



Principled Leadership:

A Human Rights Agenda for UN Secretary-General Ban Ki-moon

By Peggy Hicks

The post of United Nations (UN) secretary-general has been called “the most impossible job on earth” by both the first secretary-general, Trygve Lie, and the most recent, Kofi Annan. During his tenure, Annan made the position even more arduous than it had been before by treating human rights as an integral part of his job. There is no turning back: there is an urgent need today for the new Secretary-General Ban Ki-moon to speak out forcefully in defense of human rights and give substance to the United Nations’ now extensive human rights commitments.

Ban comes to the job with a stated predisposition to support human rights, but a limited track record that can be used to assess the strength of that commitment. As South Korea’s foreign minister, he was willing to subordinate human rights concerns to other objectives in his country’s dialogue with North Korea. In his new position, he will need to take on those who want to overlook human rights for the sake of political expediency and confront those responsible for human rights abuses.

The UN secretary-general’s role is barely defined by the United Nations Charter, the scope of potential work is vast, and his or her power is ambiguous. The secretary-general is the world’s chief diplomat, manager of some 30,000 staff, and public face of the United Nations. As an international civil servant, the UN leader is responsible to the 192 members of the United Nations collectively and must count on members’ support individually to implement his or her agenda. While diplomatic skills are a must, successful officeholders also are remembered for their vision and leadership.

Annan’s most important contribution as secretary-general was the recognition that human rights must be respected as the “third pillar” of the UN’s work alongside development, and peace and security, and that the UN’s efforts in these areas will

not be successful so long as human rights are neglected and marginalized. Within the UN system, the reality remains far removed from Annan's vision. As the scope of human rights protections has grown, so has the gap between the UN's human rights aspirations and its ability to act on them.

Ban's success as secretary-general will depend in part on his ability to address that void. Doing so successfully will take vision, drive, and a clear agenda for strengthening the UN's human rights performance. His agenda should include the following:

- Exercising leadership for human rights protection;
- Strengthening UN institutions and integrating human rights;
- Building a "new UN for women"; and
- Addressing the human rights aspects of peace and security.

While putting an ambitious agenda in place will not be easy, Ban should keep in mind the perils of putting human rights on the back burner. As Annan emphasized in his 2005 report "In Larger Freedom: Towards Development, Security and Human Rights for All" (General Assembly document A/59/2005), "we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed." But the risks of ignoring human rights are even greater than that, as Annan's own record demonstrates. Ban, like his predecessor, will be judged at least in part by the UN's response to the most horrendous crimes it faces during his tenure. Annan has been haunted by the UN's failures in Rwanda, and has played a vocal—but as yet unsuccessful—role in trying to see that they were not repeated in Darfur. Ban will need to do better.

Annan's Legacy

Annan's human rights legacy provides both a solid foundation and an enormous challenge for the new secretary-general. The most significant achievements under Annan's leadership include:

Acting as a moral voice: Annan's willingness to speak out on human rights issues and to be the conscience of the world has been critical and has given greater

courage to human rights defenders worldwide. His advocacy on Darfur since 2004 has been crucial to the limited successes the United Nations has achieved in that crisis to date.

Strengthening the Office of the High Commissioner for Human Rights (OHCHR):

Annan successfully pushed for expansion both of the high commissioner's staff and of her influence within the UN system with important results. The OHCHR's monitoring mission in Nepal is a telling example of what timely human rights work can achieve.

Human security: During Annan's tenure, the Security Council has made real if inconsistent progress in integrating the impact of conflict on civilians in its work, including through adoption of resolutions on protection of civilians, women and armed conflict, and children and armed conflict.

Responsibility to Protect: Annan put response to grave human rights violations at the center of his agenda. His work culminated in the recognition by leaders at the 2005 World Summit and later the General Assembly and the Security Council of a "responsibility to protect" populations from mass atrocities.

Human Rights Council: Annan initiated the idea of replacing the Commission on Human Rights with the Human Rights Council, a permanent, standing body that would raise the profile of inter-governmental human rights activity. Although the Human Rights Council is off to a rocky start, the resolution establishing the council provides the foundation for the stronger, more effective institution that Annan envisioned.

Mainstreaming: From the outset of his first term, Annan emphasized that human rights was a cross-cutting issue that is the "common thread" running through all the UN's other activities. He worked to make that understanding operational through the "mainstreaming" of human rights, incorporating a rights-based approach within all aspects of the UN's work.

Engaging with civil society: Recognizing that expanded civil society involvement would both strengthen the UN's work and enhance its credibility, Annan opened up new opportunities for civil society organizations to contribute to the UN's work.

Key Human Rights Challenges

Ban assumes the post of secretary-general at a pivotal moment for human rights within the UN system. The key pieces of Annan's human rights legacy—the Human Rights Council and the “responsibility to protect” doctrine—are not just incomplete, but endangered. The Human Rights Council has failed to take action to address the world's human rights crises, and has adopted a one-sided approach to abuses in Israel and Lebanon. States with poor human rights records have dominated the council's deliberations, and supporters of human rights have failed to exercise leadership to put this new body on course. The situation in Darfur is deteriorating, exposing the absence of a mechanism to put the principle of responsibility to protect into practice. Annan's efforts to mainstream human rights are also incomplete: human rights frequently remain a secondary—and often unwelcome—consideration in the UN's work.

At the same time, given the failure of governmental leadership detailed in the Introduction to this volume, the UN's role in human rights protection has never been more important. Of course, there is reason to question whether the United Nations—which is composed of those same governments—will be willing to do more than its members individually. While these constraints should temper expectations, the United Nations has shown the ability to do more for human rights than the sum of its parts, particularly when it has had a committed secretary-general at the helm. For example, the Security Council was able to refer the situation in Darfur to the International Criminal Court, although the United States (US), Russia, and China were all potentially opposed to that action.

The period since the adoption of the Universal Declaration of Human Rights has witnessed an impressive growth in human rights standards. The development of norms, however, has not been matched by effective means for their implementation. Today, the accumulated body of human rights law faces another great challenge—adapting and responding to the dual threats of terrorism and the abuse of human rights in counterterrorism efforts.

Addressing terrorism as a human rights abuse is at once both simple and inordinately complex. Simple, as terrorist attacks breach the most basic human rights—the rights to life and security of the person. Complex, as the organizations responsible for human rights violations are not states or traditional “non-state actors” like rebel groups, and treating their actions as human rights abuses raises important questions concerning the nature of these groups and our response to them. The erosion of human rights in the “war on terror” is the flip side of this coin. In the post-September 11 world, some of those threatened by terrorism have suggested that human rights are neither universal nor absolute, and that the rights of some can somehow be effectively traded for more security for all. The suggestion that terrorism creates a perpetual state of emergency in which derogation from basic rights is permitted has already undermined human rights protection worldwide, and the threat to human rights continues to grow. While Ban’s primary challenge will be implementing norms already developed, this new context requires continuing diligence to defend fundamental human rights standards.

Leadership

Faced with these challenges, the most important single element in Secretary-General Ban’s human rights agenda should be public advocacy for human rights. While some of the secretary-general’s work will involve private diplomacy, he must also be the United Nations’ most prominent human rights defender. Ban should follow Annan’s example in using the “bully pulpit” of the secretary-general’s office to take on those responsible for human rights abuses and to push the UN system to be stronger in the defense of human rights. To demonstrate the universal basis of human rights, he should be willing to speak out even when the offender is a powerful government.

Ban should move quickly upon assuming his office to make public statements on human rights issues. Ban’s early attention to human rights is essential to send a signal to abusive governments that the UN secretary-general will continue to be a vocal advocate for victims of human rights violations worldwide. Such statements would also make clear to those resisting change within the United Nations that human rights mainstreaming will accelerate. He should also recognize the critical role of civil society in the UN’s work, and step in as needed to protect human rights defenders. Ban should pay careful attention as well to selecting senior staff who are

seriously committed to human rights, particularly in key Secretariat posts such as the under-secretary-general for political affairs and in peacekeeping missions.

Further, the secretary-general must be a forceful advocate for the importance of human rights in the achievement of the Millennium Development Goals. In particular, Ban should emphasize that failures to respect freedom of speech and association undermine the participation and accountability essential to drive development processes and attack corruption.

Like his predecessor, Ban should also speak out on the importance of justice and accountability in the protection of human rights. In addition, the new secretary-general should address head on other challenges to the universality of human rights, including claims that human rights standards are imposed values from developed, Western states. In particular, Ban should engage in ongoing discussions about religion and human rights in ways that reinforce fundamental human rights principles.

Strengthening UN Institutions and Integrating Human Rights

The Human Rights Council

Annan's effort to replace the UN Commission on Human Rights with a stronger and more credible body—the Human Rights Council—is off to a rocky start. The council, which began work in June 2006, has quickly fallen prey to some of the same problems that doomed its predecessor. It has failed to take concrete action regarding human rights abuses in places like Darfur, Burma, Uzbekistan, and Colombia. During the same period, the council has adopted three resolutions condemning Israeli human rights violations, none of which even mentions abuses by Palestinian armed groups or Hezbollah.

States with poor human rights records are working to render the new institution impotent, including through seeking to do away with its ability to criticize governments for their human rights abuses. States ordinarily supportive of human rights have been ineffective in responding, and have displayed a conspicuous lack of leadership.

This reform cannot be allowed to fail. Despite its shortcomings, the Commission on Human Rights, particularly its system of independent experts, played an important role in spotlighting abuses and pushing governments to address human rights

violations. The Human Rights Council must build on the commission's successes, not repeat its mistakes. The UN needs a strong, effective inter-governmental body to carry forward its human rights agenda. The council's work is also seen as an indicator of the seriousness of UN reform more generally. The council's missteps have given succor to UN detractors, and the credibility of the UN as a whole has been damaged. Ban will need to make getting this fledgling institution on track a priority, both for its own sake and for the sake of the UN as a whole.

While the majority of the action on the Human Rights Council will take place in Geneva, the council also needs strong support from the United Nations in New York and from foreign ministries in capitals. Ban should exert his leadership to rally support for a broad cross-regional coalition of "friends of human rights" within the council that would take action on pressing issues and act as a counterweight to those states that are seeking to weaken the new body. He should plan on attending the March 2007 session of the Human Rights Council, and should engage actively with council members and other interested governments to strengthen this fledgling institution.

The UN High Commissioner for Human Rights

The United Nations' ability to move from rhetorical support for human rights to real strengthening of human rights protection on the ground is dependent upon the Office of the UN High Commissioner for Human Rights. Under General Assembly resolution 48/141, OHCHR has "principal responsibility" for the UN's human rights activities, yet OHCHR received only 1.8 percent of the UN budget in 2005, and lacks operational capacity, particularly in the field. The World Summit recognized this gap, and called for doubling OHCHR's budget in five years. The high commissioner is now implementing a plan to strengthen her office. Ban should make full implementation of this plan a priority.

Two crucial elements of the OHCHR plan are a substantial strengthening of its field presence and an expansion of its New York office. Both will be critical to the UN's ability to meet the challenges it faces in the coming decade. A broader field presence will allow OHCHR to serve the United Nations and its members more effectively in many ways through more effective mainstreaming, improved monitoring of abuses, and strengthened technical assistance and capacity building. For example, by more

closely monitoring human rights situations, field-based staff are more likely to be able to identify impending political and security crises. Monitoring missions are also a proven means of improving human rights protection, as OHCHR's recent deployment in Nepal has again shown. An enhanced field presence will also enable OHCHR to play a stronger role within UN country teams.

In addition, the role of the high commissioner's office in New York must be enhanced. Given the interdependent relationship between peace and security, development, and human rights, OHCHR must be able to engage frequently and at the right level with the UN's institutions and agencies that are based in New York. This requires not only a much larger office, but also a more powerful one. The office should be headed by an assistant secretary-general, and the head of office should be able to represent the high commissioner in meetings of the new secretary-general's cabinet (the UN's Senior Management Group).

Secretary-General Ban should also make clear that he will stand behind the high commissioner and defend the independence of her office at all costs. The high commissioner must be able to speak frankly about any government, even the most powerful, without repercussions. An important case study for Ban can be found in Annan's response to a broadside launched by US Ambassador John Bolton against the high commissioner in 2005. Bolton called High Commissioner Louise Arbour's comments on secret detention and rendition of suspects to governments that routinely practice torture "inappropriate and illegitimate for an international civil servant." Annan quickly responded by publicly reaffirming his "absolute full confidence" in Arbour and noting that he intended to take up the issue with Bolton "at an early date." Ban should similarly be vigilant in his defense of the independent operations of OHCHR, and of the high commissioner's ability to speak freely about human rights abuses wherever and whenever they occur.

Mainstreaming Human Rights

As secretary-general, Kofi Annan emphasized mainstreaming of human rights as a centerpiece of his UN reform agenda. While some progress has been made, the high commissioner for human rights recently noted that conceptual and methodological advances in mainstreaming are "well ahead of actual results on the ground." Human

rights may be at the table, but it does not yet have an equal voice in the discussion. In many circumstances, human rights protection is an afterthought or, worse, is seen as an unnecessary obstacle in the path of other objectives such as stability or reconciliation. For example, when the United Nations engaged in Afghanistan, those who expressed concern for human rights and cautioned against relying on warlords were overruled for the sake of political expediency. Sidelining human rights was justified as the pragmatic view, but Afghanistan is paying the price today. As is often the case, what its practitioners describe as “pragmatism” proved to be shortsightedness.

More effective integration of human rights at an operational level in UN country work is the chief outstanding element of the mainstreaming effort. This will require a much greater role for OHCHR in the selection, support, and evaluation of the heads of UN country teams, including the addition of dedicated capacity on human rights. It also means that senior UN officials, including heads of country teams, must be held accountable for their performance on human rights.

Effective mainstreaming of human rights also requires leadership, not just from the secretary-general himself, but from other senior UN staff. As noted, Ban’s senior staff should be truly committed to human rights, and they should be held accountable when they fail to uphold the human rights standards of the United Nations in their interactions with national actors.

Building a “New UN for Women”

In no area has the UN’s promise on human rights fallen as far short as it has on women’s rights. The first target within the Millennium Development Goals to go unmet was the objective of eliminating gender disparity in primary and secondary education by 2005. As Stephen Lewis, the UN special envoy for HIV/AIDS in Africa, recently noted, “A destructive pattern has taken hold of landmark agreements on women’s rights: gender equality advocates work tirelessly to gain international consensus, only to see their hard-won declarations and resolutions reach dead ends for lack of expertise and operational capacity at the country level.”

The limitations of gender mainstreaming efforts have been widely recognized. In its November 2006 report, the secretary-general’s High-Level Panel on UN System-Wide

Coherence in the Areas of Development, Humanitarian Assistance and the Environment acknowledged “a strong sense” that the UN’s contribution to achieving gender equality “has been incoherent, under-resourced and fragmented.” The panel concluded that the United Nations needs to pursue gender equality “far more vigorously” and that it requires “a much stronger voice on women’s issues to ensure that gender equality and women’s empowerment are taken seriously throughout the UN system and to ensure that the UN works more effectively with governments and civil society in this mission.”

To address these needs, the panel recommended the creation of “a dynamic gender entity responsible for gender equality and women’s empowerment.” The new entity would consolidate the Office of the Special Advisor on Gender Issues, the Division for the Advancement of Women, and the Development Fund for Women, and would have policy, advocacy, and operational functions. The panel also found that the new entity should be headed by an under-secretary-general and have stable funding that is substantially greater than that accorded to its three constituent components.

While there may be debate about the details of this prescription, the panel’s diagnosis is widely accepted: the United Nations is substantially underperforming on women’s human rights, and tinkering with current approaches will not remedy the problem. As with human rights generally, the major challenge faced today in women’s human rights is not in standard-setting but rather, implementation. The United Nations is ill-equipped to meet that challenge, as the coherence panel concluded. Despite Annan’s strong commitment to women’s human rights, the panel’s report has laid bare the deficiencies of the existing system and placed this issue squarely on the new secretary-general’s plate. Creating an improved framework for the UN’s women’s human rights work—a “new UN for women”—should be a signature effort for Ban.

Human Rights and Peace and Security

Secretary-General Annan made a compelling case for the interrelationship of human rights and the UN’s work on peace and security. In his “In Larger Freedom” report (2005), Annan stated:

It would be a mistake to treat human rights as though there were a trade-off to be made between human rights and such goals as security

or development. We only weaken our hand in fighting the horrors of extreme poverty or terrorism if, in our efforts to do so, we deny the very human rights that these scourges take away from citizens. Strategies based on the protection of human rights are vital for both our moral standing and the practical effectiveness of our actions.

The Responsibility to Protect

One of the UN's greatest challenges and its best known failures involve its response to mass atrocities. Annan's legacy here is substantial. Growing out of his own experiences as head of the Department of Peacekeeping Operations during the Rwandan genocide, Annan made a priority of improving the UN's response to future genocides. In a 1999 speech to the UN General Assembly, Annan argued that "the core challenge to the Security Council and to the United Nations as a whole in the next century" would be "to forge unity behind the principle that massive and systematic violations of human rights—wherever they may take place—should not be allowed to stand."

Six years later at the 2005 World Summit, leaders from some 150 nations agreed to recognize a "responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity." The primary burden to protect falls upon individual states, which must prevent such crimes "through appropriate and necessary means." When states are unable or unwilling to protect their population, however, the responsibility to protect holds that other states, through the United Nations, should use "appropriate diplomatic, humanitarian, and other peaceful means" to help protect those in danger and should take collective action, including the use of force, "should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."

Recognition of this multifaceted Responsibility to Protect (or "R2P" as it has come to be known in UN circles) was in some sense the culmination of Annan's tenure as secretary-general. He has left the new secretary-general, however, the thorny task of making the agreed principle a reality. Ban must pick up this gauntlet, and work within the UN system to create a framework for implementation of R2P. Of course, it

will be up to states themselves whether they act in the face of mass atrocities. But the secretary-general can play a crucial role as an educator, organizer, and catalyst.

As an educator, Ban should work to build understanding of R2P among member states. While R2P is mistakenly often seen as synonymous only with intervention by force, in fact R2P encompasses a continuum of actions where forcible intervention is at one end of the spectrum. Short of such intervention, R2P requires that states take other measures such as technical assistance, diplomatic initiatives and sanctions to protect endangered populations. The new secretary-general and his staff should work with member states to explain this continuum, and to identify opportunities where strategies short of military intervention are required because of the responsibility to protect.

Secretary-General Ban should also work to put in place a framework to make the concept of R2P operate in practice. This effort will have many parts, some of which are still to be agreed. At a minimum though, the secretary-general should be the focal point for efforts to see that the UN's institutions bring R2P into their work systematically and with effect. He should also make recommendations as to the role of other UN actors regarding implementation of R2P. In particular, the Security Council, the Peacebuilding Commission, and the Human Rights Council must all play a part in implementing R2P, and Ban should work with those institutions to build a consistent approach to addressing R2P within the United Nations.

One part of that effort should be the development of guidelines for when situations rise to the level demanding Security Council attention and, in particular, for when intervention by force is required. In addition, Ban should work with his special advisor for the prevention of genocide to prepare indicators that can be monitored to give early warning in situations where the responsibility to protect is implicated. Further, the new secretary-general should actively support Annan's request to create a permanent core of UN staff who would be available for deployment on urgent peacekeeping or special political missions. Ban should also push for serious dialogue concerning broader proposals to create a standing emergency peace service within the United Nations that could include a military component able to respond quickly when mass atrocities are threatening.

Finally, Secretary-General Ban needs to be willing to push both UN institutions and member states to live up to their commitments regarding the responsibility to protect. His office and the special advisor should act as watchdogs for situations in which R2P is implicated, and they should be willing to speak loudly and often when the responsibility to protect is not being met.

Darfur

The credibility both of the responsibility to protect doctrine and of Ban's leadership will depend at least in part upon how the United Nations responds to the Darfur crisis in which the Sudanese government and allied militias have forcibly displaced over two million people; over 200,000 have been killed and tens of thousands of women have been subject to sexual violence. The UN's apparent impotence in the face of the government of Sudan's barbarity and stubborn refusal to allow a UN peacekeeping force in Darfur raises justified concerns that the R2P is merely rhetoric.

In such a situation, the secretary-general must act as the conscience of the United Nations and its members. Ban should use the platform provided by his office to shine a sustained spotlight on the plight of the people of Darfur. He should also use his diplomatic role to conduct a persistent dialogue with UN member states that have shown a willingness to sacrifice the R2P for their own economic or energy interests, such as China. Ban also needs to encourage African and Arab states to set aside concerns of regional solidarity and put the principle of R2P into practice by being willing to condemn the Sudanese government, and call for stronger sanctions to stop its murderous policies.

The Security Council

Significant headway on human rights has been made in recent years within the UN Security Council, which has now taken up human rights matters in a range of guises (e.g.: the protection of civilians; women and peace and security; children and armed conflict; as well as country-specific discussions on places such as Darfur). The high commissioner for human rights has been invited to brief the Security Council, reflecting recognition of the interrelationship between human rights and peace and security, but this is still a rare occurrence. In his "In Larger Freedom" report, Annan called for this trend to be intensified,

arguing that the high commissioner should play a more active role in the deliberations of the Security Council and of the Peacebuilding Commission.

Despite this progress, the Security Council's practices relating to human rights are still sporadic and inconsistent. Its ability to address human rights violations relates not as much to the level of abuses or their relationship to security, but rather to the weight and persistence of those countries who seek to place (or block) issues on the Security Council's agenda. The United Kingdom succeeded in 2005 in holding a private meeting of the Security Council for a briefing concerning housing evictions in Zimbabwe. During the same period, however, Russia was able to block the high commissioner from briefing the Security Council on the situation in Uzbekistan in the wake of the massacre of hundreds of civilians in Andijan.

Ban should push for integration of human rights in the Security Council's work in a more systematic manner, and should take up Annan's call for a greater role for the high commissioner in Security Council discussions. At the same time, the secretary-general should practice what he preaches by ensuring that a human rights analysis is an integral part of the reports that he presents to the Security Council.

The responsibility to protect also has a direct bearing on the Security Council's work, and on its consideration of human rights crises. As the 2005 World Summit outcome document makes clear, collective action should be taken through the Security Council when peaceful means have proven inadequate and national authorities are manifestly failing to protect their populations. To be able to exercise that power appropriately, the Security Council should be prepared to discuss situations implicating the responsibility to protect, regardless of where they fall on the R2P continuum discussed above. As part of his efforts to make R2P operational, Ban should encourage integration of R2P issues into the Security Council's agenda in a consistent and timely manner.

Annan's High-Level Panel on Threats, Challenges, and Change also called on the permanent members of the Security Council to "refrain from the use of the veto in cases of genocide and large scale human rights abuses." Ban should encourage

Security Council members to commit themselves to that practice, as it is essential if the council is to live up to its commitment to the responsibility to protect.

Conclusion

Secretary-General Ban Ki-moon, like his predecessor, will have his hands full with UN reform and managing a large and complex organization. And human rights can be a messy business—placing the secretary-general into conflict with UN member states to whom he reports. But, despite the difficulties he may face in doing so, Ban needs to put human rights at the center of his agenda.

Progress on human rights is inextricably linked to the other core functions of the United Nations: development, and peace and security. By focusing needed attention on human rights, Ban will reap dividends in those areas as well. Ensuring that UN human rights institutions function effectively, and strengthening the work of the United Nations on women's rights, will significantly aid the UN's development efforts. Keeping a close eye on global human rights crises will aid the UN's peace and security efforts.

The reverse is also true: Ban should be very aware that failure to address human rights issues could place the rest of his agenda at risk. The legacy of Rwanda should not only haunt Annan, but his successor. Despite the limitations on any secretary-general's ability to take on a crisis like Darfur single-handedly, Ban's leadership and vision in responding to the most dire human rights situations will be critical to how his tenure as secretary-general is remembered.

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