

THE RESPONSIBILITY TO PROTECT (R2P)

MOVING THE CAMPAIGN FORWARD



Human Rights Center
Religion, Politics and Globalization Program
International Human Rights Law Clinic
University of California, Berkeley
October 2007

HRCBERKELEY.ORG

Detailed Table of Contents

FOREWORD	i
Introduction	1
I. Getting the Message Out: R2P Advocacy	2
A Brief History	2
NGO Advocacy	3
R2P at the UN	6
R2P Awareness around the World	8
North America	8
Latin America	10
Africa	10
Europe	11
Asia	12
Recommendations	12
High-Level Advocates and International NGOs	13
Mobilizing Grassroots Support	13
Global Centre for the Responsibility to Protect	15
Conclusion	17
II. R2P: Messaging Challenges and Opportunities	18
Introduction	18
Toward a 2008 Campaign on R2P: What Is Already Happening, What Is Feasible Now, and What Will Have to Wait	19
The Political Environment	19
How R2P Does—and Doesn't—Fit In	20
What Are Candidates Already Saying?	21
Key Opportunities	21
Pitfalls to Avoid	22
What They've Said: Presidential Candidates on Genocide and Related Issues	22
Messaging for 2008	26
Overview	26
Messaging Goals	26
Messaging Targets	27
Needed Messaging Tools	28
Sample Messages	28
III. Principle versus Practice: A Meta-Analysis of Public Opinion Concerning Genocide .	30
Introduction	30
Support for Intervention	31
U.S. Role	31
Role for International Institutions	35

The Current Reality: Darfur	37
Consequences of the Iraq Occupation	41
Motivation to Intervene.....	42
Conclusions and Questions for Further Research.....	44
Works Cited.....	45
IV. Pursuing a UN Declaration on R2P	47
Background and Introduction	47
Possibilities for a Declaration	48
Case Study One: The Landmine Campaign	49
Case Study Two: Declaration on the Rights of Indigenous People	49
Alternatives to a Declaration	50
Conclusion	51
V. Reform of the Security Council Veto	52
Introduction.....	52
Reform Measures to Date.....	52
Self-Regulation or Voluntary Restraint.....	55
Conclusion	57
VI. Backsliding Countries	58
China	58
Russia	59
Pakistan.....	60
Egypt	61
Venezuela.....	62
Cuba	62
Indonesia.....	63
Qatar	63
Peru	64
South Africa.....	64
Japan	65
VII. Case Studies: Applying R2P Principles to Past Conflicts	66
Case Study: East Timor 1999	67
Introduction	67
Background: Under Portugal and Indonesia	68
The Rise of the Militias	69
The May 5 Agreement	71
UNAMET and the Ballot	72
After the Referendum: Apocalypse and Intervention	74
Rebuilding: September 1999 – May 2002	76
Analysis: The Responsibility to Protect	79

Conclusion	80
Case Study: Republic of Macedonia	81
Introduction	81
Background	81
Preventing and Responding to Mass Atrocities	82
Rebuilding after Mass Atrocities	86
Conclusion	87
Case Study: Burundi	89
Introduction	89
Background	89
Preventing and Responding to Mass Atrocities	90
Rebuilding after Genocide or Mass Atrocities	94
Conclusion	97
Authors and Acknowledgements.....	98
The Authors.....	98
Chapter Credits.....	98
Acknowledgements	99
Appendix A: Organizations that Promote R2P.....	100
Appendix B: Messaging Guide for R2P	107
Appendix C: Proposed Agenda for Further Public Opinion Research	109

Introduction

Written in conjunction with the launching of a new international organization, the Global Centre for the Responsibility to Protect, this report addresses some of the most challenging questions concerning how to move the “Responsibility to Protect” (R2P) from principle to practice.

The creation of the Global Centre for R2P marks a historic watershed as, to date, promotion of the norm has fallen on the shoulders of professionals within NGOs, governments, and international institutions who have other primary responsibilities. This report is primarily intended as a resource for the Global Centre, as well as for the myriad institutions and individuals with whom the Centre will work as it moves R2P forward.

The report is conceived in two thematic sections. The first, Chapters 1–3, addresses the broad question of how best to publicize and promote R2P. Chapter 1, *Getting the Message Out: R2P Advocacy*, focuses on public awareness of the R2P mandate. It documents advocates’ attempts in the U.S. and international community to promote R2P, and includes recommendations for high-level advocates, NGOs that mobilize grassroots support, and for the new Global Centre. Chapter 2, *R2P: Messaging Challenges and Opportunities*, assesses the readiness of an R2P campaign in 2008. It focuses on the importance and challenges of communicating R2P and provides specific recommendations as well as an agenda for further public opinion research. Chapter 3, *Principle versus Practice: A Meta-Analysis of Public Opinion Concerning Genocide*, looks at support for interventions among American and international institutions and the general public. It also summarizes public opinions regarding issues related to R2P in Darfur and Iraq.

The second section, Chapters 4–7, focuses on the UN reforms necessary to bring R2P into force. Chapter 4, *Pursuing a UN Declaration on R2P*, assesses the possibilities, models, and alternatives to pursuing a UN Declaration on R2P. Chapter 5, *Reform of the Security Council Veto*, describes the limitations of the Security Council veto and the proposals for its reform. Chapter 6 details the issue of backsliding countries—those that have shifted their stance regarding the R2P mandate since agreeing to its basic principles at the 2005 World Summit. The list includes China, Russia, Pakistan, Egypt, Venezuela, Cuba, Indonesia, Qatar, Peru, South Africa, and Japan. Finally, Chapter 7, *Case Studies: Applying R2P Principles to Past Conflicts*, looks carefully at East Timor, Burundi, and the Republic of Macedonia as case studies for past application of R2P principles.

The report concludes with three appendices. Appendix A is an annotated list of organizations that promote R2P, either directly or indirectly. Appendix B is a messaging guide for R2P, and Appendix C proposes an agenda for further public opinion research on R2P.

This report aims to serve as a resource for the new Global Centre for the Responsibility to Protect, and for all R2P advocates working to make R2P a new paradigm for helping the international community prevent, react to, and rebuild after mass atrocities in the 21st century.

The Editors

VII. Case Studies: Applying R2P Principles to Past Conflicts

As an emerging international norm, the responsibility to protect has met with a mixture of praise and skepticism. To move the R2P campaign forward, these case studies provide a broader context for understanding how R2P may be applied and address several obstacles to its implementation. First, R2P is frequently discussed in only theoretical terms, and its practical application to a conflict situation is not well understood. Second, some do not believe that R2P would prevent or halt mass atrocities or help re-build in their aftermath. Third, a common misperception equates any call for states to fulfill their duties under R2P with a call for military intervention.

An analysis of past international and regional responses to conflicts in East Timor, Macedonia, and Burundi, provides three settings in which R2P components were employed or are being employed to prevent mass atrocities, halt them, and/or rebuild in their wake. These case studies seek to move discussions about R2P from the theoretical to the practical by providing concrete examples of how international actors can uphold these duties under R2P.

Furthermore, by analyzing the complexity of international and regional responses to past conflicts, the case studies demonstrate that R2P is not a one-dimensional norm requiring only military intervention but instead provides a wide range of actions to promote human protection. The policies feasible and optimal in these situations vary and require nuanced, contextual analysis. Facilitation of peace talks was an important international response in Burundi. Economic and military sanctions were applied in the case of East Timor, leading to consensual deployment of an international military force, an element also critical in Macedonia. As the case studies show, international actors used numerous policies, in addition to military intervention, to try to prevent or halt mass atrocities and support rebuilding efforts.

Case Study: East Timor 1999

Introduction

On August 30, 1999, East Timorese voted overwhelmingly for independence from Indonesia in a United Nations (UN)–supervised referendum. Anti-independence militias, controlled and supported by the Indonesian military, unleashed a massive campaign of violence to destroy the territory’s infrastructure and expel much of its population. They killed 900 people; displaced over half the population of 800,000; and destroyed hundreds of schools, clinics, and public buildings. Nine days of intense diplomatic pressure culminated in sanctions. Indonesia agreed to withdraw from East Timor and accept deployment of an Australian-led, Security Council–authorized military force to protect civilians and disarm the militias. Australia’s months of preparation and the Security Council’s backing of a “coalition of the willing,” rather than a traditional force under UN command, enabled help to arrive within days and quell the violence quickly. A massive, internationally funded state-building and reconstruction effort followed. Some analysts, however, argue that the international community could have stopped the violence earlier, saving hundreds of lives and untold destruction, and provided more effective and sustained aid for rebuilding.¹

This case study describes efforts by international actors to prevent, react to, and help East Timor rebuild after crimes against humanity that occurred in 1999. The referendum constitutes a classic situation in which the Responsibility to Protect would apply. That doctrine, agreed by heads of state and government at the United Nations in September 2005, provides:

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity... The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means...to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. [The international community is] prepared to take collective action, in a timely and decisive manner...should peaceful means be inadequate and national authorities are [sic] manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.²

East Timor’s official truth commission found that human rights “violations committed by the members of the Indonesian security forces during 1999 included thousands of separate incidents

¹ This case study draws from a wide range of books, articles, and reports. The most important sources are Commission for Reception, Truth and Reconciliation, *Chega! The Final Report of the Commission for Reception, Truth and Reconciliation* (2005), report of the government of East Timor’s truth commission, hereinafter “Truth Commission Report”; Ian Martin, *Self-Determination in East Timor: The United Nations, the Ballot, and International Intervention* (Boulder, Colorado: Lynne Rienner Publishers, 2001), memoir by Special Representative of the Secretary General in charge of the referendum mission, hereinafter, “Martin, *Self-Determination*”; Jamsheed Marker, *East Timor: A Memoir of the Negotiations for Independence* (Jefferson, North Carolina: McFarland & Co., 2003), memoir by Personal Representative of the Secretary General for East Timor, hereinafter “Marker, *East Timor*”; and Don Greenlees and Robert Garran, *Deliverance: The Inside Story of East Timor’s Fight for Freedom* (Crows Nest, New South Wales: Allen & Unwin, 2002), hereinafter, “Greenlees & Garran”.

² UN General Assembly, 2005 World Summit Outcome, 24 October 2005, paras. 138–39, UN Doc. No. A/RES/60/1.

which constituted crimes against humanity.”³ The Responsibility to Protect has been elaborated as including responsibility to prevent the enumerated crimes, to react and halt them when they occur, and—especially following a military intervention—to help the affected society rebuild.

Background: Under Portugal and Indonesia

East Timor occupies half of the island of Timor, a part of the Indonesian archipelago 2,000 kilometers east of Jakarta, Indonesia and 600 kilometers north-east of Darwin, Australia. It was ruled by Portugal as a colony from the early 18th century. In 1974 and 1975, after Portugal signaled its intention to withdraw, violence among East Timorese political factions claimed between 1,500 and 3,000 lives.

On 7 December 1975, Indonesia invaded East Timor and purported to annex it. That month and again in April 1976, the Security Council called on Indonesia to withdraw and asserted the right of East Timorese to self-determination. During the subsequent 24-year occupation the United Nations continued to regard East Timor as a Portuguese mandate. Beginning in 1983, Portugal and Indonesia held continuous talks on the territory’s status under UN auspices. They made little progress, however, as Portugal advocated independence, while Indonesia refused to consider even limited autonomy for East Timor within Indonesia.

Indonesian security forces committed extensive, systematic, and gross violations of human rights from the first day of the invasion through the end of the occupation. During the first weeks, in Dili alone, military units killed hundreds of civilians, many in mass executions. Torture and arbitrary detention were common throughout the occupation. Counterinsurgency operations against the pro-independence resistance, FALANTIL, displaced rural residents and caused mass starvation. Estimates of the number of East Timorese who died during the occupation range from tens of thousands to 200,000, out of a population averaging approximately 700,000.⁴

Through the 1980s, international actors paid little attention to East Timor. Foreign ministries focused on Indonesia’s size, location across commercially and strategically important shipping lanes, and status as the world’s largest primarily Muslim state, not on its treatment of East Timor. However, the government of Portugal and a growing international movement of NGOs, academics, and East Timorese exiles protested Indonesia’s occupation and human rights violations. The awarding of the 1996 Nobel Peace Prize to independence advocates José Ramos-Horta and Archbishop Carlos Belo of Dili marked East Timor’s arrival in the top tier of the international human rights agenda. Under increasing bilateral pressure, Indonesian Foreign Minister Ali Alatas commented that the territory had become “a pebble in Indonesia’s shoe.”⁵

East Timor’s prospects changed dramatically in 1998 with the fall of Indonesian President Suharto.⁶ His successor, B.J. Habibie, embraced Alatas’s recommendation to offer East Timor wide-ranging autonomy if it remained in Indonesia. In late January 1999, Habibie announced an even more radical policy change: if East Timorese rejected autonomy, he would support

³ Truth Commission Report, Part 8, 8.

⁴ Martin, *Self-Determination*, op. cit., 17.

⁵ James Cotton, *East Timor, Australia and Regional Order: Intervention and its Aftermath* (New York: RoutledgeCurzon, 2004), 16.

⁶ Some Indonesians, including the late President Suharto and former TNI chief Wiranto, use only one name.

independence for the territory. Talks with Portugal revived and turned to the parameters of the autonomy offer and the mechanism by which East Timorese opinion would be assessed. (The East Timorese role in the negotiations was limited to consultation with the mediator, Personal Representative of the Secretary General [PRSG] for East Timor Jamsheed Marker.)

The Rise of the Militias

The Indonesian armed forces (TNI⁷) and its officers pervaded the government and dominated policymaking in Suharto's militarized regime. They continued to wield great power under Habibie. General Wiranto, Habibie's minister of defense and commander of TNI, and the other generals in the cabinet believed East Timorese would reject independence and thus decisively end international pressure on the subject. Many of their TNI colleagues were less confident, however, and distressed at the prospect of losing a territory where they and a generation of other TNI officers had served and lost friends. They also were concerned that independence for East Timor would bolster other separatist movements that threatened Indonesia's cohesion.

TNI as a whole, or at minimum a large number of its generals and their subordinates,⁸ responded to the threat of losing East Timor with a systematic campaign of violence against East Timorese civilians. The East Timor truth commission found that "[i]n 1999 Indonesian security forces and their auxiliaries conducted a coordinated and sustained campaign of violence, designed to intimidate the pro-independence movement and then to ensure a pro-Indonesian result in the [referendum], organized by the United Nations."⁹

Most violence was committed by paramilitary militias, to allow TNI to deny responsibility. The militias were armed, trained, and directed by TNI, but the bulk of their members were East Timorese. Indonesian officials and TNI officers argued throughout 1999 that violence was two-sided, between independence supporters and integrationists, rather than a one-sided attack by the militias and TNI. Independence supporters did occasionally attack integrationists. Generally, however, they were overwhelmed by the militias and afraid to undertake even legitimate political activity. FALANTIL, meanwhile, maintained a unilateral ceasefire.

By early 1999, multiple pro-Indonesian militias were active in each of the territory's 13 districts. Many members were coerced into joining by threats to themselves and their families. TNI provided weapons, training, and supplies. The TNI commander in Baucau, East Timor's second largest city, later confirmed to a Carter Center observer that his units had organized, trained, and

⁷ The Indonesian armed forces were known as Armed Forces of the Republic of Indonesia until April 1999 and Indonesian National Military (TNI) thereafter. For simplicity, this account uses the latter name throughout.

⁸ TNI's commanders in East Timor generally directed the militias and always retained sufficient military power to rein in any disobedient ones by force. Analysts disagree, however, on whether Wiranto personally approved and controlled the campaign of violence in East Timor, what his motives were, and how much control he had over his subordinates on the ground. Many conclude that Wiranto consented to the broad plan of intimidation through TNI support to the militias. Some, however, believe he was not the driving force and throughout 1999 had only partial control over TNI commanders on the ground, especially special forces (KOPASSUS). Others argue that Wiranto was a motivating force in a strategy that intended from the beginning to display TNI's independence from civilian control, undermine Habibie, and advance Wiranto's personal political ambitions, as well as retain East Timor and demonstrate to other regions of Indonesia the perils of separatist agitation. See, e.g., Desmond Ball, "Silent witness: Australian intelligence and East Timor," *Pacific Review* 14/1 (2001), 35–62.

⁹ Truth Commission Report, Chap. 7.2, 308.

supplied the militias in the district.¹⁰ TNI forces often participated in militia attacks on civilians, and were present and quiescent on many other occasions.¹¹ The civilian administration provided financial support. In April, East Timor's Indonesian police chief told the Australian ambassador he could not protect civilians, because "[w]e can handle the militia, but not the army."¹²

The militias attacked known and suspected supporters of independence, beating them, burning their houses, and sometimes killing them. They mandated attendance at mass rallies against independence. Villagers who refused to fly the Indonesian flag, to show support for autonomy, saw their homes burned. Militia leaders and TNI officers repeatedly warned that a vote for independence would turn East Timor into a "sea of fire." The TNI commander for the territory told Australian television, "there'll be no winners. Everything is going to be destroyed. East Timor won't exist as it does now."¹³ Tens of thousands fled their homes, taking refuge from the militias in churches or the mountains in the interior of the island.

Two events in April dramatized the seriousness of the situation. On April 5, militias surrounded a church in the district capital Liquiça that held 2,000 refugees from rural areas. The district police station stood across the street and TNI headquarters was 100 meters up the road. A standoff ensued after priests refused to turn over one of the refugees, the pro-independence mayor of a nearby village. Militiamen poured into town over the next 24 hours. They attacked civilians as they arrived, including a 22-year-old mother whose back was slashed to the bone by a machete as she sheltered her baby. On April 6, the militias stormed the church, killed at least 30 civilians, and injured many more. Numerous witnesses reported that TNI and the police took no action to interfere, even though TNI's deputy commander for East Timor was sighted in town. A police investigation, ordered amid international outcry, reported: "Witnesses saw that the attackers were the *Besi Merah Putih* [militia] group and members of the *Kodim* [district TNI headquarters]...who at the time were wearing plain civilian clothes."¹⁴

Government complicity was yet more evident on April 17 in Dili. Thousands of militia members rallied in front of the Governor's House, in the presence of the East Timor territorial governor, police chief, and TNI commander. Police and TNI units looked on as militia leaders threatened independence supporters, then went on a rampage through the city. They burned and looted houses and commercial buildings and killed numerous civilians, including the son of a prominent pro-independence politician.

Over the first months of 1999, the United Nations and foreign governments exerted some pressure on Jakarta to rein in the militias, but apparently did not threaten specific consequences. PRSG Marker says in his memoirs that he frequently protested the violence to Foreign Minister Alatas. Secretary General Annan reported the April 17 incidents in Dili to the Security Council in an exceptionally blunt statement that focused on Indonesia's inaction. U.S. Assistant Secretary of State for East Asian Affairs Stanley Roth told Congress in February 1999 that "we are deeply

¹⁰ Geoffrey Robinson, "The fruitless search for a smoking gun: Tracing the origins of violence in East Timor," in Freek Colombijn and J. Thomas Lindblad, eds., *Roots of Violence in Indonesia* (Singapore: Institute of Southeast Asian Studies, 2002), 266.

¹¹ See, e.g., *ibid.*, 267

¹² Greenlees & Garran, 141.

¹³ Truth Commission Report, Chapter 3, 138.

¹⁴ Quoted in Greenlees & Garran, 127.

concerned by numerous reports that the Indonesian army has been arming pro-integration militia groups” and that he had expressed this to Wiranto the previous week in Jakarta.¹⁵ In early April, U.S. Secretary of State Madeleine Albright met Habibie and demanded that he contain the violence in East Timor. Such high-level attention from Washington was unusual, however, as Albright and the President focused throughout early 1999 on the crisis in Kosovo. On several occasions Australian Prime Minister John Howard and Foreign Minister Alexander Downer publicly urged Indonesia to end the bloodshed. After the Dili rampage, Howard met with Habibie in Bali and privately urged him to accept a UN peacekeeping force to keep order through the referendum. Habibie refused angrily, arguing this would offend Indonesian sovereignty, but agreed to accept several hundred UN civilian police (CIVPOL).

This pressure failed to end the violence. TNI took no steps to disarm or demobilize the militias and attacks continued through the referendum. The international response to the April incidents may have modestly diminished the lethality of later attacks: senior TNI officers have said Defense Minister Wiranto pressed his subordinates and the militias to abate the violence and no further large-scale massacres occurred before the referendum. TNI leaders may have wished the ballot to appear fair enough that the international community would accept the pro-autonomy vote that they expected.

The May 5 Agreement

On May 5, Indonesia and Portugal announced the terms of the autonomy package and the process by which the referendum would be held. Voters would choose autonomy within Indonesia or independence. A new United Nations Mission in East Timor (UNAMET) would register voters, educate them on the process, and conduct a free, universal, and secret ballot. The Indonesian government pledged to remain strictly neutral, using none of its funds or resources to support either side. The agreement gave it sole responsibility for ensuring security before, during, and after the referendum—even though TNI and its clients, the militias, were the primary threats to the peace. Indonesian authorities promised to “ensure that the [referendum] is carried out...in an atmosphere free of intimidation, violence or interference from any side.”¹⁶

International actors had pushed for more reliable security arrangements. On April 30, Annan had written Habibie with a detailed list of steps Indonesia would need to take to provide the minimum level of security the UN would need to run the referendum. These included the disarming of all armed groups “well in advance” of the vote, the “prompt arrest and prosecution of those who incite or threaten to use violence,” an “immediate ban on rallies by armed groups,” and the confinement of TNI to “designated areas” one month before the referendum.¹⁷ Indonesia already had refused to include similar requirements in the Agreement, however. Habibie did not acknowledge the letter and Alatas told Marker its contents were unacceptable. In the days before the announcement of the agreement, Marker, the United States, and Australia agreed not to press Indonesia further, lest the entire agreement fall through. A May 4 memorandum from Annan to Indonesia and Portugal again set forth many of the security provisions listed in his April 30

¹⁵ Prepared testimony of Stanley Roth to the Subcommittee on Asia and the Pacific, International Relations Committee, U.S. House of Representatives, 10 February 1999.

¹⁶ Agreement Between the Republic of Indonesia and the Portuguese Republic on the Question of East Timor, 5 May 1999, art. 3, quoted in full in Martin, *Self-Determination*, App. 3.

¹⁷ Quoted in Marker, *East Timor*, 152–53.

letter. This time the Secretary General presented them as standards that would guide his decision, after UNAMET finished deploying, whether to have the mission begin voter registration or to terminate the process. In Marker's words, however, these standards "remained little more than a wish list," as TNI made no serious effort to comply.¹⁸

UNAMET and the Ballot

The May 5 Agreement imposed an exceptionally rapid timetable for the referendum, reflecting domestic political pressures in Indonesia. It envisioned that voter registration would conclude by July 17 and the referendum would take place August 8. Before then, UNAMET would have to be authorized by the Security Council, recruit staff, muster equipment and vehicles, deploy to East Timor, establish offices throughout the territory, inform the population about the process, register hundreds of thousands of voters, and set up 700 polling stations. East Timor's poor infrastructure would hamper the process, as would militia and TNI attacks, which most observers expected to continue.

Such speed was almost unprecedented in UN history. UNAMET staff performed with extraordinary effectiveness, bravery, and efficiency, despite a nightmarish security environment and daunting logistical challenges that delayed the vote from August 8 to August 30.

Despite Indonesia's commitments in the May 5 Agreement, intimidation by TNI and the militias continued unabated through the UNAMET period. Militia leaders regularly threatened a "bloodbath" if voters chose independence and backed their words up with action. They constantly attacked independence activists, suspected sympathizers, and even people who failed to oppose independence with sufficient vigor. Many were killed, including five in Dili alone on the final day of the campaign. Rape was common. By June, an estimated 40,000 people had sought refuge in the hills, churches, or elsewhere. By mid-August, many towns were deserted except for UNAMET staff and militiamen. FALANTIL continued to observe its unilateral ceasefire and independence supporters were responsible for only isolated incidents of violence.

The militias also targeted UNAMET. They stoned the mission's Maliana office on the day it opened, June 29, injuring local people and an international UNAMET staffer. UNAMET received information indicating the attack had been directed by the TNI district commander. On July 4, militiamen attacked an aid convoy and a UNAMET helicopter in Liquiça. Similar attacks took place throughout the run-up to the vote. UNAMET staff endured frequent threats, including of death. A parallel propaganda campaign accused UNAMET of bias against autonomy supporters, using false allegations and even faked video footage.

TNI and the militias largely succeeded in their goal of preventing campaigning for independence. Rallies were rare, as those attending risked attack immediately or afterwards. Where Indonesian authorities permitted the pro-independence coalition to open offices, the militias burned them.

Secretary General Annan faced an acute dilemma in deciding whether to go ahead with the referendum under these conditions. TNI and the militias appeared to hope their attacks would cause the UN to cancel the vote. Annan feared for the safety of UNAMET staff and ordinary East Timorese. With one side silenced, the campaign could not be characterized as fair.

¹⁸ Marker, *East Timor*, 155.

Cancelling the referendum also might save lives, as militia attacks presumably would end. At the same time, nearly every analyst agreed that if the present window of opportunity closed, then years would pass before an Indonesian leader again found it politically acceptable to let East Timor go. In letting the referendum go forward, Annan sided with East Timor's most popular leader, Xanana Gusmão, and many other East Timorese.

UN officials in New York, Jakarta, and Dili made strenuous efforts throughout the UNAMET period to reduce the violence. UNAMET received a continuous stream of evidence – including eyewitness accounts and leaked TNI and Indonesian government documents – showing the integration of TNI, the local government, and the militias. Annan frequently called on Indonesia to fulfill its security obligations under the May 5 Agreement. UNAMET officials met regularly with TNI commanders and civilian authorities, presenting detailed evidence on militia activities and TNI support, and requesting specific actions to curb them. TNI took no serious steps to protect civilians, however, even though its soldiers far outnumbered the militiamen, and were far better armed and trained.

The Security Council was less consistent, with members differing over how to respond to numerous briefings on the violence. The United Kingdom and United States pressed for strong statements. Malaysia and Bahrain, however, undermined pressure on Indonesia by echoing its allegations of bias by UNAMET and praising Indonesia's cooperation with the mission.¹⁹ As militia attacks intensified in late August, the Undersecretary General for Political Affairs urged the Council to demonstrate its concern by sending an ambassadorial-level delegation to Jakarta before the referendum, but the Council demurred.

During the UNAMET period, the Australian government's priorities in its bilateral relationship with Indonesia appear to have shifted from maintaining cordial relations to preventing mayhem in East Timor. Howard and Downer repeatedly called on Indonesia to rein in the militias. In late June, the Vice Chief of the Defense Force flew to Jakarta to confront top TNI officers with intelligence showing the depth of TNI's involvement with the militias. (They angrily rejected his demand for action.) By early July, two army brigades were on alert. The government told PRSG Marker they would be ready to deploy as part of any post-referendum peacekeeping force.

U.S. pressure on Indonesia rose as the referendum approached. During a visit to Jakarta, Assistant Secretary Roth warned Habibie that any delay in the vote due to violence would hurt bilateral relations. While a Congressional delegation was visiting the town of Suai in late July, militias tried to expel 2,000 people sheltering the local church. The delegation helped force the militia to back off and angrily confronted Habibie when they returned to Jakarta. President Clinton, Secretary of State Albright, and Defense Secretary William Cohen each contacted their Indonesian counterparts. How forcefully they expressed their concern and whether they threatened specific consequences are unclear, however.

The militias were never disarmed, appeared to move freely, and continued to attack and intimidate civilians. Some analysts nevertheless believe international pressure dampened TNI and militia violence somewhat during this period. On July 12, with voter registration delayed by violence, Habibie sent Wiranto and other ministers to East Timor. Militia activity subsided, enabling voter registration to begin four days later. On August 13, Wiranto replaced the TNI

¹⁹ Martin, *Self-Determination*, 120.

commanders for three districts and East Timor as a whole. On August 23, Habibie recalled to Jakarta one of the generals believed to have played a major role in the militia strategy. The general returned to East Timor two days later, however.

After the Referendum: Apocalypse and Intervention

August 30, the day of the referendum, passed peacefully in most areas. Nearly 99 percent of the 452,000 registered voters turned out, surpassing all predictions. In Ermera, however, militia attacked a polling station at the end of the day, killing two East Timorese UNAMET staff. They began burning homes in Maliana on September 2.

Violence exploded on September 4, when UNAMET announced that 78.5 percent of voters had chosen independence. TNI and the militias killed 900 people²⁰ and systematically destroyed the territory's infrastructure and resources. They burned or otherwise wrecked 70 percent of buildings, including nearly all schools, hospitals, and utility installations. Even telephone and electricity wiring was ripped out and carried off. Depopulation was another element of the TNI/militia strategy. Two hundred fifty thousand people crossed into Indonesian West Timor, many forced onto trucks at gunpoint. The same number—totaling more than half the population—fled their homes to other areas within East Timor.²¹

As reports of the conflagration seeped out, the long-established, global network of East Timor-focused NGOs launched a frantic campaign. They flooded government offices with calls and faxes, provided background information to the media, and organized public demonstrations.

The Secretary General and leaders of Australia and Portugal quickly devoted themselves to stopping the killing and destruction, but other countries, including the United States, reacted more slowly. Annan managed the crisis directly, monitoring reports from UNAMET and speaking frequently to Habibie and other key players, as well as to the press. On September 5 and 6 alone, he telephoned Habibie four times, Prime Minister Howard five times, Portuguese President Jorge Sampaio twice, and President Clinton once. Howard and Sampaio concluded immediately that TNI would not stop the destruction. From the beginning of September, they engaged in constant, vigorous diplomacy to line up international support for an international military intervention and persuade Indonesia to accept it.

On Saturday, September 4, Gusmão warned publicly that his people were at imminent risk of “genocide” and called for immediate deployment of an international force. By Sunday, UNAMET staff had evacuated the countryside and were huddled in the mission's Dili headquarters. Militias besieged the compound, threatening to storm it and firing automatic weapons at random. Thousands of displaced East Timorese had taken refuge as well and UNAMET staff feared the militias would massacre them.

On Sunday evening, in New York, the Security Council voted to dispatch an unprecedented emergency mission of five ambassadors, including those of the United Kingdom and Malaysia, to Jakarta. The next day, militias burned the Dili house of Nobel Peace Prize winner Bishop

²⁰ Geoffrey Robinson, “East Timor 1999: Crimes Against Humanity,” Annex 1 to Truth Commission Report, Chapter 12, 46.

²¹ UNHCR, “UNHCR winds up West Timor operation,” UNHCR Briefing Notes, 16 December 2005, at <http://www.unhcr.org/news/NEWS/43a29dc34.html>.

Carlos Belo and forced the 5,000 sheltering there onto trucks to West Timor. UNAMET continued to send hourly reports warning that the militias were threatening to invade its compound and attack the civilians inside. Information on events outside Dili was almost impossible to obtain. The few reporters left in the territory were trapped in the UNAMET compound and the countryside was almost depopulated. U.S. Secretary of State Albright told reporters that if Indonesia could not handle the situation, it would have to let the international community step in. On September 7, Annan gave Indonesia 48 hours to show progress in restoring order.

The Security Council mission arrived in Jakarta on September 8 and met Foreign Minister Alatas immediately. The foreign minister rejected foreign military assistance, a position Habibie reiterated the next day. As the mission received briefings from diplomats and UNAMET officials over the next three days, its members reported to Annan that Habibie's knowledge of events on the ground and control over TNI was tenuous, but that the violence was clearly orchestrated, rather than chaotic.²² In conversations with Annan, however, Habibie continued to refuse peacekeepers.

International financial institutions now became involved. Indonesia was still recovering from the near-collapse of its financial system in late 1997 and its currency had fallen over 10 percent since the referendum. On September 8, World Bank President James Wolfensohn wrote Habibie: "For the international financial community to be able to continue its full support, it is critical that you act swiftly to restore order, and that your government carry through on its public commitment to honor the referendum outcome."²³ On September 9, the International Monetary Fund postponed a planned mission to Indonesia that was to prepare for the resumption of lending to the country.

On September 9, U.S. policymakers appear still to have believed that Indonesia might stop the destruction on its own, averting the need for an international force. They had tried to use the country's extensive military-to-military relationships to influence TNI. The Chairman of the Joint Chiefs of Staff telephoned Wiranto. On September 8, the commander of US forces in the Pacific flew to Jakarta and bluntly ordered the TNI chief to end the militia attacks immediately. The next day, with no progress apparent, President Clinton suspended the United States' wide-ranging military cooperation with TNI. If Indonesia could not stop the violence, he said, then "it must invite" the international community to intervene or risk a US veto of loans from international financial institutions.

Despite constant television images of militias raging outside the UNAMET compound, pressure still was not forthcoming from all quarters. In New Zealand, foreign ministers preparing for the Asian-Pacific Economic Cooperation (APEC) summit held a special meeting on East Timor. UK foreign minister Robin Cook flew in specially to represent the European Union. The Asian members of APEC participated only reluctantly, however, and no consensus statement emerged.

Habibie and Wiranto were gradually realizing the international consequences of inaction, however. On September 10, Annan told reporters Indonesia had failed and must immediately invite international military intervention. Failing to do so would leave it with "responsibility for

²² William Shawcross, *Deliver Us from Evil: Peacekeepers, Warlords, and a World of Endless Conflict* (New York: Simon & Schuster, 2000), 395.

²³ Quoted in Martin, *Self-Determination*, 108.

what could amount...to crimes against humanity.”²⁴ Meanwhile, UNAMET reported that the militias were preparing to enter its compound. The Security Council delegation rushed to Dili the next day, accompanied by Wiranto. The defense minister appeared shocked by the level of destruction he saw on the ground.²⁵ Face-to-face contact with the militias brought home to the ambassadors the peril UNAMET staff and the sheltering East Timorese had been facing for a week. Malaysia’s ambassador, once a staunch ally, told Habibie and Wiranto that Indonesia’s actions were incompatible with its position as a leader of the Non-Aligned Movement.

On September 11, speaking at the APEC summit, President Clinton abandoned the position that Indonesia might stop the militias on its own and demanded that Habibie accept an international force. In private meetings, he lobbied the leaders of China, Japan, and South Korea to support this position. Later that day in New York, an extraordinary open session of the Security Council revealed Indonesia’s isolation. Fifty countries made statements, most condemning the violence and highlighting Indonesia’s failure to fulfill its obligations under the May 5 Agreement. Meanwhile, the United Kingdom announced it was suspending a long-planned arms sale.

Finally, early on September 12, Habibie contacted Annan to inform him that Indonesia would permit intervention by an international force with UN Security Council authorization. He requested deployment “as soon as possible.”²⁶ Later that day, he told the Security Council mission that he had been unable to accept international troops until Wiranto visited Dili, implying that Wiranto previously had blocked that step. On September 15, the Security Council, acting under Chapter VII of the UN Charter, mandated an international force to intervene in East Timor and use “all necessary measures” to restore peace and security.

The International Force for East Timor (INTERFET) deployed with record speed, landing the first Australian troops in Dili on September 20. Australian forces conducted most operations against the militias and formed the force’s backbone. Thai, Philippine, and Malaysian contingents showed the intervention’s multinational character. INTERFET commanders anticipated sharp militia resistance and significant casualties, but most militia members quickly deserted or crossed to West Timor. INTERFET suffered no combat deaths. Violence diminished as INTERFET spread across East Timor in four weeks. On October 30 the last TNI units left the territory.

Rebuilding: September 1999 – May 2002

Portuguese colonial rule, Indonesian occupation, and the TNI and militia violence in 1999 devastated East Timor. When Indonesia withdrew, the territory possessed only minimal physical infrastructure, human capital, administrative apparatus, and political institutions. The United Nations Transitional Administration in East Timor (UNTAET) governed East Timor until its independence in May 2002 and spearheaded one of the most ambitious statebuilding projects in UN history. The world body, international financial institutions, and bilateral donors provided an extraordinary level of political, economic, and human resources. UNTAET cost nearly \$1.3 billion, funded through assessed contributions. Donors led by Portugal, Japan, the European

²⁴ Quoted in Barbara Crossette, “Annan Warns Indonesians That Inaction May Lead to Criminal Charges,” *New York Times*, 11 September 1999, A6.

²⁵ Greenlees & Garran, 258.

²⁶ Quoted in Shawcross, 396.

Union, the United States, and Australia contributed an additional \$500 million for reconstruction and humanitarian aid. The success of these efforts varied by sector, however, and East Timor received less aid per capita than Bosnia and Herzegovina, despite being poorer.²⁷ Donor commitment to also dropped off more quickly in East Timor than in Bosnia.

Security

International troops and CIVPOL guaranteed East Timor's internal and external security for several years beyond independence, representing a major international commitment. INTERFET and its successors, the blue-helmeted peacekeeping forces under UNTAET and UNMISSET, reached a peak authorized strength of 8,950. A 1,250-member CIVPOL force handled ordinary policing tasks. Under UNTAET, civilian advisers joined the international forces in structuring East Timor's indigenous defense and police forces, recruiting and training their personnel, and vetting them for involvement in past human rights violations. Bilateral donors provided equipment and funded reconstruction of barracks and other facilities.

Infrastructure reconstruction and economic development

Even before the destruction of its infrastructure in 1999, East Timor suffered from an extremely low level of economic and social development. From 1999 to 2002, international donors injected hundreds of millions of dollars in reconstruction and development aid, rebuilding much that had been destroyed. Nevertheless, at independence it remained impoverished. The formal economy absorbed just 20 percent of the labor force, and agriculture was still the largest sector of the economy. Development assistance fell after independence, as donors anticipated an inflow of revenue from oil fields off East Timor's southern coast.

Refugee return

By 2005, 225,000 of the 250,000 East Timorese who had fled to West Timor had returned, assisted by the International Organization for Migration and United Nations High Commissioner for Refugees. Many of those who did not return may have been Indonesians who had settled in East Timor during the occupation.

Transitional justice

Indonesia's recalcitrance and major powers' lack of political will hindered the apprehension and prosecution of those responsible for crimes against humanity during 1999. A UN panel of experts concluded that TNI was behind the 1999 violence and recommended prosecuting those responsible. East Timor's official truth commission recommended that Indonesia either prosecute numerous named militia and TNI leaders or extradite them to East Timor. Investigations by the UNTAET Serious Crimes Unit assembled evidence of direct and command responsibility. However, Indonesia brought charges against only eighteen members of TNI, the militias, and the civilian administration. Twelve were acquitted at the trial level and five of the six convictions were reversed on appeal. A second UN panel found these proceedings

²⁷ See Klaus Rohland and Sarah Cliffe, "The East Timor Reconstruction Program: Successes, Problems and Tradeoffs," World Bank Conflict Prevention and Reconstruction Unit Working Paper, November 2002, 7. For analysis of UNTAET's successes and difficulties, see generally Simon Chesterman, *You, the People: The United Nations, Transitional Administration, and State-Building* (New York: Oxford University Press, 2004).

“manifestly inadequate.”²⁸ Secretary General Annan and nearly all governments only issued occasional statements urging Indonesia to prosecute those responsible for 1999, and Indonesia suffered no consequences for ignoring their calls. East Timorese courts were able to prosecute only lower-ranking militia members.

Efforts to find the “truth” of what happened in 1999 have advanced farther, but remain incomplete. In 2005 the truth commission issued a 2,000-page report describing human rights violations committed in 1999 and throughout the occupation, and analyzing their causes and context. Research by academics and journalists has shed further light, but key questions remain unanswered. These include when Australia and the United States understood that TNI was directing, not just assisting, the militias, and how closely Defense Minister Wiranto controlled TNI operations in East Timor.

State construction

When Indonesia withdrew, East Timor possessed almost none of the political, legal, or administrative components of a functioning state. East Timorese had been confined to the most junior positions in the Indonesian administration, and few had received professional training. The Indonesian teachers, medical staff, and civil servants who had occupied nearly all skilled positions fled East Timor before the referendum or immediately thereafter.

UNTAET staff and advisors from the United Nations Development Program, other international institutions, and bilateral donors worked with East Timorese leaders, NGOs, and ordinary citizens to create basic components of government for the nascent country. They established legal frameworks, designed political institutions, set up and equipped government agencies, and recruited and trained personnel to fill the new positions. UNTAET ran two nationwide elections, for a constituent assembly and for president. The constituent assembly drafted a constitution, with much assistance from international advisers, and transformed itself into a parliament. By independence, many elements of the new government remained weak, however. For example, the new court system was widely considered inadequate. International efforts in some areas had been criticized sharply.

Reduced Support: UNMISSET and UNMIT

United Nations assistance to East Timor dropped sharply at independence, due in large part to pressure by the United States and France to cut costs.²⁹ The United Nations Mission in Support of East Timor (UNMISSET, operational from May 2002 to May 2005) and United Nations Integrated Mission in Timor Leste (UNMIT, August 2006 – present) have provided only a small number of technical advisers and scaled down humanitarian and development assistance. UNMISSET also had a large peacekeeping force and CIVPOL component. The Security Council returned to providing significant support for state-building in East Timor, though UNMIT, only after the government had to call in foreign military forces to put down major civil unrest in 2006.

²⁸ “Report to the Secretary-General of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (then East Timor) in 1999,” 26 May 2005, UN Doc. No. S/2005/458, para. 375.

²⁹ Ian Martin, “A Field Perspective,” in David M. Malone, ed., *The UN Security Council: From the Cold War to the 21st Century* (Boulder, Colorado: Lynne Rienner Publishers, 2004), 572

UNMIT includes 1,500 CIVPOL to assist the government with basic policing while it reforms the domestic police force.

Analysis: The Responsibility to Protect

In 1999, mass atrocities by TNI and its clients, the militias, presented the international community with a situation in which the responsible state was unable, and at least one of its institutions (TNI) unwilling, to protect a portion of its population from crimes against humanity. Analysts disagree whether international actors should have done more to end TNI and militia violence against civilians, prevent its escalation, and support reconstruction after Indonesia's withdrawal. Critics focus on three issues: pressure on Indonesia before the referendum, the security arrangements in the May 5 Agreement, and the quality and duration of reconstruction aid.

Pre-referendum pressure

Greater international pressure between late 1998 and August 1999 might have induced the Indonesian government, and TNI in particular, to act to rein in the militias and conceivably to disarm them. Some critics also argue that even had TNI taken no action against the militias, greater international pressure before the ballot might have persuaded TNI not to permit the post-referendum cataclysm.

Concern to maintain good relations with Indonesia may have inhibited Australia, the United States, and others from acting more forcefully. Australia and the United States very likely knew more about TNI's relations with the militias than they acknowledged publicly. Australian intelligence digests from early and mid-1999 concluded that the militia violence stemmed from a TNI strategy to quash the independence movement and that TNI could "easily control" the militias if it so chose.³⁰ Australia reportedly rebuffed U.S. officials' request for intelligence on TNI-militia links in early 1999, but relented and briefed them in detail in Washington during the early summer. The United States' sophisticated signals and geospatial intelligence assets may have enabled it to acquire relevant information already. Nevertheless, U.S. and Australian officials seldom implied, much less stated clearly, that TNI was behind the militias. Furthermore, until UNAMET deployed, neither government took advantage of its close ties to TNI by having its officers lobby their TNI counterparts. The United States, the United Kingdom, and international financial institutions imposed military and financial sanctions after the referendum, but might have done so before.

The Security Council, too, could have acted earlier, passing sharply worded resolutions rather than merely issuing watered down presidential statements. In retrospect, it should have followed the Secretariat's recommendation to send a high-level mission to Jakarta before the announcement of the referendum result, rather than waiting until violence surged afterwards.

Whether additional diplomatic efforts, or even sanctions, would have diminished, let alone halted, crimes against humanity is difficult to assess, however. TNI and the militias had much at stake in the referendum. Habibie appears not to have fully controlled TNI, and even Wiranto's influence may have been only partial.

³⁰ Ball, 44.

Security provisions of the May 5 Agreement

Analysts almost universally agree that the May 5 Agreement was deficient in allocating sole responsibility for security to Indonesia. Some contend that international actors should have applied more pressure to Indonesia to accept a multinational peacekeeping force as part of UNAMET. Indonesia's acceptance of INTERFET in September could be seen as evidence that, under sufficient pressure, it would have allowed in peacekeepers before the referendum. Yet, there is no sign that the United States or other governments ever threatened sanctions or other concrete steps to obtain that agreement.

Most analysts, however, believe there was no chance that Indonesia would have accepted foreign troops before the referendum. In late April, Habibie rejected this suggestion from Prime Minister Howard. He ignored even the demand for less radical steps in Secretary General Annan's April 30 letter. Indonesian negotiators refused to set out Indonesia's security responsibilities in any detail in the May 5 Agreement. At the same time, Indonesian domestic politics were unpredictable, coups were frequently rumored, and opposition politicians had harshly criticized Habibie for offering independence to East Timor. UN, U.S., and Australian officials feared Habibie might cancel the referendum if pushed more on peacekeepers.

Reconstruction aid

Whether the international community fulfilled its responsibility to support reconstruction after the crimes against humanity committed in 1999 is unclear. Analysts have both praised and criticized the quality and duration of reconstruction aid to East Timor after 1999. The international community, through the United Nations and bilateral donors, invested far more per capita in East Timor than it did in most countries that have emerged from conflict since the Cold War. The territory benefited from one of the most comprehensive state-building programs ever devised. However, the full-scale effort lasted under three years, a very short period for building institutions, democratic political habits, and technical expertise almost from scratch. It ended before East Timor developed effective civilian control over its security forces, a strong democratic culture, or a functioning civil service. The contours of the duty to support reconstruction after crimes against humanity, under the Responsibility to Protect doctrine, are not defined specifically, however, so whether the international community fulfilled this duty is unclear.

Conclusion

From early 1999 through the August independence referendum, the United Nations and the governments of Australia, Portugal, and the United States applied diplomatic pressure on Indonesia to halt militia and TNI attacks on civilians, but failed to stop them. Some governments hindered more forceful Security Council action. The international community reacted more promptly to the massive violence after the referendum, applying rapidly escalating diplomatic pressure and imposing military and financial sanctions within two weeks. Thereafter, Indonesia quickly agreed to the deployment of an international military force to protect civilians, which arrived in near-record time. Measured from the outbreak of violence after the referendum, this was an impressive response. It is possible, however, that more forceful action before the referendum might have saved many of the over 1,000 East Timorese—more than 0.1% of the population—killed by militias and TNI over the course of 1999 and averted the destruction of most of the territory's infrastructure. In the reconstruction phase, international assistance was extensive and valuable, although uneven in quality and limited in duration.

Authors and Acknowledgements

The Authors

Sara Heitler Bamberger is the Program Coordinator of the Religion, Politics and Globalization Program at the University of California, Berkeley.

Meg Bostrom, President of Public Knowledge LLC, is a veteran communications strategist with experience as communicator, public opinion analyst, advertising agency executive, and political consultant.

Heather Hurlburt is a consultant specializing in closing gaps between foreign policy professionals and non-specialist advocates and the public.

Jamie O’Connell is Program Officer for the International Human Rights Law Clinic, Boalt Hall School of Law at the University of California, Berkeley.

Jessica Owen is a Research Associate at the Religion, Politics and Globalization Program at the University of California, Berkeley.

Hosna Sheikholeislami is a Research Associate at the Religion, Politics and Globalization Program at the University of California, Berkeley.

Rachel Shigekane is Senior Program Officer at the Human Rights Center and Lecturer in Peace and Conflict Studies at the University of California, Berkeley.

Joanna Shulman was a Research Fellow at the Religion, Politics and Globalization Program, and is currently the Principal Solicitor for the Disabilities Discrimination Center of New South Wales in Australia.

Chapter Credits

I. Getting the Message Out: R2P Advocacy: Sara Heitler Bamberger and Joanna Shulman

II. R2P: Messaging Challenges and Opportunities: Heather Hurlburt, with U.S. in the World

III. Principle versus Practice: A Meta-Analysis of Public Opinion Concerning Genocide: Meg Bostrom, Public Knowledge LLC

IV. Pursuing a Declaration on R2P: Sara Heitler Bamberger, Hosna Sheikholeislami, and Joanna Shulman

V. Reform of the Security Council Veto: Rachel Shigekane

VI. Backsliding Countries: Hosna Sheikholeislami and Jessica Owen

VII. Case Study Analysis: Applying R2P Principles to Past Conflicts

East Timor: Jamie O’Connell

Macedonia: Rachel Shigekane

Burundi: Rachel Shigekane

Sara Heitler Bamberger, Jamie O'Connell, Rachel Shigekane, and Camille Crittenden, Executive Director of the Human Rights Center, edited the report.

Acknowledgements

We wish to thank Alison Ponder, who provided invaluable research assistance on the case study of East Timor. We also thank Espen Rasmussen for permission to use his photo on the cover of this report.