

Foreign Affairs Committee

Oral evidence: Responsibility to Protect and Humanitarian Intervention, HC 1005

Wednesday 11 July 2018

Ordered by the House of Commons to be published on 11 July 2018.

[Watch the meeting](#)

Members present: Tom Tugendhat (Chair); Chris Bryant; Ann Clwyd; Mike Gapes; Ian Murray.

Questions 81-105

Witnesses

I: Lord Ahmad of Wimbledon, Minister of State for the Commonwealth and the United Nations, Foreign and Commonwealth Office, Richard Jones, Deputy Director, Human Rights and Democracy, FCO, Corinne Kitsell, Deputy Director UN & Multilateral and UN Co-ordinator, FCO, and Paul McKell, Legal Director, FCO.

Written evidence from witnesses:

- [Foreign and Commonwealth Office](#)

Examination of witnesses

Witnesses: Lord Ahmad, Richard Jones, Corinne Kitsell and Paul McKell.

Q81 Chair: Welcome to this afternoon's session of the Foreign Affairs Committee. There are two sections in our questioning: first, on the responsibility to protect; and secondly, on human rights. We clearly have quite a lot to get through, so we are going to be as sharp as possible, and I know that you will be equally sharp in reply.

How successful has the responsibility to protect been in helping to prevent genocide, war crimes, ethnic cleansing and crimes against humanity since states committed to the principle in 2005?

Lord Ahmad: Thank you for the question. With regard to the whole essence of the responsibility to protect, the backdrop to it is what happened in Rwanda and, of course, the Balkans crisis and Bosnia, and there is a stark reminder today. It is poignant that we are having this session today, when we are marking the events in Srebrenica. It was important that lessons were learned from that.

With regard to the progress that has been made, one specific example I can give from the live world of current affairs involves Burma. There are processes that we use at the Foreign Office to ensure that we are doing not just annual analysis of early indications of persecution taking place, but regular—weekly—updates internally, to ensure that we can monitor feedback from posts, in terms of our own personal responsibilities to ensure that we can raise these concerns at international level.

When I took over as Minister for the UN last year, the discussions on Burma at the Security Council were under a very closed mandate—not much was being said. The most we had was press conferences at the end of those closed meetings. Subsequent to that, we have had presidential statements, which were agreed¹—those were tough negotiations. Equally, we have seen the UN Security Council members and ambassadors visit both Bangladesh and Burma itself. I think that early engagement, notwithstanding the tragedy of the Rohingya community that has taken place, has shown that international multilateral action does work.

There are cases that remain a challenge on the responsibility to protect, because a political agreement has to be reached within the Security Council, and there are occasions, as we have seen, when that doesn't happen. Most recently, parts of Syria were a very good example of that.

Q82 Chair: Can I perhaps narrow that down? You have spoken quite a lot about various procedural aspects, including presidential statements and the Secretary-General's committees. Given the current deadlock in the UN Security Council, how well is that working on the ground? You have cited the Rohingya incidents in Burma and you have cited Syria. These are clearly deep scars on all our consciences.

¹ Note from witness- should read as 'a presidential statement, which was agreed'



Lord Ahmad: On Syria, where there is deadlock—as we saw most recent with events unfolding in Douma—there are sanctions and humanitarian interventions for the international community where one or more of the Security Council or of the P5 has disagreed on interventions. We saw our actions in Douma again. Although the situation in Syria remains dire, one thankful outcome that we have seen thus far is that there has been no repeated use of chemical weapons.

In both Burma and Syria, although the humanitarian situation is still dire, we have seen changes on the ground. For example, in Burma there was the recent agreement between the Burmese Government and UN agencies. Six months ago that looked like a very remote possibility, and the fact is that we have got agreement at the Security Council and we have gained access. I would also say the strength of our representation and diplomacy has worked at the Security Council, and we are now seeing traction in Burma as well.

- Q83 **Mike Gapes:** Minister, you said that there has been no repeated use of chemical weapons in Syria. That is not true. It happened in 2013, and then later on, and then there was a pause, and then later on again—a consistent pattern of lying and cheating by the Assad regime. There is no repeated use, only until the next time.

Lord Ahmad: If I may, Mr Gapes, I referred specifically to Douma since our intervention. There was deadlock at the Security Council—there was no agreement—and we acted, along with France and the US, to intervene in the most recent crisis. I totally agree that what we have seen is a blatant violation of the agreements that were reached previously with the Assad regime, since the conflict started, to ban the use of chemical weapons. But we also believe that our intervention earlier this year in Douma gave us sanction to take international action, between ourselves, the United States and France. Since that intervention we have not seen a repeat of the use of chemical weapons—

- Q84 **Mike Gapes:** Yet.

Lord Ahmad: Yet. I add that cautionary caveat. Your point is well made and I agree with it.

- Q85 **Chris Bryant:** That is quite a high threshold for the responsibility to protect—just where chemical weapons haven't been used. It feels to me much more as if, around the world, the lessons of Srebrenica have not been learned. We are back exactly where we were before Srebrenica, when we had to make an argument to make any intervention in Yugoslavia at all. You seem content, and I suspect that is not what you really mean to seem.

Lord Ahmad: I am far from content. There are international agreements² that were reached on the three conditions that were set around the responsibility to protect. There was also sanction given so that when humanitarian interventions were made—Syria is the latest example—those

² Note from witness- 'R2P is a political commitment rather than an agreement'



HOUSE OF COMMONS

three criteria could not be met within the context of responsibility to protect. There I do see a real challenge to responsibility to protect, in terms of getting the international sanction and political agreement at the Security Council. It is far from being content, but I do believe that there needs to be scope, as we have seen through our recent action in Syria, to have the ability—when international consensus and agreement cannot be reached on responsibility to protect—to intervene on humanitarian grounds.

- Q86 Chris Bryant:** I worry that maybe the issue is that there is a perception in the political class in this country that Britain has no appetite for this anymore. Tony Blair went out on a limb. He disagreed with Bill Clinton and fought very hard to make sure we intervened in Yugoslavia. My fear is that, if the same were to happen today, we wouldn't.

Lord Ahmad: I think Syria is a very interesting example. In 2013 Parliament voted not to intervene. I think the fact that we didn't intervene at that time posed an even bigger challenge for subsequent interventions. You quoted the previous Government's intervention when Tony Blair was Prime Minister. It is fair to say that it sometimes requires leadership at an international level to go out without the agreement of the Security Council, which we did. Where we can, we will build alliances for interventions we need to make, as we did with the United States and France. It was obvious that we could not reach that agreement on responsibility to protect at the Security Council because of Russia's position.

- Q87 Chris Bryant:** But there are thousands of kids whose first name is Tony Blair. There could be thousands of "Lord Ahmads" or "Theresa Mays" if Britain sees this—

Lord Ahmad: As I said, I am not disagreeing with you. What we have shown in our position is that we seek to uphold the important principles behind responsibility to protect. When the conditions are such, including gaining consensus at the Security Council for such action, we do not shy away from taking action in interventions, as we showed in Douma. Equally, we have taken our wider responsibility through the support we have provided to the Syrian refugees. None of us does it with the intention of being celebrated; we do it because it is the right thing to do at the time to save lives.

Chair: We seem to be focusing very heavily on one aspect of the conflict: the use of chemical weapons. That is quite understandable, because it is horrific, but many, many times more have been killed by conventional weapons in Syria.

- Q88 Ian Murray:** Minister, the Committee met the Secretary-General on a delegation to the UN a few months ago. The overall impression that I got was that the Security Council was somewhat paralysed, particularly with regard to Syria, although it is now leaking into other areas of the P5's ability to act, including on R2P. Have you given any consideration to the French proposal to withhold using the veto if there is clear evidence of genocide or, in this case, chemical weapons in Syria?



Lord Ahmad: If you look at the example of Syria and the number of resolutions that have been passed, Russia has exercised its veto a dozen times, I believe, on Syrian resolutions alone. Although we agree with the principle of what the French are suggesting, the UK has not used its veto for a very long time. That demonstrates that we are seeking to get that kind of consensus. Because of the current structure of the veto and the way it has been exercised for Syria, I fear that, although that is a noble principle, it will not be supported by the Security Council, and particularly the P5.

Q89 **Ian Murray:** How would you like to see the veto reformed?

Lord Ahmad: That is a big issue. We have spoken about UN reform more generally on a previous visit. We are supportive of reforms within the Security Council itself, for example; we have called for a widening of the membership of the permanent members of the Security Council. When we reflect on some of the global challenges we face, I think there is a requirement on the issue of the veto.

While that is subject to discussion by all members, it is important to note that when the veto is used—we have seen this in various cases—it stops not just international action but, at times, humanitarian corridors being opened up. We really need to look at how it is used, by whom and for what motivations. Clearly, as we have seen in the example of Syria, we face a big challenge.

Q90 **Mike Gapes:** Given the failure of the Security Council, is there any merit in revisiting the 1950 concept of the General Assembly having a “Uniting for Peace” resolution? I know that lots of academics talk about that. Are the Government sympathetic to that approach, or do you fear that it will actually lead to adverse outcomes?

Lord Ahmad: One thing I have seen, in general terms, with any reform in the United Nations systems is that it poses a big challenge. I think you met with Secretary-General Guterres. He would have demonstrated that through some of the changes that he wants to bring about, which I would say are less challenging than going back to the concept that you presented. If we are not getting traction on those issues that are deemed to be easy, on the governance—

Q91 **Mike Gapes:** On the specific “Uniting for Peace” approach, is that on the Government’s agenda at all?

Lord Ahmad: There is nothing specific on that initiative, but if there is I shall seek to update you.

Q92 **Mike Gapes:** Why?

Lord Ahmad: One of the things we want to see is a strengthened role, and you have talked about the Security Council. I used the example of Burma in response to Mr Tugendhat’s opening question. Although the situation there is dire, the fact is that the strength of the negotiation is something I have seen—I am talking in practical terms here. When I first went to the Security Council in the third quarter of last year, it was all



HOUSE OF COMMONS

about closed sessions, lack of agreement, lack of access, no humanitarian access, and lack of the UN's ability to access Burma itself. But in less than 12 months we have seen a change. There has been demonstrable action on Burma, both through diplomatic means and by the Security Council, where it has worked.

Q93 Mike Gapes: Why are we reluctant to give more weight to the General Assembly?

Lord Ahmad: What I have mentioned already—certainly what we see as an important priority—is how the Security Council functions today. Does it reflect the nature of how the world operates today? I think we can see reforms there. On the specific issue of the 1950 proposal, as I said, if there is more detail on that, I will write to the Committee.

Q94 Mike Gapes: I am still not clear. Is there a concern that, say, the G77 or the Islamic Conference countries would have a disproportionate role in terms of setting what could be perceived as a selective anti-Western agenda, which some people have suggested? Or is it that the permanent members of the Security Council just wish to have more power, even though, palpably, they are failing at this time?

Lord Ahmad: I will ask Corinne to answer part of your question, but I will say this on the General Assembly and the different groups to which you referred: it really depends on the issue and also on their effectiveness through various representations that are made through not the P5 but the additional members of the Security Council, and on how they operate and what issues they bring to the fore.

You can clearly see certain component parts of the world acting in unison. You talked about the Organisation of Islamic Cooperation countries, or we could talk about the African Union countries. Generally, their weight of votes can challenge the status quo in the Security Council. We have talked previously about how many of the P5 that put themselves forward for various representative bodies within the UN family in recent times have been defeated. That shows the great strength of the different groupings within the General Assembly. Corinne, if I may hand over to you.

Corinne Kitsell: I guess I would add a couple of things to that, Mr Gapes. You are right to refer back to the 1950 example. Of course the membership of the General Assembly has expanded hugely since then, so the dynamics are different, as you highlight, but the key points to note are that, first, the General Assembly may only make recommendations, and it cannot authorise force—only the Security Council can authorise force or make legally binding decisions—so the General Assembly might pass resolutions, but they do not necessarily then translate into legally binding action.

Q95 Mike Gapes: But if a country or coalition of countries were to take military action with the backing of a two-thirds vote in the General Assembly, it would be very difficult to argue that that was illegal under international law.



HOUSE OF COMMONS

Corinne Kitsell: That is fair to say. You are talking about something that then is not legally binding. It is about the weight of that number of member states, and the question is whether you would actually get that majority.

- Q96 **Mike Gapes:** Of course, but let us say, hypothetically, that you did, and that a coalition of the willing, a regional alliance or an ad hoc coalition could then take military action, despite the Russian veto. The General Assembly could then override the veto. That is the point I am making.

Corinne Kitsell: No, I don't think they could, not in a legally binding sense. I refer you to my colleague.

Paul McKell: The way the UN charter is set up means that the Security Council—the body charged with the maintenance of international peace and security—can take decisions that authorise the use of force, because it basically legally binds the entire membership of the United Nations when those decisions are taken. Indeed, that is how sanctions operate—the Security Council adopts a sanctions resolution and it binds all the members of the United Nations to implement those UN sanctions in whatever context they are adopted.

In the General Assembly, a resolution passed by a huge number of UN member states, or even one adopted unanimously, could add legitimacy but it cannot authorise legally the use of force. That is something that is reserved under the charter to the Security Council, and then only when it acts under chapter VII, so under a specific part of the charter. The “Uniting for Peace” resolution is a useful method for the General Assembly to indicate its views on a particular issue that will give political legitimacy, if you like, but it cannot provide a legal basis for action to be taken if one does not already exist.

If there was a situation in which states could act in self-defence, they would be able to do that in any event—it is lawful for states to exercise the right to self-defence under customary international law, and that is provided for and recognised in the charter. There would therefore be no need for the “Uniting for Peace” resolution. I guess a resolution of that sort, when combined with another legal basis, would give political support and legitimacy, but it could not provide a legal basis that did not already exist under international law. The Security Council can do that, by authorising action under a chapter VII resolution.

Lord Ahmad: I hear clearly what you are saying, Mr Gapes, about appetite. As I was saying, we currently face challenges regarding UN reform—you will have heard that directly from the Secretary-General. Within the context of the Security Council and major changes to the charter, and the resolution that was passed back in 1950, I totally stand by the fact that it will add political and international legitimacy, but the mechanics of the charter mean that it does not sanction international action. We have been talking about responsibility to protect, and that is vested very much in the current ways of working and governance with the Security Council. I do not think that there is an appetite to change that.



Q97 Ann Clwyd: There is frustration for everybody all round. What attempts are being made to reform the system? You say that the appetite is not there, but surely we can push that. We do not have to wait for other people to show an appetite.

Lord Ahmad: Again, if I may, this is a very broad question, and the issue of UN reform is very much at the forefront of the minds of many countries, including ourselves. The contribution of the Prime Minister last year, and the representations that the United States has been making in various UN bodies, is reflective of a desire to see a different kind of working within the United Nations.

The whole issue of UN reform is very much alive, and the specifics of the General Assembly vis-à-vis the Security Council, and the exercise and the strength of what prevails in the General Assembly, are increasingly something that we can no longer ignore—I speak as a P5 member who sat on the Security Council. I brought up the whole issue of elections, and we spent a great deal of time on that question. The challenge then posed was not that we were not holding our own in the Security Council, but the fact that the strength of opinion in the General Assembly, notwithstanding the rules, was something that, as a P5 member, we looked at very carefully. There is a growing role and strength of challenge to the P5—particularly those countries who, I would suggest, use their veto—by different members of an ever-growing international body, who see it is important to reflect their views in the decisions that the United Nations takes.

Q98 Ian Murray: Very briefly on this. The question from Mr Gapes is clear because we have heard on a number of occasions that the General Assembly is becoming much more agitated with the Security Council, and maybe even vice versa. Is there a danger, with regard to the international crisis, that it seems that the UN is finding it much more difficult to deal with? If the P5 does not reform itself, the General Assembly might push to reform it for itself.

I can see, as Mr McKell rightly suggested, that there would be no basis in law, but, as we see through international intervention on a number of occasions, the basis of law can be found, if required. In the hypothetical example that Mr Gapes gave of a General Assembly vote that the P5 essentially vetoed, there is a danger that the whole system could be forced to alter itself.

Lord Ahmad: As you said, it is a hypothetical situation. As I said before, we have seen how the rules operate today in terms of the governance structures of the United Nations. I have talked about personal experience of us as the UK. I think increasingly other members as well do take notice of the views of the wider membership of the United Nations, namely the General Assembly, in terms of the frustrations that may come from a repeated use of vetoes by P5 members in particular. Some of the challenge to the P5 strength on the UN has been reflected in the outcome of votes that we have seen in different international bodies.

Q99 Mike Gapes: Can I ask you about the efforts we have made, not just through the General Assembly but within the Human Rights Council, on



HOUSE OF COMMONS

these issues? I know that our Ambassador, Karen Pierce, last month made some remarks criticising the general view and saying that “never again” must mean never again. That is apposite today. We know that “never again” is empty words. How are we able to work? What, if any, successes have we had?

Lord Ahmad: Within the context of the Human Rights Council?

Mike Gapes: And the General Assembly.

Lord Ahmad: First, on the Human Rights Council, if I may again use the example of Burma. We ourselves have strengthened our support for the Human Rights Council, in terms of representation on the ground as well as strengthening the voice of small states within the context of the representation of that body. For example, in the context of the Commonwealth, we have added to the strength of small states in their representation through the Commonwealth in Geneva.

On the specific point of differences we have made, there are the universal periodic reviews that are done. We have ensured that the priorities we are setting ourselves internationally—for example, on modern slavery, human trafficking, freedom of religion or belief, and issues of gender equality—are reflected as specific questions on every review that is done under whatever UPR may be taken.

Equally, using the example of Burma, when Bangladesh tabled a particular resolution in the Human Rights Council, we not only supported it through our ambassador there, but I myself went there. I was the only other Minister who was there representing any other Government. That underlined the importance we place, first, on the importance of the issue and the need for action and, secondly, on the strength and support for the Human Rights Council itself.

It is, I would suggest, very much a key part of what we have delivered in the context of the Security Council and in the context of what has happened at the HRC, that we are beginning to see, although it is very early days, real movement, both in terms of access and change of opinion, at least in terms of the civilian Government in Burma.

If I could share with you, Mr Gapes, when we first raised these issues at a Government-to-Government level, there was a total denial that the Rohingya crisis was even taking place. The fact that now UN agencies have access to Rakhine and other places in Burma is a small but positive step forward.

Q100 **Ann Clwyd:** Apart from the responsibility to protect, what other mechanisms are in place to prevent and respond to atrocities?

Lord Ahmad: As I said, in terms of the legal context within the actions, you have already heard from a legal expert that the legitimacy within the UN context only lies within the Security Council, and the responsibility to protect, again, is very much in the hands of agreement at the Security Council.



However, as I have already illustrated through the example of Syria, where there is that deadlock but we feel very strongly that we cannot get the international traction and consensus at Security Council level, there are still mechanisms available to the international community—as we ourselves have exercised through intervening on a humanitarian basis—to ensure that, first and foremost, within the context of this, all other legal international consensual methods, including our responsibility to protect, have been exhausted; secondly, that there is legitimate reason—if I again take the example of Syria, what we demonstrably saw there was, as Mr Gapes said, notwithstanding assurances that they would not be used, a litany of repeated examples of the use of chemical weapons, the latest being in Douma; and, thirdly, that the action taken by the international community will be legitimate, on the two bases that I have said, but proportionate and time limited.

That is exactly what we did in the case of the latest intervention that we made in Syria. So there are other mechanisms. That is just one I have explained; the right to defence—if a country has a right to self-defence—was also quoted.

Corinne Kitsell: I think it is actually a really helpful question. I think we have to be honest about the fact that within the UN system the terminology—R2P, or responsibility to protect, and atrocity prevention—has become somewhat loaded and actually quite divisive among the UN member states. One of the things right now that the UN Secretary-General is promoting is his sustaining peace narrative. That helpfully encompasses all of the elements that are under the three pillars of R2P, but it also goes into broader conflict prevention and development and all of the tools that the UN has at its disposal.

The very positive thing about that is that the sustaining peace narrative has universal acceptance across the UN, because there is something in it for everybody. That also links back into Lord Ahmad's point about the importance of UN reform; because this is part of a wider package of reforms that the Secretary-General is pressing for, that will enable the UN to more effectively implement conflict prevention and development, mediation—all those elements that actually form part of the bigger picture when we are thinking about R2P, and hopefully make it slightly less divisive from a political point of view.

Q101 **Ann Clwyd:** Why does the UK lack an atrocity prevention strategy, unlike a growing number of countries?

Lord Ahmad: I have already alluded to the fact that we believe that mechanisms are there to allow for effective intervention. The issue of humanitarian intervention is driven by that whole element where we feel atrocities are taking place, there is a deadlock, as we have seen in the context of the Security Council, and the three conditions, we believe, have been met: first, that there is convincing evidence of atrocities or repeated use of chemical weapons, as we saw, or humanitarian distress—I would not even go as far as atrocities, as there are obvious examples of humanitarian distress, which can include lack of access, as again we saw,



HOUSE OF COMMONS

to the UN aid agencies in Douma; secondly, that there is no alternative left—that we have exhausted international diplomacy through the UN; and, thirdly, again, recognising the fact that there should not be an open-ended intervention, and that the action taken is proportionate and reflective of the actual need we are seeking to address.

So our view is very much that in relation to the current way things operate— notwithstanding the challenges that we have talked about on responsibility to protect—the fact we believe we can act on the basis of humanitarian intervention allows us to be flexible, and indeed focus in on exactly the point you raise.

Q102 Ann Clwyd: To what extent do you liaise with other counterparts in other Ministries on the responsibility to protect and atrocity prevention?

Corinne Kitsell: An important aspect of this is thinking about where you should have come at the question from. As we have discussed already within the UN context, framing things through an atrocity-prevention lens is not always helpful in terms of bringing people along with you. All the elements that would sit within an atrocity-prevention strategy already exist within Government. We co-ordinate across Whitehall on issues such as conflict prevention and we work with the Department for International Development on development. All these things are a part of that picture, and we frame it more through a conflict prevention and development lens than we do through atrocity prevention.

You could argue that you could do it one way or the other, but in terms of projecting it internationally, it is more helpful to us to come at it from that perspective.

Lord Ahmad: There are also various groupings, perhaps not as formal as in the context of the UN Security Council, of like-minded member states where we have senior director-level representation with officials. We have like-minded partner countries and we are able to have those very discussions. That is important, notwithstanding the challenges I have talked about. Russia is a very good example where we have bilateral challenges between two countries, but we still keep dialogue and communication open, and that, to my mind, certainly in my experience, is an important element. That is where the UN still provides an important mechanism. There are those who are critical of the UN system. It is not without major challenges and it needs to reform, but, given the alternatives, we have to really look at how we can strengthen and keep that communication going.

The strength of keeping the joint comprehensive plan of action alive and on the table, when the US withdrew from that agreement, was reflective of the strength of that international diplomacy, particularly in the case of our European colleagues, both France and Germany. You had the Prime Minister, the Chancellor and the President of France all come out together at the same time with a single statement. Those are vital mechanisms, as loose as they may be in certain cases, but, on responsibility to protect, there are groupings of like-minded countries where we have senior-official representation that keeps that dialogue open.

Q103 **Chair:** What is the R2P—responsibility to protect—focal point? What is the person's role?

Lord Ahmad: The focal point is to engage at international level with like-minded partners. In our particular case, it is the head of the multilateral division within the Foreign Office who sits on that, so it is a very high level official engagement.

Q104 **Chair:** Given that, what was their role in the April decision to intervene in Syria?

Lord Ahmad: Again, I will ask Corinne to come in on that. On the April decision, it was clear, from the first engagement we had at the Security Council that that support would not be forthcoming in terms of responsibility to protect, and therein kicked in the three conditions that I outlined before to ensure that we could have that humanitarian intervention. The dialogue that takes place, as I am sure you know, is not just at ministerial level, but official dialogue continues. There are ongoing discussions in this respect. Corinne might be able to add to that.

Q105 **Chair:** Were they part of the airstrikes discussion?

Corinne Kitsell: Within our system, as you know, the policy lead for individual geographical issues sits with the geographical directorates within the Foreign Office. They lead on formulating the policy on those geographical areas, but they have to consult the R2P focal point, which is the multilateral policy director, who then has the opportunity to feed in his perspective from an R2P point of view.

Lord Ahmad: Of course, officials have an important role to play in all this, but ultimately it is a decision taken by Ministers and, in such interventions, by the Prime Minister herself. It is important that that political leadership, based on the valuable advice we receive, is taken into consideration.

Chair: We will now move on to questions for our inquiry on the Foreign and Commonwealth Office's human rights work.