynamic directors Deepak and Yatharth are to be thanked for the extremely comprehensive and detailed study guide you have for your benefit. Their meticulous research and articulation will surely go a long way into guiding the member states, especially young diplomats.

The study guides have been are to just an introductory document for the benefit of the council at large. We expect you all to take the thread of this research and go beyond the guide to study the agendas in a much more nuanced manner. Do not, at all, limit yourselves to the contents of guides. The contents of the guide are not to be used as evidence to back a delegate's arguments. Any factual or technical error in the documents must be brought to my notice immediately and would stand to be rectified upon confirmation of the same.

Please feel free to contact us at any time regarding any doubts or clarifications. In our capacity as the Co-Chairpersons of the council, we wish you all the very best and look forward to the proceedings of the council.

Yours sincerely,

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Introduction to the Committee

Disarmament and International Security (DISEC) is the General Assembly First Committee. Apart from dealing with matters relating to disarmament it also has jurisdiction over global challenges and threats to the peace that affect the international community. The committee meets in October every year, and all 193 UN member states are permitted to attend. According to the UN Charter, Chapter IV, Article 11, the DISEC committee was called upon to “consider the general principles of co-operation in the maintenance of international peace and security.

Unlike the Security Council, DISEC is unable to impose sanctions, pass binding resolutions or authorise intervention. It can still submit recommendations to the Security Council and the secretariat, and historically has played a large role in landmark treaties such as the Non-proliferation Treaty (1968).

Agenda I : RESPONSIBILITY TO PROTECT DOCTRINE AND HUMANITARIAN INTERVENTION

Introduction

Sovereignty no longer exclusively protects States from foreign interference; it is a charge of responsibility that holds States accountable for the welfare of their people. Responsibility to Protect (R2P) is a norm in Customary International Law that evolved with the changing idea of sovereignty. Sovereignty was first established in the treaty called Peace of Westphalia, signed in 1648, which ended the Thirty Years' War, in which the major continental European states – the Holy Roman Empire, Spain, France, Sweden and the Dutch Republic – agreed to respect one another's territorial integrity. Westphalian sovereignty is the principle of international law that each nation state has sovereignty over its territory and domestic affairs, to the exclusion of all external powers, on the principle of non-interference in another country's domestic affairs, and that each state (no matter how large or small) is equal in international law. As European influence spread across the globe, the Westphalian principles, especially the concept of sovereign states, became central to international law and to the prevailing world order.

The *Responsibility to Protect* is a proposed norm that sovereignty is not an absolute right, and that states forfeit aspects of their sovereignty when they fail to protect their populations from mass atrocity crimes and human rights violations (namely genocide, crimes against humanity, war crimes, and ethnic cleansing). The R2P has three *pillars*:

1. A state has a responsibility to protect its population from genocide, war crimes, crimes against humanity, and ethnic cleansing.
2. The international community has a responsibility to assist the state to fulfil its primary responsibility.
3. If the state manifestly fails to protect its citizens from the four above mass atrocities and peaceful measures have failed, the international community has the responsibility to intervene through coercive measures such as economic sanctions. Military intervention is considered the last resort.

While R2P is a proposed norm and not a law, its proponents maintain that it is based on a respect for the principles that underlie international law, especially

the underlying principles of law relating to sovereignty, peace and security, human rights, and armed conflict.

R2P provides a framework for using tools that already exist (i.e., mediation, early warning mechanisms, economic sanctions, and chapter VII powers) to prevent mass atrocities. Civil society organizations, states, regional organizations, and international institutions all have a role to play in the R2P process. The authority to employ the last resort and intervene militarily rests solely with United Nations Security Council (UNSC).

History

African Union

Algerian diplomat Mohamed Sahnoun (2009), a former top UN official and one of the co- chairs of the ICISS, recently wrote that “unlike other regions, our [i.e., African] legal systems have long acknowledged that in addition to individuals, groups and leaders having rights, they also have reciprocal duties. So the responsibility to protect is in many ways an African contribution to human rights.”

In the 1990s African intergovernmental organizations were part of a developing security culture marked by a normative affirmation of the primacy of the needs of citizens. A number of factors influencing this changing security culture were:

- 1. Emphasis on the protection of civilians in international humanitarian law;
- 2. The democracy movement promoting the rule of law, personal freedoms, and renewed political institutions; and
- 3. Citizen demands for participation and transparency in governance.

The 1990s also witnessed the accelerated passing from the scene of the political “grand old men” of Africa’s immediate post-colonial period. In the wake of their passing a newer generation of African politicians, public servants, and military leaders surveyed the littered landscape of non-democratic leadership with its fixation on regime survival rather than the security and prosperity of Africans more generally. They were working for more responsive and accountable national and intergovernmental leadership.

The striking difference introduced with the 2001 ICISS Report on R2P, which distinguishes it from the previous “humanitarian assistance” stream, is characterized by commentators as:

1. A shift of focus from state sovereignty to state responsibility for the well-being of its citizens; and
2. the obligation of the international community to intervene in the specific case of the four violations of international law (genocide, war crimes, crimes against humanity, and ethnic cleansing) where a country is unwilling or unable to protect its citizens.

Sudanese diplomat and scholar, Francis Deng (1996), helped to define this transformation with normative advances centered on transforming the principle of sovereignty as non-interference to “sovereignty as responsibility.”

One result of this African affirmation that states bear responsibility for the well-being of their own citizens, even beyond individual state borders, was the embedding of the principles of R2P-like intervention in the African Union Constitutive Act (2002). Article 4(h) affirms the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.

United Nations and R2P

The notion of protecting human lives and preventing large scale massacres goes back a long way. In 1864 the International Red Cross was established and through the years many other organizations have been established to help the downtrodden and people being abused. After World War II the UN resolution 260 of 9 December 1948 adopted the convention on the *Prevention and Punishment of the Crime of Genocide* as a direct response to the horror of the Holocaust. The Wars in Indochina in the 1960s and 70s was also a turning point in many ways. Young people all over the world witnessed on their TV screen the atrocities that happen during a war, and the first televised famine in Biafra help spur further commitment to humanitarian work.

The modern turning point for the notion of “Responsibility to Protect” (R2P) came out of the Rwanda experience. “Rwanda in 1994, the genocide, was a

very important piece of this,” Edward Luck, the special advisor to the UN Secretary General on R2P told UN News Centre recently. He traces the story back to World War II: “Before that, there were the killing fields in Cambodia, after Rwanda there was the slaughter in the forests of Srebrenica. There was a whole series of such scars on the 20th century, going really all the way back to the Holocaust, which created a terrible stain on human history: mass violence targeted against one part of the population or another,” Luck explained.

Speaking at a seminar in Brussels recently, Kiyo Akasaka, the UN Secretary General for Communication and Public Information, said that the idea of R2P is not new with respect to states securing their people, but new in that the international community can intervene to protect civilians.

After the NATO intervention in the former Yugoslavia in 1999 there was a lot of debate on the legality of the intervention and so two years after, in 2001, the idea of R2P was first voiced, as a reaction to former UN Secretary-General Kofi Annan’s initiative.

Kofi Annan, who was Assistant Secretary-General at the UN Department for Peacekeeping Operations during the Rwandan genocide, realized the international community's failure to respond. In 2000, and in his capacity as UN Secretary-General, Annan wrote the report "We the Peoples" on the role of the United Nations in the 21st Century, and in this report he posed the following question: "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica — to gross and systematic violations of human rights that offend every precept of our common humanity?"

In late 2001 the Canadian government created the International Commission on Intervention and State Sovereignty (ICISS), that released its report *Responsibility to Protect* which advocated that state sovereignty is a responsibility, and that the international community could, as a last resort use military intervention to prevent “mass atrocities”. The African Union (AU) later endorsed the idea and put in its founding charter of 2005 that the “protection of human and peoples’ rights” would be a principle objective of the AU and that the Union had the right “to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.”

At the World Summit in 2005 the member states included R2P in the Outcome Document. The next year, in April 2006, the UN Security Council formalized their support of the R2P by reaffirming the provisions of the paragraphs from the World Summit document.

Secretary General's Reports and debate in the General Assembly

2009: Implementing the responsibility to protect

On 21 July 2009, the Secretary-General presented his report on "Implementing the responsibility to protect" (A/63/677) to the General Assembly. Secretary-General Ban Ki-moon highlighted 3 main points from the report:

1. He explained that "the report seeks to situate the Responsibility to Protect squarely under the UN's roof and within our Charter, where it belongs." He also added that developing UN strategies, standards and processes for the implementation of R2P will discourage states or groups of states from misusing these principles.
2. The report concerts that prevention based on practical and moral reasons should be most important. It seeks a balanced, nuanced approach to prevention and protection, by using the full inventory of tools available to the UN and its partners. It proposes thinking and policy development for ways the international community can support states in meeting obligations in this area.
3. The report tries to engage Member States to strengthen capacity in early warning and prevention. There should be an early and flexible response, tailored to circumstances of each case. Military action should be the last resort, and should only be undertaken under the relevant provisions of the Charter.

Addressing the Member States directly, he asked of them to do 3 things:

1. He called on them to "resist those who try to change the subject or turn our common effort to curb the worst atrocities in human history into a struggle over ideology, geography or economics. What do they offer to the victims of mass violence? Rancor instead of substance; rhetoric instead of policy; despair instead of hope. We can, and must, do better."
 2. To let the Assembly do what it does best – provide the venue for a continuing search for common ground, a multilateral strategy that works.
- Secretary-General Ban Ki-moon stated that he "signs of convergence on the first two pillars of strategy: on state responsibility and international assistance. But, as everyone expected, differences persist on some aspects of the third pillar: on response." Ban told the GA that the UN cannot expect to resolve all

outstanding issues this week or the next, but can agree on keeping the dialogue going.

3. He reminded to “never forget the victims of atrocities and crimes. They number in the millions. Those losses have permanently stained the history of the 20th century. Together, the United Nations can chart a different course in this century. We must never give into the complacency and cynicism that have kept this organization from acting in the past.”

Following an informal thematic discussion on 23 July, Member States engaged in a formal plenary debate on 23, 24 and 28 July in the General Assembly on how best to implement the Responsibility to Protect and the Secretary-General’s strategy. On 7 October 2009, the General Assembly adopted a resolution (A/RES/63/308) to continue consideration of the Responsibility to Protect.

2010: Early warning, assessment and the responsibility to protect

On 9 August 2010, the Secretary-General addressed an informal interactive General Assembly dialogue on “Early warning, assessment and the responsibility to protect” as part of the General Assembly’s continued consideration of the emerging concept. The Secretary-General’s report (A/64/864) on the issue highlights existing early warning and assessment mechanisms within the UN system, identifies gaps and proposes 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 where there is a risk of the genocide, crimes against humanity, war crimes or ethnic cleansing.

On the occasion of the second meeting of the GA on R2P, a total of 42 Member States, 2 representatives from regional organizations and 2 representatives from civil society spoke at the dialogue. A range of constructive questions and concerns were raised about how the UN system can best gather and analyze information, develop policy options and translate them into early engagement. Not surprisingly, a few expected detractors continued to question the definition of R2P and what has been agreed to by the GA.

Noting the gaps outlined in the report, many Member States agreed that the real challenge is to translate information into analysis and then into action. Member States spoke of a real need to “develop early understanding”, which could aid in an informed assessment of a particular situation and to the

development of policy options. These steps are critical for ensuring early engagement to address deteriorating situations before it is too late.

A recurrent theme throughout the debate was the need to ensure that information received comes from credible sources, provided in a timely way and on a confidential basis. Multiple sources of information should be sought, including from UN funds, programs and agencies, as well as field missions. Many Member States supported information coming from civil society. There were a few calls for Member States to overcome their inherent unwillingness to provide sensitive information. Consensus was voiced that proper coordination and cooperation between multiple actors within the UN system was a crucial premise for improving early warning and early engagement. It was mentioned that the OSAPG's current Framework of Analysis would need to integrate the three other crimes included under the R2P. Integrating a gender perspective was also recognized as essential for stronger and more accurate prevention system.

Strong opposition only came from a few States which mentioned similar criticism as had been heard in last year's GA debate on R2P. These statements questioned

- a. whether R2P had a legal status under international law,
- b. misrepresented R2P as a doctrine aimed at justifying military intervention and
- c. insisted that R2P was inherently contradictory to national sovereignty.

The need to reform the Security Council to address the selectivity in its reaction to crisis situations was also reiterated, as well as the need to increase the role of the General Assembly rather than the Security Council in taking measures to address mass atrocities. New concerns touched on whether Member States should have the principal role in making decisions for taking R2P forward, as opposed to it being centralized within the Secretariat or with the two Special Advisers. Similarly, there was a minority of Member States who questioned whether a mandate from the GA exists for R2P.

2011: The role of regional and sub-regional arrangements in implementing the responsibility to protect

On 12 July 2011, the General Assembly held an informal interactive dialogue on "The role of regional and sub-regional arrangements in implementing the responsibility to protect". The Secretary-General's report (A/65/877-

S2011/393) emphasizes how effective global- regional collaboration is essential for realizing the promise embodied in the Responsibility to Protect. The report identifies gaps and proposes ways for the UN to strengthen its cooperation and draw on information and analysis from regional and sub-regional arrangements to identify signs of danger and undertake or support timely and effective preventive action at the sub-regional, regional, or global level.

Several countries raised concerns about the manner in which NATO is using force to implement Resolution 1973 in Libya, pointing to challenges of putting in place an effective framework to protect populations in the midst of an armed conflict. Guatemala explained that those who had previously expressed doubts regarding the military application of R2P saw their concerns highlighted “by what many consider misapplication of Res. 1970 and 1973”. Mexico pointed to the fact that the differences in the interpretation of the Resolution’s mandate have divided the international community and negatively affected the response of states and bodies on other topics in the international agenda. The Netherlands and the UK, however, argued in support of Res. 1973, recalling that action was needed as Libyan forces were marching towards Benghazi to kill civilians. The AU acknowledged that there is a need to reflect on what has and has not worked generally under the third pillar of R2P, in particular in the aftermath of the Libyan crisis. Many States expressed that there were valuable lessons to take from recent events in Libya and Côte d’Ivoire, notably the role that the AU, ECOWAS and the Arab League played in calling for and implementing specific actions to halt mass atrocities.

2012: The responsibility to protect: timely and decisive response

On 5 September 2012, the Secretary-General presented his report on “The responsibility to protect: timely and decisive response” (A/66/874-S/2012/578) at the fourth annual informal, interactive, dialogue on the responsibility to protect in the General Assembly. 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.

During the dialogue, participants reaffirmed that the Responsibility to Protect is grounded in prevention, while many underscored the importance of R2P’s narrowly defined scope, reiterating the norm’s application to cases of genocide, war crimes, crimes against humanity and ethnic cleansing. Participants largely agreed that the four crimes and violations, in their very nature, threaten international peace and security.

As the importance of prevention was a point of consensus, so was the understanding that, should preventive efforts fail, timely and decisive response is necessary to protect populations. In discussing the implementation of response, many participants reminded that the norm's third pillar involves a range of measures. Delegations highlighted the many non-coercive tools available - such as fact-finding and commissions of inquiry, preventive diplomacy, mediation and good offices - that can be considered ahead of more coercive measures - such as referrals to the International Criminal Court, sanctions and arms embargoes and military force.

During the dialogue, Member States also raised concerns, and warned that the norm should not be implemented selectively. Tactical issues were also raised, as some delegations criticized the way that UNSC Resolution 1973 had been implemented, saying that actors went beyond the mandate of the Resolution. Others stated their concern that R2P not be used as a tool for regime change, and discussed the potential consequences of arming civilians in order to protect populations. Nonetheless, many Member States agreed with the Secretary-General that while concerns that have arisen on the implementation of response measures should be addressed, *"fears of [the Responsibility to Protect's] possible misuse should not inhibit us in the face of incitement and grave violence."*

Ever present throughout the day's discussions was the ongoing crisis in Syria and the commission of R2P crimes against the state's populations. Several Member States called for cooperation and collaboration amongst governments, and particularly within the UNSC, to bring an immediate end to the bloodshed. In discussing the ongoing violence, multiple interventions reflected on the role of the General Assembly, the Human Rights Council and High Commissioner for Human Rights and regional organizations in condemning the atrocities being committed and calling for further action to protect populations.

2013: Responsibility to Protect: State responsibility and prevention

On 11 September 2013, the General Assembly held its annual informal interactive dialogue based on the fifth report of the Secretary General, "Responsibility to Protect: State responsibility and prevention" (A/67/929-S/2013/399). Recent and ongoing events in 2013, such as the ever-deteriorating crisis and civil war in Syria, illustrated the critical importance of early preventive action and the consequences that can arise should such action

not be taken or fail. As such, the Secretary-General focused his report on the responsibility of States to protect their populations by developing the necessary national capacity to build societies resilient to atrocity crimes.

The report identifies six risk factors that have been evident to varying degrees in situations where atrocities were committed, as well as reflects on the range of preventive measures available to governments, featuring over 40 examples as implemented by Member States. Such policy options listed within the report include, but are not limited to, ensuring constitutional protections; holding inclusive, fair, electoral processes that involve the participation of all sectors of the population and meet international human rights standards; fostering political pluralism through the diffusion and sharing of power, as well as through the establishment of self-regulating political parties that promote national cohesion and participation rights for all; and ensuring accountability for the commission of atrocities and ratifying, domesticating and implementing relevant legal instruments. Additionally, the Report outlines targeted measures, such as establishing early warning mechanisms or designating an atrocities prevention or R2P focal point, to prevent atrocities.

The dialogue in the GA reinforced a shift in the tenor of interventions, with the overwhelming majority of member states focusing on the operationalization of R2P as opposed to debating its theoretical foundation. Most member states shared initiatives they have undertaken to build national capacity to prevent mass atrocity crimes. Many states spoke about prevention serving as the central element of R2P and the preferred course of action both in strategic and moral terms. Several themes emerged with states focusing on different possible preventative measures, including accountability mechanisms, security sector reforms, the rule of law and constitutional protections, such as anti-discrimination legislation. Some states explicitly commented upon the nexus between economic development and R2P, emphasizing that reducing economic inequalities can help mitigate risk factors that may contribute to the perpetration of mass atrocity crimes.

The situation in Syria continued to occupy the discussion with thirty-seven member states expressing concerns regarding the UNSC's inability to respond to ongoing atrocities and the resulting cost of inaction. Far fewer states raised contentious issues, such as "regime change" and "humanitarian intervention," that were articulated in previous discussions or questioned the status of R2P as a guiding principle to prevent the most conscience-shocking international

crimes. Four member states – Brazil, China, Ghana and India - referenced the Brazilian initiative of “Responsibility While Protecting.”

2014: Fulfilling our collective responsibility: International assistance and the responsibility to protect

On 8 September 2014, the General Assembly held an informal interactive dialogue on the sixth Secretary-General report: “Fulfilling our collective responsibility: International assistance and the responsibility to protect” (A/68/947-S/2014/449). The report identifies the various actors, approaches and principles to guide efforts to assist States through encouragement, capacity building and protection assistance.

The dialogue consolidated the global consensus on the Responsibility to Protect, with the overwhelming majority of member states continuing to focus on the operationalization of R2P as opposed to debating its theoretical foundation. Most speakers shared practical examples of building partnerships to effectively uphold Pillar II responsibilities. A large number of states reiterated the importance of developing national capacity, as well as the principle of “do no harm” in the provision of support to states. States reflected on additional themes, including assistance to strengthen human rights mechanisms and judicial systems as well as investing in development assistance that addresses horizontal inequality and fosters inclusive governance. Many states also discussed the provision of humanitarian and protection assistance to states, including through peacekeeping missions and stabilization operations. The work of the UN Peace building Commission and the UN Human Rights Council, as well as that of the International Criminal Court, were also referenced by member states.

Many member states raised concerns with the increasing number of situations where civilians face mass atrocities and the urgent need for the international community to respond more effectively in upholding its protective responsibilities. The ongoing situations in Iraq, Syria, Central African Republic and South Sudan were cited. Many member states emphasized the need for the international community to match words with deeds when prioritizing prevention and the protection of civilians from atrocities. The current crisis in Iraq was mentioned by seventeen states, with a number of countries noting that humanitarian, military and political assistance to the Iraqi authorities to protect civilians at risk from atrocities committed by the Islamic State in Iraq and the Levant, or ISIL, is wholly consistent with Pillar II of R2P. Seventeen

states also mentioned the ongoing crisis in Syria, which has claimed the lives of over 190,000 people and has witnessed four double vetoes by China and Russia at the Security Council since 2011. Turkey stated in its intervention that “the international community cannot and should not remain idle when every hour costs innocent lives.”

Crimes under the R2P Doctrine

Genocide

According to Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948, Genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing members of the group;
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d. Imposing measures intended to prevent births within the group;
- e. Forcibly transferring children of the group to another group.

The Special Adviser on the Prevention of Genocide

The Special Adviser on the Prevention of Genocide acts as a catalyst to raise awareness of the causes and dynamics of genocide, to alert relevant actors where there is a risk of genocide, and to advocate and mobilize for appropriate action. In 2004, following the genocidal violence in Rwanda and the Balkans, United Nations Secretary-General Kofi Annan appointed Juan Méndez as Special Adviser to fill critical gaps in the international system that allowed those tragedies to go unchecked. In 2007, Secretary-General Ban Ki-moon appointed Francis M. Deng on a full-time basis at the level of Under-Secretary-General. On 17 July 2012, Secretary-General Ban Ki-moon appointed Adama Dieng of Senegal as his Special Adviser on the Prevention of Genocide.

In a 2004 letter (S/2004/567) to the President of the Security Council, the Secretary-General listed the Special Adviser on the Prevention of Genocide’s responsibilities as follows:

- Collecting existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide;

- Acting as a mechanism of early warning to the Secretary-General, and through him to the Security Council, by bringing to their attention situations that could potentially result in genocide;
- Making recommendations to the Security Council, through the Secretary-General, on actions to prevent or halt genocide; and
- Liaising with the United Nations system on activities for the prevention of genocide and work to enhance the United Nations' capacity to analyze and manage information regarding genocide or related crimes.

War Crimes (Applicable only in Conflicts)

The Geneva Conventions and their Additional Protocols form the core of international humanitarian law, which regulates the conduct of armed conflict and seeks to limit its effects. They protect people not taking part in hostilities and those who are no longer doing so.

"War crimes" include grave breaches of the Geneva Conventions and other serious violations of the laws and customs applicable in international armed conflict and in conflicts "not of an international character" listed in the Rome Statute, when they are committed as part of a plan or policy or on a large scale. These prohibited acts include:

- murder;
- mutilation, cruel treatment and torture;
- taking of hostages;
- intentionally directing attacks against the civilian population;
- intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historical monuments or hospitals;
- pillaging;
- rape, sexual slavery, forced pregnancy or any other form of sexual violence;
- Conscripting or enlisting children under the age of 15 years into armed forces or groups or using them to participate actively in hostilities

Crimes against Humanity

Article 7 of the Rome Statute of the International Criminal Court defines Crimes against Humanity.

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- a. Murder;
- b. Extermination;
- c. Enslavement;
- d. Deportation or forcible transfer of population;

e. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

f. Torture;

g. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

h. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

i. Enforced disappearance of persons;

j. The crime of apartheid;

k. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2. For the purpose of paragraph 1:

a. "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

b. "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

c. "Enslavement" means the exercise of any or all of the powers attaching to the right of

ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

d. "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

e. "Torture" means the intentional infliction of severe pain or suffering, whether

physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

f. "Forced pregnancy" means the unlawful confinement of a woman forcibly made

pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

- g. "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectively;
- h. "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
- i. "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

- 3. For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

Ethnic Cleansing

Ethnic cleansing is a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas. Even though there is no concrete International Law in place against Ethnic Cleansing, it finds its place in Rule 129 of the Customary International Humanitarian Law based on State Practice.

International Criminal Court

The International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious crimes of international concern, namely genocide, crimes against humanity and war crimes. The ICC is based on a treaty, joined by 123 countries (effective as of 1 April 2015).

The ICC is a court of last resort. It will not act if a case is investigated or prosecuted by a national judicial system unless the national proceedings are not genuine, for example if formal proceedings were undertaken solely to shield a person from criminal responsibility. In addition, the ICC only tries those accused of the gravest crimes.

In all of its activities, the ICC observes the highest standards of fairness and due process. The jurisdiction and functioning of the ICC are governed by the Rome Statute

The Court does not have universal jurisdiction. The Court may only exercise jurisdiction if:

- The accused is a national of a State Party or a State otherwise accepting the jurisdiction of the Court;
- The crime took place on the territory of a State Party or a State otherwise accepting the jurisdiction of the Court; or
- The United Nations Security Council has referred the situation to the Prosecutor, irrespective of the nationality of the accused or the location of the crime.

The Court's jurisdiction is further limited to events taking place since 1 July 2002. In addition, if a State joins the Court after 1 July 2002, the Court only has jurisdiction after the Statute entered into force for that State. Such a State may nonetheless accept the jurisdiction of the Court for the period before the Statute's entry into force. However, in no case can the Court exercise jurisdiction over events before 1 July 2002.

Even where the Court has jurisdiction, it will not necessarily act. The principle of "complementarity" provides that certain cases will be inadmissible even though the Court has jurisdiction. In general, a case will be inadmissible if it has been or is being investigated or prosecuted by a State with jurisdiction. However, a case may be admissible if the investigating or prosecuting State is unwilling or unable to genuinely to carry out the investigation or prosecution. For example, a case would be admissible if national proceedings were undertaken for the purpose of shielding the person from criminal responsibility. In addition, a case will be inadmissible if it is not of sufficient gravity to justify further action by the Court.

Questions to consider

- Has the R2P doctrine lived up to the commitment given in the World Summit Outcome?
- What are the pros and cons of including just war crimes, crimes against humanity, genocide and ethnic cleansing under the ambit of R2P?
- What are the contentions to R2P in Practice in the 4 countries – Kenya, Cote D'Ivoire, Libya and Central African Republic?
- Is there a possibility of applying R2P in cases of Syria and Iraq? Or Nigeria and Sudan?

If yes, then what would be the obstacles to doing the same?

- Does the situation in any of the countries in the section 'Current Populations at Risk' amount to either genocide, war crimes, crimes against humanity or ethnic cleansing? Debate every situation with proof.

Agenda II: Lethal Autonomous Robotics (LARs)

Agenda Overview

Lethal Autonomous Weapons (LARs) may be defined as weapons systems which are capable of searching for, selecting, engaging and neutralizing targets without human intervention (after initial programming and activation).^{*} The development and use of LARs present unprecedented problems and questions pertaining to assignment of legal responsibility, compliance with international law and normative ethics (whether robotic systems/algorithms should hold power of life and death over human beings). Views on how the aforementioned problems are to be resolved may lead to proposals calling for outright/partial ban or regulation of LARs. One of the ways to codify these proposals in international law would be to add them as a Protocol (Oxford) annexed to The Convention on Certain Conventional Weapons, 2001 (CCW).

While robotic systems with various degrees of autonomy and lethality are currently in use or are at prototype stage like, Counter Rocket, Artillery and Mortar (C-RAM) (US), Harpy (Israel), Taranis (UK), robots with full lethal autonomy have not yet been deployed. Herein, lays the challenge as well as the opportunity. The challenge is defining LARs so as to cover technologies which may be developed in near or distant future and the opportunity lies the fact that with a Protocol on LARs annexed to the CCW, we may be able to pre-emptively ensure that ensure that the ultimate decision to end life remains firmly under human control.²

^{*}this definition is only indicative and may be revised suitably by the committee

Keywords (to be defined / understood)

1. LARs
2. “Automatic” vs. “autonomous”
3. “Human in/on/out of loop”
4. Dual use technologies

Issues to be addressed

1. Assignment of legal responsibility: Individuals and states must be held accountable for violation of international law (without which deterrence is reduced). Development and use of LARs involves multiple individuals (programmers, manufacturers, military commanders etc) which make it difficult to pin responsibility. One possible solution is „a priori“ assignment of responsibility.
2. Asymmetry in technological capabilities: While it may be argued that use of robots will reduce casualties in war/conflicts, it must be understood that there is an increasing asymmetry in the technological capabilities of different states. Hence, LARs may be deployed against human soldiers on the other side and may in fact result in more casualties.
3. Compliance to International Law: It must be determined if the use of LARs is inherently non-compliant with International Humanitarian Law (and hence prohibited) or if they can be made compliant say, by an „ethical governor“
4. Lack of human emotions: Robotic systems lack human emotions like sympathy, compassion etc and hence may cause „unnecessary harm and suffering“ but it could also be argued that because they

lack other human emotions like hatred, survival instinct etc. they may in some cases be more „humane“ than humans themselves. Also, robotic systems do not commit crime against women.

Points given above are by no means an exhaustive list of issues to be addressed. They are only meant to guide your research on the agenda. The Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 2013 on LARs is a highly recommended primer on the agenda.

POINTS RESOLUTIONS SHOULD ADDRESS

Weapons control is one of the areas that are a difficult subject for regulation. Especially, in the case of robotic development, which ensures continuity between military and non-military technologies, it is necessary to create a distinction between the two areas to ensure that certain points are not debatable. Thus, the main point of contention is how having a human out of the loop making decision of life and death affects the usage of LARs in the face of international law and International Humanitarian Law.

Therefore, the resolution should try to offer a universally accepted definition for LARs, an ethical position regarding them and to discuss the implications arising from including lethal autonomous weapons in the current military arsenal of member states. Most importantly, LARs' incompatibility with international humanitarian law and international human rights law should be reconciled. Furthermore, a solution to the current the accountability gap created by the usage of fully autonomous weapons must be found. The committee should also debate whether states should implement national moratoria on the testing, production, assembly, transfer, acquisition and deployment and use of LARs until this framework is agreed upon.

In case the committee agrees to allow the use of LARs, further questions arise. Delegates should propose ways in which violent behavior could be stopped from developing as a consequence of the introduction of lethal autonomous weapons. The new framework should further consider what level of autonomy is allowed on LARs (in/out/on the loop), when it is acceptable to use LARs and who will be liable for any violations of international law.

Resources for further reading

1. Overview of LARs under CCW:

[http://www.unog.ch/80256EE600585943/\(httpPages\)/8FA3C2562A60FF81C1257CE600393DF6?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/8FA3C2562A60FF81C1257CE600393DF6?OpenDocument)

2. 2014 Meeting of Experts on LAWs

[http://www.unog.ch/80256EE600585943/\(httpPages\)/A038DEA1DA906F9DC1257DD90042E261?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/A038DEA1DA906F9DC1257DD90042E261?OpenDocument)

3. 2015 Meeting of Experts on LAWs

[http://www.unog.ch/80256EE600585943/\(httpPages\)/6CE049BE22EC75A2C1257C8D00513E26?OpenDocument](http://www.unog.ch/80256EE600585943/(httpPages)/6CE049BE22EC75A2C1257C8D00513E26?OpenDocument)

4. Campaign to stop Killer Robots, Bibliography

<http://www.stopkillerrobots.org/bibliography/>

1 and 4 provide a large set of documents which can be leveraged to further your general understanding of the agenda.

2 and 3 provide documents which pertain mainly to positions of countries on the agenda and also discussions on technicality and legality.

References

1. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, 2013, A/HRC/23/47

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-47_en.pdf

2. UN meeting targets 'killer robots', UN News Centre

<http://www.un.org/apps/news/story.asp?NewsID=47794#.VhkjauyqpHw>

3. Ronald Arkin, *Governing Lethal Behaviour in Autonomous Robots* (CRC Press, 2009); Kenneth Anderson and Matthew Waxman, "Law and ethics for robot soldiers", *Policy Review*, No. 176 (2012)

<http://www.hoover.org/publications/policy-review/article/135336>