

§2.3.b R2P and POC Convergence and Divergence

As Table 2 illustrates, there is substantial overlap between the major R2P and POC actors. Combined with the fact that there are different Pillars of R2P and separate concepts of and perspectives on POC, the result is that there is no easy one-size-fits-all answer to the question of the institutional and operational relationship between the two. Drawing with a broad brush, however, four main inter-relationships can be discerned.

1. Progression: For some actors R2P will be the progression of *Broad POC* as situations irrupt from conflict and violence into threatening full-blown atrocity. For these actors R2P is *Broad POC* applied to the specific and urgent case of atrocity crimes.

UN Security Council: The Security Council's *Broad POC* concern progresses into its engagement with R2P, with no sharp distinction at work. This explains why its affirmations of R2P have been in thematic POC resolutions (S/RES/1674; S/RES/1894) and why both R2P and POC language and processes were present in the Council's response to violence against civilians in Libya in 2011 (S/RES/1970; S/RES/1973).

States (Domestic): Domestically, States may feel more comfortable in enacting *Broad POC* measures rather than specifically R2P (Pillar One) measures, because the latter can seem to admit a risk of domestic atrocity crimes. For the most part, a State that pro-actively pursues *Broad POC* (the protection of its civilians from widespread, serious, lawless violence) will in so doing also fulfil its R2P Pillar One obligations.

2. Distinction (R2P & POC): For some actors the different institutional, strategic and operational responses required to prevent atrocity crimes may mean they may need to distinguish between their R2P and POC roles.

Peacekeepers: Primary POC PKOs will always require the use of comprehensive *Broad POC* doctrine and strategies, and these will often reduce the likelihood of atrocity crimes. However, in certain cases PKOs may need to utilize a specific atrocity-prevention lens in order to gauge the risks of atrocities and the appropriate strategies to prevent them, as such crimes have different causes and require different responses as compared with less-systematic harms to civilians. To this extent, peacekeepers will distinguish between their R2P and POC tasks.

3. Differentiation (within POC): Some actors will distinguish between different POC concepts/perspectives:

Combatants: Combatants must distinguish sharply between IHL (*Narrow POC*) and both *Broad POC* and R2P. They will differentiate *Narrow POC*'s irremovable and determinate legal constraints on the methods and means of warfare (keeping in mind that IHL can impose positive protective duties), from the larger objective combatants have to protect particular groups of civilians in specific situations, impelled by *Broad POC* considerations, State policy and military doctrine.

Peacekeepers: Peacekeepers may in some cases need to draw the distinction between *Peacekeeping POC* – where host state consent is a necessary condition – and the POC perspective used by the Security Council, which can controversially use Ch. VII of the UN Charter to adopt measures against States' wills.

4. Exclusivity: Other actors will have a central role to play in one arena, but not in the other.

OSAPG: The Office of the Special Advisor on the Prevention of Genocide (OSAPG) is a specialized R2P institution. R2P's comparatively narrow scope, focusing only on the four atrocity crimes, makes the

OSAPG's task of atrocity prevention and early warning both more urgent and more tractable. The same can be true for States as members of the international community, who may develop specific modalities to prevent and respond to atrocity crimes in other countries (such as the US Atrocities Prevention Board), that would be inappropriate applied more widely to *Broad POC*.

Humanitarian actors: Humanitarian actors have proven well-placed to promote *Broad POC* in a range of challenging contexts. However, their neutral and consensual status makes them less apt to invoke R2P, and their peaceful measures are of limited application in the face of the determined armed assaults on unarmed populations that characterize R2P's atrocity crimes. For this reason they will usually be POC, rather than R2P actors. (However, some humanitarian organizations may play an important role in R2P early-warning networks, and in mobilizing global attention.)

§2.3.c Complementarity within and between different R2P and POC actors

"Complementarity" means that one institution's protection work respects and facilitates (and does not unnecessarily duplicate) the protection activities of other actors. Complementarity can be pursued in a wide variety of ways. For example, complementarity can require an actor accepting prohibitions on their harming protection actors (like humanitarians), or the need to directly protect other protection actors, or designing dedicated protection activities that, in concert with the work of others, will contribute to a larger protective environment, or altering the way other non-protective activities are performed to ensure they do not undermine the protection contributions of others.³¹

31 In terms of the modes of protection described in §4.0 below, complementarity has implications for each of these five approaches to protection.

**UN SECRETARY-GENERAL BAN KI-MOON,
ADDRESS ON R2P, 18 JANUARY 2012.**

“Today, I ask you to join me in making 2012 the Year of Prevention.”

Two important types of complementarity are community-based and authority-based protection. *Community-based (bottom-up) protection* involves respecting, empowering and facilitating local attempts at self-protection. It includes soliciting input from local communities on their perceived safety risks and potential approaches for assuaging these, and ensuring that protection efforts do not undermine functioning indigenous strategies for self-protection. *Authority-based (top-down) protection* does the same for the recognized legal authorities (usually State figures). This method includes exhorting and pressuring State authorities to shoulder their protection responsibilities, and ensuring that international efforts avoid superseding, or impeding the development of, indigenous state protection efforts and institutions.

§2.3.d The use of R2P language, policy and resources by peacekeepers, human rights and protection actors

In many situations, it may needlessly add to controversy, and even invoke hostility and suspicion, to refer to atrocity-prevention activities as R2P. In such cases, “R2P language” may be avoided. Even so, in situations where systematic dangers to civilians are present, the need for dedicated atrocity-prevention activities, threat-assessment and mainstreaming cannot be diminished.

While R2P Pillar Two language may be avoided because protection actors wish to dissociate their activities from the controversies in R2P Pillar Three, the systematic avoidance of R2P language by protection actors would result in R2P only being spoken about in Pillar Three situations – thus giving rise to a self-fulfilling prophecy where R2P comes to be automatically understood as Pillar Three coercive action (thus justifying the continued avoidance of R2P Pillar Two language by protection actors).

Furthermore, many states – both Host States and Troop Contributing Countries – are well aware of the links between R2P

and POC, especially as these emerge in Secretary-General Reports and Security Council Resolutions. In the Council’s open debates on POC, States regularly display a sophisticated understanding of the three pillars of R2P, and of the nature and scope of POC. In such cases categorical assertions that POC and R2P are unrelated are likely to be met with scepticism. It may be more persuasive – as well as more accurate – to emphasize the strong distinctions within these groupings: for instance, the irremovable significance of Host State consent in R2P Pillar Two and *Peacekeeping POC*, as compared with the coercive elements that may be found in *Security Council POC* and, of course, R2P Pillar Three.

In some cases, as well, clarity of language, purpose and resolve may contribute to atrocity prevention, for instance by signalling to potential perpetrators that the operation is willing and able to defend against atrocities.

It is widely agreed that, in the context of dealing with atrocities, prevention is better than cure. But if the international community and the UN Secretary-General want to prioritize Pillar Two atrocity-prevention, then the very actors who are well-placed to engage in such action cannot be deliberately denying, for fear of being perceived as R2P Pillar Three fifth columns, that R2P atrocity-prevention falls within their mandate. **The result of such a policy, when widely pursued by protection actors – is that the most important and uncontroversial aspects of R2P are those that are not explicitly and pro-actively pursued, and mainstreaming and complementary approaches are not developed.** Far from *complementing* other protection actors, a stance of *agreeing* that R2P is, for instance, hopelessly politicized and must be distanced from all other humanitarian activities will only sideline Pillar Two atrocity prevention potential, as well as cementing the views of those States who consider R2P as being all about intervention.

Ultimately, without explicit vocal support and complementary recognition from

other humanitarian, protection and human rights actors – both within and outside the United Nations – atrocity prevention will not occur. The ideal approach for agencies and actors that need to avoid any association with coercive military action is to explicitly distance their activities from all aspects of R2P Pillar Three, but to nevertheless firmly declare that, in accord with the view of the overwhelming majority of Member States, it is important to assist willing states to develop atrocity-prevention capabilities.

In the final analysis, the surest way for any institution to assuage State concerns about infractions on its sovereignty does not lie in its strategic use of rhetoric (invocations or elisions of “R2P”), but rather—as the ICRC has shown for many years—about building genuine trust through long-term, consistent and institutionalized policies.

2.4 When and how do they apply?

At different moments in time R2P and POC require different sorts of actions be performed by various actors. These are detailed later in the Guide in the sections on *Institutional* and *Operational Frameworks*. Here it will suffice to note the major obligations that arise for key protection actors before, during and after atrocities.

§2.4.a When does R2P apply? What R2P measures are required at each stage?

R2P Before atrocity

R2P Pillar One duties, regarding the protective obligations of the State, are always in effect. States must ensure that neither they, nor agents sponsored or directly influenced by them, are visiting or risking atrocity crimes on their populations. These on-going responsibilities are hard, determinate law. They are located in the *jus cogens* laws (peremptory laws from which derogation is not permitted) of IHL,