



# Shishukunj Model United Nations Conference 2015

## Committee: GA6 – Legal

Shishukunj Model United Nations 2015  
Conference

## Legal

### **Study Guide**

Agenda: Defining Legal Boundaries  
to Ensure Fair Implementation of  
Responsibility to protect doctrine

### **Executive Board**

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## Message from the Executive Board

Hello and Cheers!

Hope you are doing well! We welcome you to the very first edition of the Shishukunj Model United Nations Conference. It is our privilege to serve as the Executive Board where we look forward to some mind boggling debate and gratifying fun.

The agenda for the General Assembly Sixth Committee is “Defining Legal Boundaries to Ensure Fair Implementation of the Responsibility to Protect.” The Responsibility to Protect doctrine has been unprecedentedly interpreted which has led to its unfair implementation numerable times in the past, however, its ambiguity sustains. The devastated Iraq among many others clearly demands for a redefined past and the ambiguity of this doctrine looks for a defined past. It isn’t surprising that a lot of sessions in the United Nations called to this cause have failed and so, we look forward to some substantive debate.

Delegates must be well researched and so, it must be understood that this guide just provides the delegates with background and different aspects of the agenda. Therefore, after reading the study guide, the delegates must research further hierarchically.

So, this is your vice chairperson, Abhimanyu Sethia, chairperson, Pragya Bhagat and rapporteur, Anushka Nadkar looking forward to an amusing weekend this October. Research well, for it is going to be a roller coaster!

Looking forward to meet you this October!

Executive Board

GA6- Legal

- Chairperson- Pragya Bhagat
- Vice chairperson- Abhimanyu Sethia
- Rapporteur- Anushka Nadkar



## Country Matrix

China	Sudan	Kosovo	Iraq
Central African Republic	Cote d'Ivoire	Afghanistan	Sri Lanka
Democratic People's Republic of Korea	Rwanda	Mali	Israel
The Russian Federation	Pakistan	Brazil	Peru
The United States of America	Germany	Italy	Poland
Japan	South Africa	Yemen	Belgium
The United Kingdom	Bosnia	Ukraine	South Sudan
Libya	France	Czech Republic	Iran
India	Democratic Republic of Congo	Serbia	Cuba
Syria	Yugoslavia	Canada	Georgia
Republic of Congo			

## About The Legal Committee

The Legal committee is the sixth committee of the United Nations General Assembly. The Sixth Committee is the primary forum for the consideration of legal questions in the General Assembly. The UN General Assembly has an express mandate to promote the progressive development of public international law. Its functions are referred to in the Article 13 (1) of the United Nations Charter which states-

“The General Assembly shall initiate studies and make recommendations for the purpose of:

- a) promoting international co-operation in the political field and encouraging the progressive development of international law and its codification”
- b) Promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights



and fundamental freedoms for all without distinction as to race, sex, language, or religion.”

The United Nations General Assembly has all of the 193 United Nations member states as its members. The General Assembly can make recommendations about amendments in the United Nations Charter to the Security Council however it is not equipped with the right to amend the UN Charter directly unless passed by the United Nations Security Council. Also, similar to all other organs of the UN, except the Security Council, the resolutions the Legal committee produces are only legally binding on those member states ratify them.

## Statement of Agenda

**Agenda-** Defining Legal Boundaries to Ensure Fair Implementation of the Responsibility to Protect Doctrine

The Responsibility to protect doctrine is a proposed international human rights norm to prevent and stop genocide, war crimes, ethnic cleansing and crimes against humanity. It states that a state has a responsibility to protect its citizens from the mass atrocities mentioned above, and that the international community has a responsibility to assist the state to fulfill this responsibility. It also states that if a state fails to protect its citizens from the four mentioned mass atrocities, the international community has a responsibility to take action through coercive methods like International Sanctions, and as a last resort, Military intervention (if approved by the Security Council).

At the 2005 World Summit, UN Member States included R2P in the Outcome Document, giving final language to the scope of R2P. It applies to the four mass atrocities crimes only. It also identifies to whom the R2P protocol applies, i.e., nations first, regional and international communities' second.

While R2P is a proposed norm and not a law, is based on a respect for the principles that underlie international law, especially those relating to sovereignty, peace and security, human rights, and armed conflict. The Responsibility to protect doctrine, however, has been used in many cases as a justification for an abuse of power. How the international community applies, or misapplies, R2P in a given crisis will shape the norm's acceptance and ability to save lives going forward. It is important to keep the civilians' lives as



the first priority, and it is necessary to define legal boundaries to prevent misuse of the Responsibility to protect doctrine.

## **What is the Responsibility to Protect?**

The Responsibility to Protect ("RtoP" or "R2P") is an international human rights norm adopted at the UN World Summit in 2005 to prevent and stop genocide, war crimes, ethnic cleansing and crimes against humanity (often called collectively "mass atrocities"). The Responsibility to protect rests on three pillars:

1. The State carries the primary responsibility for the protection of populations from mass atrocities.
2. The international community has a responsibility to assist States in fulfilling this responsibility.
3. The international community should use appropriate diplomatic, humanitarian and other peaceful means to protect populations from these crimes. If a State fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force approved by the UN Security Council.

At the 2005 World Summit, UN Member States included R2P in the Outcome Document agreeing to Paragraphs 138 and 139. These paragraphs gave final language to the scope of R2P. It applies to the four mass atrocities crimes only. It also identifies to whom the R2P protocol applies, i.e., nations first, regional and international communities second. Paragraphs 138 and 139 state:

*"138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as*

*appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.*

*139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those before crises and conflicts break out. — 2005 World Summit Outcome Document.”*

## History of the Agenda

### **The Rwandan Genocide**

The United Nations (UN) was established in 1945 to prevent conflicts between states. But with the end of the Cold War, inter-state aggression largely gave way to war and violence inside states. When, during the 1990s, horrific violence broke







out inside the borders of such countries as Somalia, Rwanda, and the former Yugoslavia, the world was ill-prepared to act and was paralyzed by disagreement over the limits of national sovereignty. Throughout the 1990s, the UN was deeply divided between those who insisted on a right of humanitarian intervention and those who viewed such a doctrine as an indefensible infringement upon state sovereignty. At the time Secretary General Kofi Annan warned that the UN risked discrediting itself if it failed to respond to catastrophes such as Rwanda, and he challenged member states to agree on a legal and political framework for action. In 1999 the failure of the UN Security Council to authorize action to halt ethnic cleansing in Kosovo provoked NATO to initiate an aerial bombardment on its own. This deeply divided the international community, pitting those who denounced the intervention as illegal against others who argued that legality mattered less than the moral imperative to save lives. This deadlock implied a pair of unpalatable choices: either states could passively stand by and let mass killing happen in order to preserve the strict letter of international law, or they could circumvent the UN Charter and unilaterally carry out an act of war on humanitarian grounds. Similarly, 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. 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 report focused not on the legal or moral right of outsiders to intervene but on the responsibility of all states to protect people at risk. The African Union (AU) later endorsed the idea and put in its founding charter of 2005 that the protection of human and people's 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. Finally the UN Secretary General, Ban Ki-moon released a report the same year, *Implementing the Responsibility to Protect*, which argued for the implementation for R2P and its arguments were subsequently discussed at the 2009 UN General Assembly, resulting in Resolution (A/RES/63/308) which acknowledges the debate and Ban Ki-moon's report and proposes the General Assembly to continue its consideration of R2P. The international community now has a tool that could prevent further mass atrocities, as Edward Luck, former Special Adviser to the UN Secretary General on R2P puts it: –Breaking that cycle of violence is something that everyone has talked about for years and years, but now it's an effort to have a comprehensive systematic program to try to do something about it. It's not easy, but it's well worth trying.

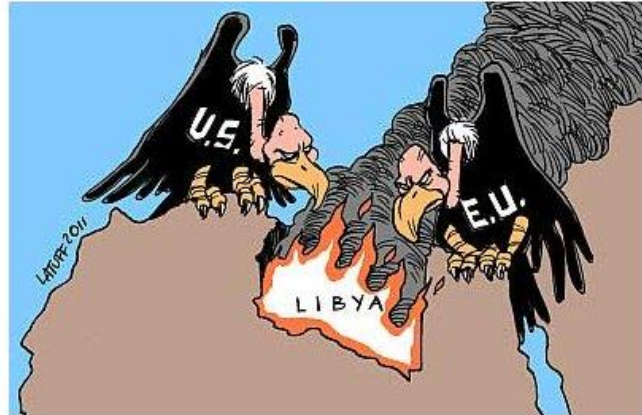
## R2P in Practice

The first time the Responsibility to Protect doctrine was put into practice was in August 2006, when the Security Council authorized the deployment of UN Peacekeeping Troops in Darfur, Sudan. Since then, the doctrine has been implemented several times and has turned out to be, at different occasions, both successful and unsuccessful.

### **Libya 2011**

Following widespread and systematic attacks against the civilian population by the Libyan regime, and language used by Muammar Gaddafi that reminded the international community of the genocide in Rwanda, the UN Security Council, unanimously adopted resolution 1970 on 26 February 2011, making explicit reference to the responsibility to protect. Deploring what it called "the gross and systematic violation of human rights" in strife-torn Libya, the Security Council demanded an end to the violence, "recalling the Libyan authorities' responsibility to protect its population," and imposed a series of international sanctions.

This was followed by a more severe resolution 1973 which stated that an immediate ceasefire must be established and authorized the international community to establish a no-fly zone and to “use all means necessary short of foreign occupation to protect civilians.” The resolution was taken in response to events during the Libyan Civil War, and military operations began, with American and British naval forces firing. NATO subsequently came under scrutiny for its behavior during the air strikes; concerns included the fact that the intervention quickly moved to regime change and that



there were allegations regarding aerial bombardments that may have caused civilian casualties. Russia, Zimbabwe, Iran, India and many other countries were against this intervention. There was no clarity over end-goals of the military intervention or criteria for success. There was an important lack of consistent political guidance caused particularly by the vagueness of the UN mandate and the ambiguous consensus among the NATO-led coalition.

## Central African Republic 2013

The conflict in the Central African Republic (CAR) erupted when Séléka rebels launched attacks in December 2012, and has taken on increasingly sectarian overtones as mainly Christian militias have taken up arms. On 10 October 2013, in resolution 2121, the Security Council emphasized “the primary responsibility of the Central African authorities to protect the population, as well as to ensure the security and unity in its territory”, and stressed “their obligation to ensure respect for international humanitarian law, human rights law and refugee law.” In March 2014, the UN Secretary-General outlined his proposal for the establishment of a nearly 12,000-strong UN peacekeeping operation in the CAR. In December 2013, the Security Council adopted Resolution 2127. The Resolution recognized the Transitional Authorities’ primary responsibility to protect the population of the CAR, and simultaneously authorized the deployment of an additional contingent of French troops to take all necessary measures to contribute to the protection of civilians, the stabilization of the country, and the restoration of State authority, among others. In addition, the Resolution imposed a sanctions



regime on the CAR, which included a year-long arms embargo by Member States, accompanied by the Security Council's "strong intent to swiftly consider imposing targeted measures, including travel bans and assets freezes, against individuals who act to undermine the peace, stability and security" in the nation. Seleka and the CAR army have seriously restricted humanitarian access to the 5,300 refugees and 175,000 internally displaced persons currently in the country. Additionally, over 30,000 civilians fled CAR for neighboring countries due to the conflict. While the international community was able to identify particular warning signs of the conflict, it had yet to fulfill its responsibility to protect the terrorized citizens in the country.

## **South Sudan 2011**

On 8 July 2011, the Security Council established a UN peacekeeping mission in South Sudan. South Sudan, often referred to as the world's "newest country", gained its independence on July 9, 2011 after voters decided to break away from Sudan in a referendum held earlier that year. In December 2013, fighting between pro- and anti-Government forces began, displacing approximately 706,000 people. In February 2014, the Security Council reiterated its steadfast support for UNMISS and its vital mission on behalf of the international community to protect civilians in South Sudan, including foreign nationals, as well as conduct human rights monitoring and investigations, and facilitate assistance to populations in need. Uganda has militarily intervened in support of the government since the start of the conflict. The ability to reach a political solution has been complicated by Uganda's ongoing participation in the civil war. Similarly, Sudan has been accused of militarily supporting the rebels.

## **Syria 2012**

Secretary-General Ban Ki-moon has stressed the urgent need for a political solution to end the crisis in Syria, has claimed more than 100,000 lives and led to a dire humanitarian crisis. He has called on the region and the international community, in particular the Security Council, to find unity and lend full support to the efforts of the Joint Special Representative of the United Nations and the League of Arab States, Lakhdar Brahimi, to help the Syrian people reach a political solution to the conflict. Both the General Assembly and the Human Rights Council have strongly condemned the continued "widespread and systematic" human rights violations in Syria and demanded that the government immediately cease all violence and protect its people. The High



Commissioner for Human Rights recommended referring the situation in Syria to the International Criminal Court and urged the Security Council to assume its responsibility to protect the population of Syria. “The Government of Syria is manifestly failing to protect its populations,” the Secretary-General’s Special Adviser on the Prevention of Genocide, Adama Dieng, said in a statement in December 2012. “The international community must act on the commitment made by all Heads of State and Government at the 2005 World Summit to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, including their incitement,” said Mr. Dieng. Since September 2014 Bahrain, Jordan, Morocco, Qatar, Saudi Arabia, United Arab Emirates and United States have conducted airstrikes against ISIL in Syria, who have been recently joined by Turkey. International actors continue to vie for influence in shaping the outcome of the conflict. Saudi Arabia and Qatar are providing arms to some rebel groups. Meanwhile, Russia and Iran continue to provide crucial economic, military and political support to the Syrian government. External political influence upon the Syrian government via the UN and regional actors remains weak. Despite adopting several resolutions concerning humanitarian access and chemical weapons, the UNSC has been unable to enforce their compliance, while long-standing divisions within the UNSC over Syria have allowed the situation to deteriorate to the point where few options for a peaceful political solution exist.

## General Assembly Debate on Implementation of R2P

A preliminary glance at the General Assembly practice indicates that the R2P has gained little traction by way of legal incorporation. No major treaties have made affirmative references to R2P; the General Assembly debate on the Secretary General Report ‘Implementation of R2P’ is another attestation to the lack of basic consensus. Even though a degree of overall support for the doctrine could be garnered, it is far from an agreed vision when it comes to scope, parameters or application. In his summary of the first debate, General Assembly President Miguel d’Escotto questioned whether the time for a full-fledged R2P norm had arrived, explaining that many Member States hesitated to embrace the doctrine and its aspirations due to a fear that the current system of collective security had not evolved to the degree that would allow it

to operate in the intended manner. Underlining these concerns, the Non-Aligned Movement, represented by Egypt, expressed that there was a persistent concern regarding the implementation of R2P, driven by the possibility of abuse and application beyond situations involving genocide, ethnic cleansing, war crimes and crimes against humanity. Other states were concerned as to which authority would determine that alternate means of intervention had failed and that force was needed, and the criteria according to which such decisions would be made. What the debate demonstrated was that a substantial source of discontent with respect to R2P stemmed from the fact that it perpetuated an “unequal world order,” dominated by a subjective Security Council, with a differential system of international law geared towards the strong. Similar hesitation was revealed in the text of the resolution adopted at the end of the debate, which in its penultimate paragraph stated that the matter requires “further consideration.” Thus far, this lack of agreement has not been used as and does not present a legal basis to deter the use of force. Yet, if the doctrine is to be associated with mostly the 1<sup>st</sup> and 2<sup>nd</sup> pillars, i.e. with prevention and assistance, then the question remains whether a new doctrine is needed to endorse military intervention that has been widely used and largely accepted.

## Concerns Regarding Potential Misuse of the R2P

A norm that is easily abused, or misapplied, will encounter suspicion and resistance and likely fail in its task. Acting on R2P inappropriately, or invoking it as a pretext for other objectives like regime change, can be as damaging as inaction to R2P’s long-run effectiveness.



In R2P’s case, the potential for misuse—and the need to fend it off—was present from its inception. ICISS, which launched R2P in its report of December 2001, had delayed publication by several months to isolate R2P from the unfolding debate about the use of force in Afghanistan and the wider “war on terror” after





9/11.

But R2P still got entangled in the controversy over the U.S.-led invasion of Iraq. When Washington and its allies used force to topple Saddam Hussein in March 2003—without the UN Security Council’s blessing—and then invoked dubious *post hoc* humanitarian justifications for the action, most states would not even discuss R2P for fear of legitimizing the illegal invasion. ICISS, of course, had never advocated the use of force to achieve regime change or democratization: it sought to build consensus on how to respond to mass atrocities. If anything, its precautionary principles on the use of force warned *against* humanitarian intervention where the consequences of intervening were likely worse than no action at all—as in Iraq.

While R2P was always going to face some degree of opposition at the UN, especially from governments with spotty human rights records, the invasion of Iraq expanded R2P’s circle of critics and doubters. Many weak states in the “Global South” worried that R2P could be exploited by their stronger neighbors to justify interventions on geopolitical grounds. Even countries that were generally supportive of R2P refused to embrace it in 2003 out of concern that its meaning was being “twisted.”

Then, after Darfur was hit by crisis a year later, the United States and its allies found themselves with depleted credibility to advocate for humanitarian intervention in the Sudan, as well as a limited capacity to intervene. The Iraq invasion, meanwhile, had armed a number of governments traditionally opposed to outside interference with a new argument against R2P—that it could be used as a “Trojan horse” to conceal the Western agenda of regime-change under the guise of human rights.

R2P survived and even received endorsement at the UN World Summit in 2005. But the risk of misuse or over-eager use remains—and with it the risk of backlash against R2P. In Libya in 2011, NATO’s broad reading of a narrow UN Security Council mandate to protect civilians—the Council’s first explicit reference to R2P—alarmed many states that the interveners had misused R2P to accomplish regime change. Libya, as one Ambassador put it, gave R2P “a bad name.” It also made consensus on a broad UN mandate to protect people in other crises more difficult to achieve.

Whether or not we can live up to our common responsibility to avoid another Rwanda will necessarily depend on the geopolitical and strategic interests at



play, R2P—if it is interpreted, invoked, and implemented consistently with its objective of protecting civilians—can exert a growing normative pull and galvanize action. Effective advocacy, then, is as much about defining what R2P is as it is about protecting R2P from what it is *not*.

## Security Council Resolutions Concerning R2P:

- Resolution 1674 (Year 2006)
- Resolution 1894 (Year 2009)

### **Country- specific resolutions:**

#### **Darfur:**

- Resolution 1706 (Year 2006)

#### **Libya:**

- Resolution 1970 (Year 2011)
- Resolution 1973 (Year 2011)
- Resolution 2016 (Year 2011)
- Resolution 2040 (Year 2012)

#### **Côte d'Ivoire:**

- Resolution 1975 (Year 2011)

#### **Yemen:**

- Resolution 2014 (Year 2011)

#### **Mali:**





- Resolution 2085 (Year 2012)
- Resolution 2100 (Year 2013)

**Sudan and South Sudan:**

- Resolution 1996 (Year 2011)
- Resolution 2109 (Year 2013)

**Central African Republic:**

- Resolution 2121 (Year 2013)
- Resolution 2127 (Year 2013)
- Resolution 2134 (Year 2014)

## Expectations

Delegates are expected to be well researched on the agenda, drawing from various sources. Remember, the study guide is just a cursory glance at an otherwise vast topic. Debate in the committee should be fruitful and should span a multitude of topics relevant to the agenda. Delegates representing countries in which R2P has been implemented should be especially vigilant while assessing the extent to which it has been successful in their respective countries. Delegates are expected to weigh the successes and alleged instances of misuse of the doctrine while deliberating upon potential laws to regulate it.

Thanks!

## Questions a Resolution Must Answer

1. Is there any alternative to humanitarian intervention but fulfills the Responsibility to protect the civilians?



2. Who decides when coercive measures other than military intervention have exhausted?
3. Which safeguards can be put in place to insure that military intervention does not divert from its intended purpose?
4. How can emphasis be shifted from the third pillar of R2P to the first and second pillar of the same?
5. How can powerful countries be resisted from imposing economic sanctions?

### Links for Further Research

1. <http://blogs.cfr.org/campbell/2013/03/20/the-growing-crisis-in-central-african-republic/>
2. <http://www.storiespoemstuff.blogspot.in/2015/09/an-ambiguous-responsibility-to-protect.html>
3. <http://www.cfr.org/humanitarian-intervention/international-commission-intervention-state-sovereignty-responsibility-protect-report/p24228>
4. <http://responsibilitytoprotect.org/ICISS%20Report.pdf>
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6. <http://responsibilitytoprotect.org/ICRtoP%20Toolkit%20on%20the%20Responsibility%20to%20Protect%20high%20res.pdf>

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- <http://www.responsibilitytoprotect.org/RtoP%20in%20Light%20of%20Libya%20FINAL.pdf>
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- <http://opencanada.org/>



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- <http://unscr.com/en/resolutions/doc/2165>