

The EU and the Responsibility to Protect in an Illiberal Era

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Abstract

The 2005 United Nations agreement on the ‘responsibility to protect’ (R2P) populations from atrocities was intended to set acceptable boundaries to ‘humanitarian intervention’, but it is still extremely controversial and vulnerable in a world of increasing nationalism and illiberalism. Can the European Union help to ‘rescue’ R2P? This paper analyses how the EU has responded in three mass atrocity situations: Central African Republic (2012–14); the treatment of the Rohingya minority in Myanmar (2017–), and inter-ethnic violence in South Sudan (2016–). The cases reveal a number of weaknesses in EU responses: it responds to mass atrocities only after violence has seriously escalated, and the use of force to protect populations is still a step too far for many EU member states. The EU still lacks institutional mechanisms that incorporate mass atrocity prevention in its policymaking processes, but its responses more tellingly reveal the lack of commitment to making mass atrocity prevention a priority. The paper sets out several steps the EU could take to strengthen its capacity to prevent mass atrocities, if the member states could agree to do so. Yet ultimately, if the UN Security Council and other regional organisations are not willing to take action in response to mass atrocities, the EU on its own will have little influence.

Keywords

European Union; mass atrocities; responsibility to protect; Central African Republic; Myanmar; Rohingya; South Sudan

1. Introduction

This working paper examines the EU's response to three recent mass atrocity situations. Mass atrocities encompass the international crimes of genocide, crimes against humanity, war crimes, and 'ethnic cleansing'. These are the crimes listed explicitly in the UN's '2005 World Summit Outcome' document on the responsibility to protect (R2P). R2P consists of three main strands: 1) all states have a responsibility to protect their population from genocide, war crimes, ethnic cleansing, and crimes against humanity; 2) the international community should assist states in this duty; and 3) if a state cannot or manifestly fails to protect its population, then the international community should do so through any appropriate means (United Nations General Assembly, 2005; paragraphs 138–9).

The responsibility to protect is emblematic of multilateral institutionalism, a key element of the liberal world order (Alcaro, 2018: p. 3). For David Rieff, it is also emblematic of the hubris of the international human rights movement, which assumed linear progress towards an expanded human rights regime: "Nowhere has this hubris been more evident than in the fate of institutional structures and frameworks meant to allow internationally sanctioned, state-sponsored intervention to prevent genocide, crimes against humanity, and war crimes or to bring to account those guilty of such horrors" (Rieff, 2018: p. 18).

R2P has always been contested. Mass atrocities challenge the strong attachment by states (liberal and illiberal) to norms of non-interference, sovereignty, and the non-use of force: 'never again Auschwitz' may require military intervention to stop genocide. R2P was intended to set appropriate and acceptable boundaries to 'humanitarian intervention', but it is still controversial despite the growing number of references to it in UN Security Council resolutions (Bellamy and Dunne, 2016: pp. 10–11; Gifkins, 2016). As nationalism spreads throughout the international system, a norm such as R2P is vulnerable. For Rieff (2018: p. 19), "Both the ICC [International Criminal Court] and R2P were, from the beginning, unworkable ideas for the world we live in, one in which authoritarianism is growing stronger."

The UN Security Council has not taken action in several recent atrocity situations, such as Syria. Several states such as Burundi and Myanmar have simply refused entry to UN or regional organisations' investigating or monitoring missions, and Burundi withdrew from the International Criminal Court after it initiated an investigation into possible crimes against humanity there. So even though the number of deaths in conflicts and one-sided violence has risen since 2010 (Roser, 2018), the 'international community' seems less willing and able to respond than the 2005 R2P agreement would imply.

Could the European Union help to 'rescue' R2P? The EU has enormous capacity to assist states and societies to build resilience, a wide range of appropriate policy instruments that can be used in responses to mass atrocities, and credibility and legitimacy in the areas of conflict prevention and human rights protection. Its strengths lie in prevention—a key element of R2P—rather than rapid response, as it can be exceedingly difficult for the EU member states and institutions to agree to act

rapidly and decisively. Since the publication of the EU's Global Strategy (European Union 2016a), however, EU member states have taken further steps to boost the EU's capacity to respond to crises, including with military means. But there is no denying that the challenges currently facing the EU are grave, from Brexit and divisions over migration, to internal contestation of core elements of the liberal world order such as human rights and the rule of law.

The commitment of EU institutions and member states to pursuing mass atrocity prevention—and the protection of human rights more generally—looks shaky. The Global Strategy shifted the portrayal of the EU as a normative or ethical international actor to one that pursues 'principled pragmatism' in which the EU's principles derive not just from 'idealism' but from "a realistic assessment of the current strategic context" (European Union, 2016a: p. 8). Yet the current strategic context is particularly challenging for promoters of human rights, including the protection of populations from mass atrocity crimes. So can the EU help strengthen international responses to possible or actual mass atrocity situations, or will it mirror international reluctance and/or inability to protect populations from mass atrocities? What is at stake is not just the EU's credibility as an ethical international actor or the R2P norm itself, but also the lives of people at risk of mass atrocities.

To try to answer to these questions, this working paper examines the EU's response to three cases of mass atrocities: inter-ethnic violence in the Central African Republic (2012–14), the treatment of the Rohingya minority in Myanmar (2017–), and inter-ethnic violence in South Sudan (2016–). In all three cases, UN special advisers and other reputable 'warners' (Meyer and Otto, 2016) have warned that mass atrocities are occurring. The cases were selected because they are not the locations of intensive outside intervention (as is the case of the ongoing tragedy in Syria), the countries concerned have been the subject of EU foreign policies before violence erupted, and so they are cases where the EU has the potential to have some influence.

Mass atrocities challenge the strong attachment by states to norms of non-interference, sovereignty, and the non-use of force.

The paper is structured as follows: The next section provides background information on the EU's implementation of R2P to date. The third section lays out the framework for analysing EU responses to mass atrocities. Sections four, five, and six cover the three cases: inter-ethnic violence in the Central African Republic (2012–14), treatment of the Rohingya minority in Myanmar (2017–), and inter-ethnic violence in South Sudan (2016–). Section seven concludes the paper.

2. The EU and R2P

The EU has often been referred to as a 'normative' or 'ethical' power (Aggestam, 2008; Manners, 2002). There is, however, an extensive literature on the various inconsistencies in EU external human rights policies (Brummer, 2009; Del Biondo, 2011; Portela 2018), showing that it is not easy for EU member states and institutions to resolve tensions between confronting and engaging

governments over their human rights records, or over the priority that human rights is to be accorded in foreign policies. The EU's engagement with R2P is illustrative of the reluctance to make such hard choices.

The EU has acknowledged that there is a moral obligation to protect people from gross violations of human rights and humanitarian law. In 2006, all three of the principal EU institutions declared: "The EU also strongly supports the responsibility to protect. We cannot stand by, as genocide, war crimes, ethnic cleansing or other gross violations of international humanitarian law and human rights are committed" (European Parliament, Council and Commission, 2006: paragraph 37). At the June 2018 debate on R2P at the UN General Assembly, the EU ambassador noted that the EU was born "in a spirit of 'never again'" and so R2P "is at the core of our primary goal, namely to allow our populations to live in peace and security" (European External Action Service, 2018). This rhetoric, however, masks the lack of consensus within the EU over the priority to be accorded to mass atrocity prevention and R2P, and the instruments that are to be used in situations where mass atrocities are likely or ongoing. The 2016 EU Global Strategy, for example, merely states that the "EU will also promote the responsibility to protect", which is a vague statement that provides no concrete commitment as to how the EU will do so (European Union, 2016a: p. 42).

Taking mass atrocity prevention and response seriously entails embedding it in processes and institutions. There is no EU equivalent to the principle in Article 4(h) of the African Union's constitutive act: "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." The fact that EU membership is conditional on respecting human rights and democratic principles has been cited as an example of how the EU implements R2P (de Baere, 2012), but taking action against a member state that contravenes such conditions (under Article 7 of the Lisbon Treaty) has already been shown to be difficult, as in the recent cases of Hungary and Poland. This means that in a worst-case scenario, an "EU member state with a will to commit atrocity crimes need only have a good friend in the UN Security Council to block the UN from acting and then block the EU (or NATO for that matter) in their own capacity" (Petersson, 2011: p. 358).

Even in terms of the EU's external policies, implementation of R2P is patchy. While the EU and its member states rhetorically support R2P, actual implementation of the norm in EU institutional processes and foreign policies has been problematic (de Franco, Meyer, and Smith, 2015). In 2013, the European Parliament (2013) called for member states and EU institutions to agree a European Consensus on R2P. In 2015, the EU appointed an R2P contact point, a Deputy Secretary-General of the EEAS.¹ The 2016 Global Strategy signalled that building the 'resilience' of societies would help prevent conflicts and crises. In 2017, an EU statement revealed that an atrocity prevention

¹ Information about the EU's R2P contact point is unavailable on the European External Action Service (EEAS) website. Only by reading the press releases regarding the annual meetings of the Global Network of R2P Contact Points is it possible to confirm that there is indeed an R2P contact point in the EEAS. See <http://www.globalr2p.org/our-work/global-network-of-r2p-focal-points>

toolkit was being developed and that the risk of atrocity crimes was included in conflict early warning systems (European Union, 2017a). The EU and its member states have also supported the creation and operation of the International Criminal Court (ICC), which can try individuals for genocide, crimes against humanity, and war crimes (European Union, 2016a, p. 42). However, there is still no clear high-level declaration regarding the EU's commitment to mass atrocity prevention or R2P.

Furthermore, the EU is divided principally over the third strand of R2P, with many member states unable or unwilling to contemplate the use of force to protect populations from atrocities, as seen in the intra-EU divisions over Libya in 2011 (Brockmeier et al., 2014). Any EU use of force requires UN authorisation, but even a UN request for EU military assistance is insufficient: for example, in 2008 EU member states could not agree to send a battlegroup to the Democratic Republic of Congo, even though the UN Secretary-General requested the deployment. There is also no consensus over the use of other measures to protect populations, including imposing sanctions or accepting refugees. Mass atrocity prevention and response can entail uncomfortable choices, such as confronting governments suspected of committing mass atrocities. Even the prevention aspects of R2P are not accepted uncritically, with some EU and member state officials arguing that because the EU has a conflict prevention policy, there is no need to develop separate mass atrocity prevention tools, despite the fact that mass atrocity prevention and conflict prevention do not overlap neatly.² This working paper aims to discover more about the current state of the EU's implementation of the R2P norm with respect to actual mass atrocity situations.

Implementation of R2P in EU institutional processes and foreign policies has been problematic.

3. Analysing the EU's Response to Mass Atrocities: a framework

To analyse the EU's response to mass atrocities, this paper will take a three-step approach. It will first establish whether or not the EU has identified that atrocity crimes are being committed, or that there is a serious risk that they will be committed, and whether or not discussions are taking place within the EU framework on how to respond. Naming the crimes is controversial, as not only can the government of the country concerned take offence but so can other countries, some of whom could block action (especially if they are permanent members of the UN Security Council). But at least one study has found that 'naming and shaming' perpetrators of mass atrocities can reduce the severity of ongoing atrocities (Krain, 2012).

The second step is a consideration of the actions that the EU has taken (if any) in response to warnings of ongoing or imminent mass atrocities. Because the EU's own early warning reports are confidential, this paper considers the public warnings issued principally by the UN. In the lexicon

2 An illustration: a typical conflict prevention policy would encourage the parties to a conflict to negotiate a peace agreement; a mass atrocity prevention policy would recognise that if a party to a conflict has engaged in mass atrocities, then treating it as a legitimate partner in a peace process is counterproductive at best. See Bellamy, 2011.

of mass atrocity prevention, this is the time for ‘direct prevention’ measures (as opposed to ‘structural prevention’ measures, which aim to address the ‘root causes’ of mass atrocities) and response. Direct prevention and response measures aim to halt or reverse the violence. A variety of policy instruments could be used (see Table 1), though evidence for the effectiveness of all these tools can be scarce or sometimes contradictory (Rudolf, 2016).

Table 1: Direct prevention of and response to mass atrocities: a continuum of policy tools

	Political/Diplomatic	Economic/Social	Legal	Military
Positive/ incentives	Friends groups	Economic inducements including trade and aid incentives		Incentives including military aid
	Provide financial and technical support for indigenous early-warning/ response systems and conflict resolution by NGOs, local communities and/or business			
	Political incentives: diplomatic recognition; structured dialogue; membership in international organisations			
More intrusive measures	Diplomatic peace-making, including: ambassadors on the ground, use of eminent persons/envoys; good offices/mediation; arbitration; peace commissions			Preventive deployment
	Fact-finding missions and the systematic collection of data by embassies on the ground			Prevention of incitement (e.g. jamming radios)
	Human rights investigations			Safe havens and no-fly zones
Negative/ Coercive	Condemnation	Asset seizures	Threat of or referral to ICC	Withdrawal of military assistance

	Naming/shaming	Trade sanctions (including banning of trade in particular products)	Domestic indictments	Arms embargoes
	Travel bans			Heightened presence
	Diplomatic sanctions (recalling/expelling diplomats; withdrawal of diplomatic mission)	Aid reduction or suspension		Jamming/information operations
	Suspension from international/regional organisation	Divestment		Sabotage/leadership targeting
	Cultural/sporting boycotts			No-fly zones and safe havens
				Intervention

Source: Task Force on EU Prevention of Mass Atrocities (2013), p. 53 and p. 72.

It must be noted that the use of these tools is usually envisaged vis-à-vis a government more or less capable of responding to the incentives and disincentives. Yet in many mass atrocity situations, there may be no single authority responsible for atrocities, the government may be dismissive of outside influence, and/or the government may be protected from such influence by other international actors. Of the cases considered here, Central African Republic is of the first type, South Sudan fits the first and third types, while Myanmar seems to fit the second and third types.

The third step in the analysis is to try to explain why the EU has responded in the way that it has. Were there any divisions among EU member states and EU institutions regarding the response? Which actors were pushing for EU action? Were there actors that resisted particular EU responses?

4. Central African Republic

4.1 Warnings of atrocities

The Central African Republic (CAR) has experienced considerable instability since its independence in 1960, but in 2013 identity-based violence in the country escalated sharply. In March 2013, the Séléka rebel group overthrew the government. In response, the anti-Balaka militia group formed in August–September 2013. Both groups committed atrocities, the Séléka mainly against Christians, the anti-Balaka mainly against Muslims. On 5 and 6 December 2013, around 1,000 people were killed in fighting (Cinq-Mars, 2015, p. 5).

Throughout 2013, a number of warnings about the severity of the violence were issued by France, UN actors, and NGOs (see Cinq-Mars, 2015; pp. 9–11). In January 2013, the French permanent representative to the UN Security Council argued that the crisis in CAR was taking on a religious and ethnic dimension (Cinq-Mars, 2015; p. 11). A report by the UN Secretary-General to the Security Council in May noted that violence was occurring along religious lines (United Nations Security Council, 2013). In June 2013, the International Crisis Group tracked the growth of anti-Muslim feeling in Bangui, while Human Rights Watch reported destruction of churches (Cinq-Mars, 2015; p. 11). That same month, the UN Office of the High Commissioner for Human Rights dispatched a fact-finding mission to CAR, which reported back in September and found that gross human rights violations and war crimes had been committed (United Nations General Assembly, 2013).

On 1 October 2013, the UN Special Adviser on the Prevention of Genocide, Adama Dieng, and the UN Special Adviser on the Responsibility to Protect, Jennifer Welsh, expressed their deep concern over the deteriorating situation in the CAR, and urged CAR authorities to protect the

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population against the risk of atrocity crimes, including sexual violence against women and children (United Nations Press Release, 2013b). A month later, Dieng told reporters: “My feeling is that this will end with Christian communities, Muslim communities killing each other which means that if we don’t act now and decisively I will not exclude the possibility of a genocide occurring” (Nichols, 2013).

On 22 November 2013, the French Foreign Minister, Laurent Fabius, warned that the CAR was “on the verge of genocide” (France 24, 2013). On 5 December 2013, the Global Centre for the Responsibility to Protect (2013) issued a statement that “a failure to confront the rapidly deteriorating situation could result in large-scale mass atrocity crimes and further mass displacement”. And on 22 January 2014, Dieng told the Security Council that the nature of attacks by ex-Séléka and anti-Balaka militia on the basis of religion or ethnicity “constitute crimes against humanity” and that “[i]f not halted, there is a risk of genocide” (United Nations Meetings Coverage, 2014).

At the start of 2013, a small peacekeeping force of the Economic Community of Central African States (ECCAS), MICOPAX, was on the ground. In August 2013, the African Union (AU) and ECCAS agreed to replace MICOPAX with an AU-led force (MISCA) of 3,500 military personnel by the end of 2013. France also has had troops on the ground since 2002, and had deployed to protect the Bangui airport in March 2013. On 5 December, the UN Security Council imposed an arms embargo on the CAR, and authorised MISCA and French forces (Operation Sangaris) to “take all necessary measures” (including the use of force) to protect civilians and restore security (UN Security Council Resolution 2127 (2013)). The Security Council also established an International Commission of Inquiry to investigate human rights violations since the start of 2013. That inquiry estimated that from December 2013 until November 2014, a total of 3,000–6,000

people were killed, 80 percent of CAR's Muslim population had been displaced or killed, and the capital city Bangui's Muslim population had declined by 99 percent. This amounted to a crime against humanity (United Nations, 2014; paragraphs 447 and 453). In January 2014, the UN Security Council extended the arms embargo and froze the assets and imposed travel bans on individuals undermining peace and security in the CAR (UN Security Council Resolution 2134 (2014)).

4.2. The EU response to atrocities in the Central African Republic

Evan Cinq-Mars (2015) criticised the international response to the CAR in 2013/2014 as “too little, too late” to prevent atrocities: despite a year of warning signs and actual warnings, only after violence seriously erupted in early December 2013 did the UN and other relevant actors respond decisively. Charles Brown (2016) makes the same critique of the US response, noting that even the Obama Administration's declared commitment to atrocity prevention, and the presence of several atrocity prevention advocates within the Administration (such as the US Ambassador to the UN, Samantha Power) did not translate into the early action that might have helped to prevent atrocities in the CAR.

The EU is not exempt from this criticism. It engaged in direct prevention rather than structural prevention: most EU action was taken only from December 2013, almost a year after warnings about the ethnic and religious nature of the violence. The EU's response consisted primarily of four prongs: supporting international measures (peacekeeping force, investigations of human rights violations, diplomacy); increasing its humanitarian aid; imposing sanctions in line with UN Security Council resolutions; and deploying a military mission, one of whose tasks was to protect the population. The latter decision, however, was delayed by several months as EU member states declined to provide forces for the mission. As Tim Haesebrouck and Melanie Van Meirvenne (2015; p. 279) argue: “If the Member States had designated the prevention of mass atrocities an explicit strategic objective of the CSDP [Common Security and Defence Policy], the possibility of an intervention in the CAR could have been on the agenda long before November 2013.”

Table 2: EU measures vis-à-vis Central African Republic: a summary

Positive measures	Intrusive measures	Negative measures
Development aid continues, though some aid is redirected and projects are put on hold; Békou Trust Fund created	Verbal support for diplomatic initiatives to end the conflict	Condemnation
Humanitarian aid	Verbal support for UN Secretary-General's Commission of Enquiry and Office of the High Commissioner for Human Rights investigation	Implement UN arms embargo

	Support for AU resolution on an independent expert for the CAR, Human Rights Council	Implement UN targeted sanctions
	Financial support for ECCAS and AU peacekeeping missions (African Peace Facility)	Support for ICC referral
	Financial support for AU mediation efforts (African Peace Facility)	
	CSDP military mission EUFOR RCA	

The EU is an important donor and trading partner of the Central African Republic. The CAR is a member of the Cotonou Agreement (signed in 2000), a wide-ranging economic and political partnership agreement between 79 African, Caribbean, and Pacific countries and the EU. The agreement includes a so-called 'human rights clause' (Article 96), which means that aid and trade benefits, or even the agreement as a whole, can be suspended or revoked if a partner to the agreement violates fundamental human rights and democratic principles. Between November 2003 and June 2005, the EU partially suspended cooperation with the CAR following a coup d'état; cooperation was resumed after elections were held. The EU institutions have been the largest development aid donor to the CAR (OECD, 2018).

As the former colonial power, France has been the most important European actor in the CAR, and to a great extent France has been the driving force behind EU policy towards the country. Yet other EU member states shaped—and blocked—French initiatives vis-à-vis the CAR.

From late 2012 to autumn 2013, the crisis in the CAR attracted some attention from the European Commission. On 21 December 2012, the Commissioner for International Cooperation, Humanitarian Aid and Crisis Response, Kristalina Georgieva, expressed concern about renewed violence in the country and called on all armed groups to respect international humanitarian law (European Commission, 2012). In July 2013, she visited the CAR, and announced that the EU would give a further €8 million in humanitarian aid (European Commission, 2013).

Following the March 2013 coup d'état, the EU's High Representative for Foreign Affairs and Security Policy, Catherine Ashton, condemned the violent and unconstitutional change of government and called for "all armed groups to respect and protect the civilian population as well as to respect international humanitarian law and the activities of humanitarian organisations" (European Union, 2013). The situation in the CAR was discussed in several meetings of the Africa Working Group (official level) and the Political and Security Committee (ambassadorial level) in 2013.

The first high-level discussion of the violence in the CAR took place in the autumn of 2013. On 21 October, the Council of the European Union (2013a) expressed concern at the human rights violations in the CAR, supported mediation efforts by the African Union and ECCAS, and signalled financial support for MISCA via the African Peace Facility. Although the UN special advisers had warned of the risk of genocide, the EU's initial declarations do not go so far: this declaration mentions human rights violations, but does not use stronger language referring to atrocities.

Almost two months later, on 16 December, the Council (Council of the European Union, 2013b) went much further; by this time the UN Security Council was beginning to act (partly as a result of French diplomacy). The Council's conclusions express the EU's concerns about serious violations of human rights and international humanitarian law, mention that the CAR is a party to the International Criminal Court statute (an implicit threat that the situation should be referred to the ICC), announce an increase in EU humanitarian aid to the CAR and in funding to MISCA, promise an increase in development aid, and hold out the possibility of a military mission under the Common Security and Defence Policy (CSDP). A day later, the EU implemented the UN Security Council arms embargo on the CAR. In March 2014, the EU implemented UN Security Council targeted sanctions (asset freezes; travel bans) on individuals held responsible for undermining security in the CAR (O'Kane, 2014).

The most striking element of the EU's response to the violence in the CAR was its deployment of a military mission.

On 20 January 2014, at a Human Rights Council Special Session on the CAR, the European Union (2014) condemned the human rights violations, and called for those committing "acts that could constitute crimes under the Rome Statute for the International Criminal Court" to be held accountable. This is as far as the EU goes in terms of language acknowledging atrocity crimes in the CAR in 2013–14. It is also as far as the EU went in terms of supporting the involvement of the ICC: the EU did not call outright for an ICC investigation. (The ICC has opened an investigation into events in the CAR since 2012, but did so after a request of the transitional government of the CAR in May 2014.)

Between 2013 and 2016, the EU gave over €500 million to the CAR (European Commission, 2016). It became the largest donor of humanitarian aid to the country. It also created a 'trust fund' (named Békou), using a new legal tool: trust funds can be established rapidly, multiple donors from within the EU and outside it can contribute to it, and the aid can be coordinated more efficiently and quickly. The Békou Trust Fund, which France pushed for, was set up in July 2014, initially by the European Commission, France, Germany and the Netherlands (Barbière, 2014b); Italy and Switzerland later contributed to it. It totalled €146 million, and aimed primarily to help the CAR exit from the crisis and reconstruct. According to the European Court of Auditors (2017), the fund has had a positive impact, but still did not coordinate donors as effectively as it should have and attracted funding from only a small group of countries (although some member states contributed to UN trust funds for the country instead).

The most striking element of the EU's response to the violence in the CAR was its deployment of a military mission. France pushed hard for this option, as its own military operation and MISCA alone were insufficient given the deteriorating security situation. In January 2014, the Council agreed to send a military mission to protect populations; it would be short-term (six months) and hand over to a UN peacekeeping mission. The UK ruled out using a battlegroup (a standing rapid-response force, whose composition is supposed to shift every six months) (Gardner, 2014a). In February 2014, EUFOR RCA was established, but it was not until 1 April 2014 that the mission was actually launched. Six 'force generation conferences' were required before the mission's planned strength of 750 troops was reached, and even then France provided most of the troops. A non-EU country, Georgia, provided the second largest contingent (Tardy, 2015). On 18 March, the French Foreign and Defence Ministers stated that "the EU committed itself on 10 February to deploy a military operation in order to support international efforts and stabilise the situation in the Central African Republic. To this day, despite the contribution of some member states, one cannot but notice that Europe has not done enough" (Barbière, 2014a).

Niklas Novaky (2016, p. 96) argued that, "Due to the terrible humanitarian situation in the CAR, EU Member States felt obliged to consider the deployment of CSDP mission to improve the country's security climate . . . Since most Member States had only limited interests at stake in the

To a great extent France has been the driving force behind EU policy towards the country.

CAR, they were unwilling to make significant contributions to either operation." EU member states appeared to know that 'something should be done' to protect populations from atrocities, but they were not willing to follow through with this. Granted, there were other contemporaneous crises (Ukraine above all), but the lack of member state 'buy-in' to EUFOR RCA is still noticeable.

The mission mandate for EUFOR RCA included the protection of civilians, which is striking; most EU mission mandates do not. The mission duration was extended to 15 March 2015, and EUFOR RCA was then replaced with a one-year small (70-strong) military advice mission (EUMAM RCA), which in turn was replaced by a security forces training mission (EUTM CAR) for two years from March 2016.

Although humanitarian motives were behind both the French and the EU decisions to send troops to the CAR, Catherine Gegout cautions against assuming humanitarianism was the most important driving factor. French President François Holland did declare that Operation Sangaris was a humanitarian mission, but this was linked "to the prestige of France as a state that defends human rights" (Gegout, 2017; p. 206). Gegout points out that France also did not respond quickly to the violence in the CAR, that its intervention was limited to the capital Bangui and surroundings, and that French forces "were careful not to take excessive risks for themselves in saving the population" (Gegout, 2017; p. 206). The EU's response showed reluctant support for the French troops and an

attempt “to demonstrate that the European Union was concerned with a humanitarian crisis” (Gegout, 2017; p. 280). But only France among the large EU member states contributed troops, and the mission was very limited in scope.

In sum, the EU’s response to the CAR was in many ways extensive, employing a number of policy instruments, which fall mainly under the ‘positive’ and ‘intrusive’ category of direct prevention efforts. Yet the EU reacted slowly to warnings and the driving force behind EU policy was just one member state: France. Humanitarian motives were certainly present, but were not widely enough shared by the member states, given that only a small minority of member states provided troops for EUFOR RCA and contributed to the Békou Trust Fund.

Compared to the EU’s response to the two other cases considered in this paper, however, the response to the CAR was more comprehensive and decisive. Yet this does not mean that the EU—or any other international actor—has actually been successful in ending mass atrocities in the CAR. In fact, since December 2017 clashes between groups have resulted in rising numbers of deaths and displaced persons and serious human rights violations.

5. Myanmar

5.1 Warnings of atrocities

At the start of 2017, Myanmar seemed to be one of the few good news stories: the military junta had been ceding power since 2011, and in 2015, national elections were won overwhelmingly by the opposition led by Aung San Suu Kyi. Suu Kyi, winner of the 1991 Nobel Peace Prize, is barred from holding office but exercises influence from outside government. After several decades of authoritarian, military rule, Myanmar appeared to be in transition to democracy. A ceasefire agreement between the government and a number of ethnic groups was agreed in 2015, which seemed to promise an end to cycles of violence and atrocity.

However, the human rights situation in Rakhine State still generated concern amongst external observers. In Rakhine, the Rohingya minority, predominantly Muslim, were not considered to be Myanmar citizens and so were stateless, and there was frequent inter-communal violence. Before August 2017, there were already over 200,000 Rohingya refugees in Bangladesh (United Nations Office for the Coordination of Humanitarian Affairs, 2018). The situation was described as a “slow-motion genocide” by two academics who also argued that both the Myanmar government and the local community have committed acts of genocide against the Rohingya for 35 years (Zarni and Cowley, 2014).

Between 2013 and August 2017, the UN Special Adviser on the Prevention of Genocide, Adama Dieng, repeatedly expressed concern at human rights violations against the Rohingya (United Nations Press Release 2013a, 2015, 2016c, 2017b). In February 2017, the United Nations Office of

the High Commissioner for Human Rights (2017) issued a report detailing violations of human rights against the Rohingya by security forces. At the UN General Assembly and the Human Rights Council (HRC), the human rights situation in Rakhine had been the subject of numerous resolutions and statements, including two specifically on the Rohingya at the HRC in June 2015 (Resolution 29/21) and June 2013 (Presidential Statement PRST/23/1). In March 2017, the UN Human Rights Council (Resolution 34/22) set up a fact-finding commission to investigate human rights violations in Rakhine, though it was denied entry by the Myanmar government (the Resolution was sponsored by the EU). For several years from 2012, the Secretary-General's Special Adviser on Myanmar had briefed the UN Security Council with updates on the situation in Rakhine (Security Council Report, 2018).

Thus before serious violence erupted in August 2017, there had been numerous, repeated warnings about continued human rights violations against the Rohingya. Yet the good news story of an

In an echo of the criticisms of the response to the crisis in the CAR, the Burma Campaign UK called the measures “too little, too late”.

apparent transition to democracy in Myanmar tempered the criticism, leading to a narrative about incentivising reform rather than threatening negative measures over the treatment of the Rohingya. For Jürgen Haacke (2016; p. 819), “the case of Myanmar demonstrates that the implementation of R2P has been subsumed to broader political considerations”, in particular the view that the government “would be a necessary partner to bring about a successful political transition in Myanmar”.

In August 2017, an armed Rohingya group attacked police posts. In response, the Myanmar armed forces launched a disproportionate response, which the UN High Commissioner for Human Rights, Zeid Ra‘ad al-Hussein, labelled “a textbook case of ethnic cleansing” (UN News, 2017). Since August 2017, almost 700,000 Rohingyas have fled Myanmar, and are mostly encamped across the border in Bangladesh. On 19 October, Dieng and the UN Special Adviser for the Responsibility to Protect, Ivan Šimonović, called on the Myanmar government to “take immediate action to stop and address the commission of atrocity crimes that are reportedly taking place in northern Rakhine state” (United Nations Press Release, 2017c).

The UN Security Council has not issued a resolution on the situation. The UK is the ‘pen holder’ on Myanmar at the UN Security Council, and has kept the item as a continuing matter of concern, but has not been able to push through a resolution. On 6 November, a presidential statement (S/PRST/2017/22) indicated that the Security Council condemned the attacks on the Rohingyas, and reminded the Myanmar government of its responsibility to protect its population. But presidential statements do not have the same force in international law as Security Council resolutions do, and this one did not impose any measures on the Myanmar government or set any deadlines for action by it. A report by the UK House of Commons Foreign Affairs Committee (2017, p. 18) expressed

dismay at the “meagre results” of the UK’s diplomacy at the UN on Myanmar. The USA and Canada are among states that have imposed an arms embargo and targeted sanctions on Myanmar, but China and Russia are the largest arms suppliers to the Myanmar government (Deen, 2017).

In March 2018, Dieng lambasted the international response:

Despite the numerous warnings I have made of the risk of atrocity crimes, the international community has buried its head in the sand . . . All the information I have received indicates that the intent of the perpetrators was to cleanse northern Rakhine state of their existence, possibly even to destroy the Rohingya as such, which, if proven, would constitute the crime of genocide (United Nations Press Release, 2018).

5.2 The EU’s response to human rights violations in Rakhine State, Myanmar

As the military junta took steps to relinquish power in 2011, the EU moved quickly to encourage political liberalisation. In May 2012, it suspended all of the sanctions it had previously imposed on Myanmar, with the exception of an arms embargo. Those sanctions included targeted sanctions (asset freezes and travel bans) against individuals impeding progress towards democracy, and restrictions on investment in logging and timber sectors, and the mining of precious stones and minerals. In April 2013, the EU fully lifted the sanctions (except for the arms embargo) and restored trade preferences, which had been suspended in 1997 over the use of forced labour in the country (Bünte and Portela, 2012). Since 1995 the EU has sponsored a yearly resolution on the human rights situation in Myanmar at the UN Commission on Human Rights and its successor body, the Human Rights Council; since 2002, it had done so at the General Assembly. In 2016, it decided not to introduce a resolution on human rights in Myanmar at the General Assembly, a signal of encouragement to the reform process.

In June 2016, the European Commission and EU High Representative (2016) published ‘Elements for an EU strategy vis-à-vis Myanmar/Burma’. While most of the document makes proposals for EU support for reform, one section does acknowledge the particular human rights challenges in Rakhine State. There, the EU should “work with the government to combat hate speech and intolerance”, advocate “the elimination of statelessness” and work to “further general human rights awareness” (European Commission and EU High Representative, 2016; p. 8). In retrospect, these proposals seem to vastly underestimate the government’s unwillingness to respect the human rights of the Rohingya.

Many observers have denounced the EU for not using the term ‘Rohingya’ in its pronouncements, in line with the policy of the Myanmar government to call them ‘Bengalis’ rather than acknowledge them as an ethnic minority within Myanmar (Khin, 2017). But although EU High Representative Federica Mogherini’s early statements did not use the term, later ones did, as do the conclusions of the Council of the EU.

In the initial weeks after violence exploded in August 2017, the EU responded primarily with a humanitarian aid operation (a total of €51 million was given in 2017). The first announcement of aid did not do much more than hint gently at the political context behind the refugee exodus from Rakhine (European Commission, 2017). Later in November, however, the European Commissioner for Humanitarian Aid and Crisis Management, Christos Stylianides, told reporters that he agreed that ethnic cleansing best described what was happening (Pinna, 2017).

Mogherini's first statement on the situation, on 6 September, condemned the attacks on Myanmar security forces, not the over-reaction by those security responses (European External Action Service, 2017a). In a speech to an urgent session of the European Parliament on 14 September, her message became more focused on the Myanmar military forces: "We are very much aware and concerned about the excesses during the security operations conducted by Myanmar's security forces. This has led to a massive flow of refugees into Bangladesh—one of the most terrible refugee crises of our time" (European External Action Service, 2017b).

Besides offering humanitarian aid to refugees, the EU also pushed for a Bangladesh–Myanmar agreement on the return of refugees (which seemed premature when refugees were still arriving in Bangladesh and does not address the root causes of the refugee exodus), and on a "positive approach" (Deutsche Welle, 2017). On a visit to the region in November, Mogherini told the press that:

It is a matter of encouraging the leadership and the government, and starting from Aung San Suu Kyi, to implement what they have expressed as intentions . . . She needs our support to do that, consistently and we can support in implementing that plan, if the political will translates into real action. So more than putting pressure, I would say that our approach has always been, and will continue to be, to offer a negotiating space, encourage the taking care of the situation that is not going to disappear (European External Action Service, 2017c).

Gradually, the EU's message hardened, but only in the spring of 2018 did the EU take negative measures of any substance. On 16 October 2017, the Council of the EU addressed the situation in Myanmar, noting that there were reports of "serious human violations". It called for an "end to all violence", and for the Myanmar military to cease its operations and observe human rights law. It urged the government to cooperate with the UN Human Rights Council's fact-finding mission. The EU also declared that it was suspending invitations to high-ranking military officers and reviewing defence cooperation. It signalled that it "may consider additional measures if the situation does not improve" but could also respond positively if it does improve (Council of the European Union, 2017).

'Human rights violations' was the preferred term used by the EU in most of its statements, though at a special session of the UN Human Rights Council on 5 December 2017 the EU did refer indirectly to the perpetration of atrocities: "We also call on the Government of Myanmar/Burma

to ensure the swift establishment of the non-discriminatory rule of law and full accountability for those responsible for committing atrocities" (European Union, 2017b). Some European politicians went further. French President Emmanuel Macron told the UN General Assembly on 20 September that the Rohingyas were victims of ethnic cleansing and genocide (Le Monde, 2017). On 20 February 2018, UK Foreign Secretary Boris Johnson told the House of Commons that "This has been ethnic cleansing on an industrial scale and it may also have been genocide" (House of Commons, Hansard, 20 February 2018; vol. 636, col. 20). German politicians, in contrast, were much less forthright, focusing on providing aid to the refugees rather than condemning the crimes that were being committed (see, for example, Federal Foreign Office, 2017).

The Council of the EU issued more conclusions on Myanmar on 26 February 2018, and deplored the fact that, since its previous statement in October, there were continuing human rights violations and that Myanmar had refused to cooperate with the UN Special Rapporteur on Myanmar. It called on Myanmar to become a party to the ICC Statute, or to allow the ICC to exercise jurisdiction. It then announced that the arms embargo would be strengthened, instructed the High Representative to make proposals for targeted sanctions against senior military officers responsible for human rights violations, and noted that trade preferences depend on respect for human rights (Council of the European Union, 2018). Targeted sanctions were eventually agreed in late April 2018, which expand the arms embargo, prohibit cooperation with the Myanmar military, and impose travel bans and asset freezes on individuals from the security forces held responsible for human rights violations. In an echo of the criticisms of the response to the crisis in the CAR, the Burma Campaign UK called the measures "too little, too late", and indicated that they "are not an adequate or proportionate response given the scale and seriousness of violations of international law taking place" (Burma Campaign UK, 2018).

The good news story of an apparent transition to democracy in Myanmar tempered the criticism of violence against the Rohingya.

In the CAR case, France took a leading role in pushing for EU action; in the Myanmar case, no single member state took such a strong position. The UK was more focused on a positive approach to fostering political reform in the country; Germany was focused on assisting the refugees. The UK's stance was criticised by the House of Commons Foreign Affairs Committee, for not "delivering tough and unwelcome messages to the Burmese Government about the Rohingya" (UK House of Commons Foreign Affairs Committee, 2017). Matthew Rycroft (2018), the UK Permanent Secretary at the Department for International Development, argued that keeping China 'on board' in the Security Council was an imperative for the UK: "If we do want to be serious about doing anything in Myanmar, chances are the Chinese are going to be involved, and so, we took a decision, the UK, that it was better to go at the pace that China allowed." As China is a major backer of the Myanmar government, this approach has sidelined the UN Security Council.

In sum, the EU's response to the Rohingya crisis consisted of some positive measures and a few negative measures, though the latter were introduced only gradually, after moves to influence the Myanmar government appeared not to be having much of an impact. Similarly to the CAR case, the EU took more decisive measures only months after the violence escalated, and well after warnings had been given about the risk of human rights violations and atrocities against the Rohingyas. With the UN Security Council unable or unwilling to act, the EU's influence in any case will be very limited, but the EU has in turn not pressed hard for UN Security Council action, such as a referral of the situation to the ICC. The EU's response to the apparent ethnic cleansing of the Rohingya is a test case of principled pragmatism, in which an assessment of the strategic environment resulted in a weak response to mass atrocities.

Table 3: EU measures vis-à-vis Myanmar: a summary

Positive measures	Intrusive measures	Negative measures
Humanitarian aid for refugees	Verbal support for UN human rights investigations	Condemnation
Development aid continues		Continuation of EU arms embargo
		Suspension of meetings with military officers (October 2017)
		EU targeted measures threatened (February 2018) and imposed (May 2018)

6. South Sudan

6.1 Warnings of atrocities

South Sudan is the UN's newest member state, having achieved independence from Sudan in July 2011, several years after a peace agreement had laid out a process for separation from Sudan. After independence, rival political and ethnic groups repeatedly clashed, and in 2013, civil war broke out, between supporters of rival politicians. Much of the fighting has been along communal lines. It is estimated that up to 300,000 people have been killed (Casey, 2017). Parts of South Sudan have experienced famine, and aid workers and UN peacekeepers have also been killed.

A UN peacekeeping mission, the United Nations Mission in South Sudan (UNMISS), has been present in the country since 2011, but has struggled to protect civilians; its strength has been increased to almost 18,000 personnel, making it one of the largest UN peacekeeping missions in 2018 (the largest is in the Democratic Republic of Congo). In March 2015, the UN Security

Council imposed targeted sanctions (asset freezes; travel bans) on individuals held responsible for threatening peace and security in South Sudan (UN Security Council Resolution 2206). The six individuals targeted came from both sides of the conflict.

In August 2015, both sides signed a peace agreement, largely mediated by the regional organisation the East African Intergovernmental Authority on Development (IGAD) with support from other international actors, including the UK and the EU. The agreement envisaged a hybrid court to investigate atrocities. Less than a year later, however, fighting resumed. The hybrid court has not been set up. Although South Sudan is not a party to the ICC, the Security Council could refer the situation to the ICC, but has not. In December 2016, the Security Council failed to agree on further targeted sanctions and an arms embargo, because only seven Security Council members voted in favour of it (nine are required) while eight abstained. South Sudan's government had argued that the situation was improving; China, Russia, and the other abstaining states agreed that the UN should support the government rather than take counter-productive steps (United Nations, 2016).

The nature of the violence in South Sudan prompted several warnings about the risk of mass atrocities. In December 2013, UN Special Adviser on the Prevention of Genocide, Adama Dieng, and the UN Special Adviser on the Responsibility to Protect, Jennifer Welsh, issued a statement expressing concern about the ethnic-based violence and warned that attacks on civilians and UNMISS personnel could constitute war crimes and crimes against humanity (United Nations Press Release, 2013c).

The EU's declarations mostly contain exhortations for others to take action.

In July 2016, after fighting resumed in South Sudan, Dieng again expressed concern about threats to the population, and called for those responsible for human rights violations to be brought to justice (United Nations Press Release, 2016a). He visited South Sudan in November, and told the Security Council that there was a potential for genocide in the country. There had been targeted killings and rape of members of particular ethnic groups (United Nations Press Release, 2016b). He recommended that the UN impose an arms embargo and sanctions, and boost UNMISS. In February 2017, Dieng again warned that there was an ever-present risk that mass atrocities would be committed (United Nations Press Release, 2017a).

In February 2018, the UN Commission on Human Rights in South Sudan (set up by the Human Rights Council two years earlier) reported that over 40 South Sudanese officials should be held accountable for war crimes and crimes against humanity (United Nations Human Rights Council, 2018). In February 2018, the US imposed an arms embargo on the country. In March 2018, the UN Security Council renewed the UNMISS mission again and indicated that it would consider imposing an arms embargo on South Sudan (UN Security Council Resolution 2406).

In sum, there have been repeated warnings of mass atrocities in South Sudan, as well as evidence gathered demonstrating that atrocities have occurred—despite the presence of a large UN peacekeeping mission in the country. Only limited sanctions have been imposed by the UN Security Council, and a UN arms embargo was only narrowly agreed on 13 July 2018.

6.2 The EU's response to atrocities in South Sudan

Soon after South Sudan became independent, the EU agreed that it would follow a ‘comprehensive approach’ towards the country, to cover all aspects of EU policy from development to security. An EU Special Representative to Sudan and South Sudan served until 2013. The Council of the EU agreed in June 2012 to deploy a very limited civilian CSDP mission, EUVASEC, which would help improve aviation security at Juba international airport, at South Sudan’s request. EUVASEC consisted of just over 60 personnel, and lasted from September 2012 to January 2014. However, the mission was evacuated in December 2013, at the outbreak of the civil war. Member states failed to renew the mission: although several member states wanted it to continue, the UK opposed its prolongation (Gardner, 2014b).

The mandate of the EU Special Representative (EUSR) to Sudan and South Sudan was terminated on 31 August 2013—just before the civil war broke out. The reasons lie in bureaucratic politics in Brussels: the EU High Commissioner, Catherine Ashton, wanted to rationalise all of the EUSRs and locate them within the new European External Action Service (EEAS), thus bringing them under EEAS control and out from under the control of the Council of the EU. In early 2013 she informed the member states of her intention to terminate the mandate of three EUSRs, including that for Sudan and South Sudan. Instead, the EUSR for the Horn of Africa would have a larger mandate. But as Erwan Fouéré (2013) noted, there was always a risk that such a move would signal lowered foreign policy ambitions and interest in the regions with a terminated EUSR.

The EU has imposed an arms embargo on South Sudan since 2011 (well before the US did so, in 2018). In July 2014, almost a year before the UN Security Council did so, the EU placed targeted sanctions (asset freezes; travel bans) on individuals held responsible for violence and breaking the peace agreements; the list of individuals has periodically been amended and extended since then (most recently in February 2018). The EU has also encouraged South Sudan to sign the Cotonou Agreement, but to date the government has not done so. Large sums of humanitarian aid have also been given: €110 million in 2014, €127 million in 2015, and €163 million in 2016.³

The Council of the EU has issued several conclusions on South Sudan, condemning the violence and the violations of human rights and humanitarian law. In July 2014, a declaration on behalf of the EU noted that “appalling human rights violations and crimes against humanity have taken place” (Council of the European Union, 2014). On 12 December 2016, the Council cited Dieng’s warning “of escalating violence along ethnic lines and the potential for genocide” (Council of the

³ Figures from the 2014, 2015, and 2016 annual reports on the EU’s humanitarian aid policies (available here: https://ec.europa.eu/echo/who/accountability/annual-reports_en)

European Union, 2016). At a special session of the HRC on South Sudan a few days later, the EU's statement referred to the risk of genocide: "The EU is profoundly disturbed by the deteriorating human rights and humanitarian situation in South Sudan, today torn again by violent conflict and at risk of complete fragmentation and of genocide being committed" (European Union, 2016b). Several EU member states (Belgium, France, Germany, the Netherlands) mentioned the risk of genocide and urged action to prevent it (United Nations Human Rights Council, 2016).

The EU's declarations, however, mostly contain exhortations for others to take action, principally the parties to the conflict. They contain little on what the EU will do: they express the EU's support for various international efforts such as UNMISS, and they hold out the promise of support should the country become more stable and less violent. Not one of the Council of the EU's declarations on South Sudan even mentions the ICC. The EU's rhetoric about the severity of the situation in South Sudan is hardly commensurate with the sum total of action that it has taken. It would appear that in this case, the apparent lack of willingness of the member states to engage more echoes international inertia, especially visible in the Security Council.

Table 4: EU measures vis-à-vis South Sudan: a summary

Positive measures	Intrusive measures	Negative measures
Development aid continues	Verbal support for hybrid court	Condemnation
Humanitarian aid	Financial support for IGAD and AU mediation (African Peace Facility)	EU arms embargo
Involvement in peace process: member of IGAD plus mediation process	Financial support for IGAD ceasefire monitoring mechanism (African Peace Facility)	Targeted sanctions (EU sanctions, and implementation of UN sanctions)
Promise of Cotonou Agreement		

7. Conclusions

The EU has expressed support for the R2P norm and it has many tools for direct prevention of and response to mass atrocities. But as this paper has shown, the EU's implementation of the norm can demonstrate the shallowness of member states' willingness to act quickly and decisively in actual mass atrocity situations. This is partly because of competing priorities, partly because of awareness of obstacles in the external environment, and partly because the EU lacks institutional mechanisms that ensure mass atrocity prevention is a priority. Of these three dynamics, however, it is the avoidance of a firm and credible commitment to making mass atrocity a prevention that dominates; EU institutions and member states do not appear to be serious about preventing mass atrocities and upholding the R2P when doing so entails making difficult choices and committing resources accordingly. Priority-setting has always been challenging for the EU, given all of the

competing priorities of its constituent member states, as can be seen in the inconsistent pursuit of normative policies such as the promotion of human rights. Consequently, the prospects for EU leadership on R2P are still hard to envisage.

In response to mass atrocity situations in the Central African Republic, Myanmar, and South Sudan, the EU does acknowledge that mass atrocities are either occurring or that there is a serious risk of mass atrocities being perpetrated, but it does so long after credible ‘warners’ have issued warnings. The EU’s language can be cautious, often referring to serious violations of human rights and humanitarian law, rather than ‘genocide’ or ‘crimes against humanity’. Although its condemnation of the violations is clear and repeated in all three cases, by not regularly ‘naming and shaming’ perpetrators of mass atrocities, the EU eschews a tool that has been found to be effective in reducing killings (Krain, 2012).

In all three cases, the EU has provided humanitarian aid, while development aid has never been suspended but may be redirected because of the security and governance situation. In all three cases as well, the EU has indicated that it stands ready to provide further assistance once security

and governance are restored. The EU has provided rhetorical and sometimes financial support for a variety of intrusive measures, from UN and African regional organisations’ peacekeeping missions to UN human rights monitoring missions. But if not much is happening at the UN or regional level, then the EU itself does not implement intrusive measures. Resort to military intervention—possibly the most effective way to confront perpetrators of mass atrocities and reduce killings, depending on the context (Rudolf, 2016; pp. 92–3)—has generally been ruled out by the EU. The only

exception to this is the CSDP military mission to the Central African Republic, but this came about principally because France and the UN pushed hard for it, and it proved very difficult to get many member states to actually contribute to it.

The EU’s response to the three situations shows that coercive measures are used, to some extent. In all three cases, it has imposed (or retained) an arms embargo—in contrast to the UN, which has been unable to reach agreement on an arms embargo in the cases of Myanmar and South Sudan. In both Myanmar and South Sudan the EU has also imposed targeted sanctions before the UN Security Council decided to do so.

There are also clear distinctions between the EU’s response to the three situations. France pushed forcefully for EU action in the CAR, which helps explain why the EU acted more decisively in this case than in the other two. France, however, was disappointed with the EU’s response, in which most other member states were unwilling to contribute to the CSDP mission. With respect to the Rohingyas in Myanmar, and South Sudan, the EU has been less active. This reflects not only the absence of a strong policy entrepreneur within the EU but also the more difficult international

Even if the EU is unwilling or unable to intervene militarily in mass atrocity situations, it could still do more to make mass atrocity prevention a priority.

context (with little support for action in the UN Security Council), and a very specific preference not to jeopardise political reform processes in Myanmar by condemning the government too forcefully.

The UN Security Council is likely to become even less amenable to taking strong measures against governments or groups accused of perpetrating mass atrocities. The apogee of R2P may already have passed. But even if the R2P norm fades away, mass atrocities will still exact a horrific human toll. They will also still generate large refugee flows, exacerbate instability and insecurity in surrounding regions, and hinder development and economic well-being in an even wider area. The UN Secretary-General, António Guterres, told a General Assembly debate on R2P in June 2018: “At this time of extreme challenges, we must not abandon the responsibility to protect or leave it in a state of suspended animation, finely articulated in words but breached time and again in practice . . . The credibility of the international community, and above all the lives of millions, rest on us” (United Nations Secretary-General, 2018).

Even if the EU is unwilling or unable to intervene militarily in mass atrocity situations, it could still do more to make mass atrocity prevention a priority of its foreign relations. The least controversial aspect of R2P is preventing mass atrocities. The EU could start with a clear high-level commitment to prevent atrocities both internally (within the EU) and externally. Five years ago, two observers argued that the EU member states and institutions need to have “an open and non-confrontational discussion” on the EU’s role in implementing R2P, and that the EU would need to show a sustained commitment to R2P for many years (Wouters and De Man, 2013). The time for such a discussion is ripe.

The EU could be quicker about responding to warning signs of atrocities, and use diplomatic channels to signal its concern earlier. If the EU is to maximise its strengths in prevention, then it is crucial that to respond to warnings at an earlier stage. The language used by the EU to describe atrocities could be stronger, naming the atrocities in line with the language used by reputable warners. This may come with a short-term political cost, but putting a spotlight on violators of international humanitarian law can help to prevent further atrocities, as it can generate internal and external opposition to further violations. Supporting local actors trying to prevent and stop atrocities should form a more explicit part of the EU’s new ‘resilience agenda’. The EU could also be a stronger supporter of ICC involvement in places such as Myanmar and South Sudan, as impunity for past atrocities is a risk factor for future atrocities. Such steps could reduce the gap between the EU’s rhetoric in support of R2P and its implementation of it, and help foster international support for R2P in the longer term.

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