Rights Struggles of 2013: 
Stopping Mass Atrocities, Majority Bullying, and Abusive Counterterrorism

By Kenneth Roth

Looking back at human rights developments in 2013, several themes stand out. The unchecked slaughter of civilians in Syria elicited global horror and outrage, but not enough to convince world leaders to exert the pressure needed to stop it. That has led some to lament the demise of the much-vaunted “Responsibility to Protect” doctrine, which world governments adopted less than a decade ago to protect people facing mass atrocities. Yet it turned out to be too soon to draft the epitaph for R2P, as it is known, because toward the end of the year it showed renewed vitality in several African countries facing the threat of large-scale atrocities: Central African Republic, South Sudan, and the Democratic Republic of Congo.

Democracy took a battering in several countries, but not because those in power openly abandoned it. Many leaders still feel great pressure to pay lip service to democratic rule. But a number of relatively new governments, including in Egypt and Burma, settled for the most superficial forms—only elections, or their own divining of majoritarian preferences—without regard to the limits on majorities that are essential to any real democracy. This abusive majoritarianism lay behind governmental efforts to suppress peaceful dissent, restrict minorities, and enforce narrow visions of cultural propriety. Yet in none of these cases did the public take this abuse of democracy sitting down.

Since September 11, 2001, efforts to combat terrorism have also spawned human rights abuses. The past year saw intensified public discussion about two particular counterterrorism programs used by the United States: global mass electronic surveillance and targeted killings by aerial drones. For years, Washington had avoided giving clear legal justifications for these programs by hiding behind the asserted needs of secrecy. That strategy was undermined by whistleblower Edward Snowden’s revelations about the
surveillance program, as well as by on-the-ground reporting of civilian casualties in the targeted-killing program. Both now face intense public scrutiny.

In the midst of all this upheaval, there were also important advances in the international machinery that helps to defend human rights. After a slow and disappointing start, the United Nations Human Rights Council seemed to come onto its own, most recently with significant pressure applied to North Korea and Sri Lanka. And two new multinational treaties give hope for some of the world’s most marginalized people: domestic workers and artisanal miners poisoned by the unregulated use of mercury.

**Responsibility to Protect: Pummeled but Still Potent**

In 2005, the world’s governments made an historic pledge that if a national government failed to stop mass atrocities, they would step in. The international community has since invoked the R2P doctrine successfully to spare lives, most notably in Kenya in 2007-2008 and Côte d’Ivoire in 2011. However, many governments criticized the doctrine after NATO’s 2011 military intervention in Libya, where NATO was widely perceived to have moved beyond the protection of civilians to regime change. The reaction poisoned the global debate about how to respond to mass atrocities in Syria. The utter failure to stop the slaughter of Syrian civilians has raised concerns that the doctrine is now unraveling. Yet that damming shortcoming should not obscure several cases in 2013 in which R2P showed considerable vibrancy. In the Central African Republic and South Sudan, the African Union (AU) and UN Security Council moved quickly to deploy peacekeeping troops in an effort to prevent the slaughter of civilians on religious and ethnic grounds. And in eastern Democratic Republic of Congo, international pressure succeeded in convincing Rwanda to stop its military support for the latest in a succession of rebel groups committing atrocities in this long-suffering region.

**Syria**

Syria was by far the deadliest armed conflict of 2013. Now in its third year, the uprising-turned-civil war stood out for the ruthlessness of the government’s military strategy. Rather than targeting only opposing combatants, as international humanitarian law requires, the government indiscriminately attacked civilians in areas held by the armed opposition. One of its apparent aims appeared to be to drive away as many civilians as possible so rebel forces would not deploy among them or live off a functioning economy. It also used
collective punishment to turn people against the opposition and to send a message to all
Syrians that life will be miserable if they let the opposition prevail where they live.

The most outrageous example of this strategy was the August 21 sarin attack on Ghouta,
an opposition-held suburb of Damascus, which evidence strongly suggests was carried out
by government forces. Hundreds of civilians were killed that night, including many
children in their pajamas. Local monitoring groups report that roughly 5,000 individuals
are being killed by conventional weapons each month, many the result of laws-of-war
violations, with civilians constituting some 35 percent of the deaths. Opposition forces
have also been responsible for atrocities, and concern about their conduct has grown as
Islamist extremists, some linked to Al-Qaeda, gain ascendancy in their ranks. But the vast
majority of civilian deaths result from government attacks. Syrian troops have used
ballistic missiles, rockets, artillery shells, cluster bombs, incendiary weapons, fuel-air
explosives, barrel bombs, and regular aerial bombardment, as well as chemical weapons
to indiscriminately attack populated areas in opposition-held territory and sometimes to
target functioning bakeries, medical facilities, schools, and other civilian structures.

Government forces have also massacred civilians and fighters in their custody, and horror
stories have emerged about the fate of the countless individuals who have been arbitrarily
detained, tortured, and in some cases killed in Syrian detention facilities. As Syria’s
population has become increasingly displaced (approximately 2.3 million outside Syria
and 6.5 million within) and needy (an estimated 10 million depend on humanitarian aid),
the government has erected countless obstacles to delivering humanitarian supplies to
civilians in opposition-held territory, despite a UN Security Council presidential statement
in October that urged these barriers be lifted.

The international community’s response to this slaughter and suffering has been painfully
narrow. Amid questions about whether US President Barack Obama would enforce his
declared “red line” over the use of chemical weapons and his threat to use military force,
the United States and Russia brokered an agreement in September according to which
Syria is to surrender those weapons. Reports indicate Syria is largely cooperating. But the
accord addresses the method responsible for a small fraction of the civilians killed in the
conflict. Insufficient pressure is being put on Syria to stop killing civilians by conventional
means, and to permit humanitarian access to besieged towns and cross-border
humanitarian assistance as the easiest and surest way to reach many of those in need in opposition-held areas.

In recent months, international efforts to address the Syria conflict have focused mainly on peace talks known as Geneva II. But while the likelihood of reaching a political accommodation among the warring factions anytime soon is remote, the fear of doing anything that might dissuade Damascus from participating in Geneva II has become the latest excuse for not putting real pressure on Syria to stop killing civilians by conventional means and to permit the free flow of humanitarian aid. The US has also been reluctant to pressure Russia— as Syria's primary backer, the government with the greatest influence over Damascus— because of other priorities, most recently ensuring its help in implementing the chemical-weapons deal to avoid renewed calls for the military action that President Obama was so eager to avoid. Iran's support for Syrian President Bashar al-Assad has been overshadowed by negotiations over its nuclear capacity. The consequence is diplomatic complacency about the Syrian government's largely unimpeded, murderous strategy for Syrian civilians.

What pressure might help to curb the slaughter? Western and Arab governments so far have been unwilling to deploy more aggressive banking sanctions of the sort that have proven so powerful elsewhere. Russia has been unwilling to countenance the UN Security Council referring Syria to the International Criminal Court (ICC), imposing an arms embargo, or even condemning government atrocities. In the case of the ICC, Washington also has not publicly backed a role for the court, apparently guided partly by a desire to avoid the unlikely possibility that Israeli officials would be prosecuted for transferring people to the relatively static settlements on the Israeli-occupied Golan Heights. (The expanding West Bank settlements are a different matter, but a Syrian referral would not confer ICC jurisdiction there).

Governments in the region have also been unhelpful. Lebanon, Iraq, and Egypt have reportedly refused to enforce Arab League sanctions, sending oil to keep Syria’s killing machine running. Gulf countries, including Saudi Arabia and Qatar, have reportedly armed and funded extremist groups that have been responsible for repeated atrocities, and along with Kuwait, have closed their eyes to funding by their citizens. Iran and Hezbollah continue to back the Syrian government.
The international community seems all too willing to let the killing of Syrian civilians continue. Some governments reinforce their apathy by promoting the narrative of ruthless combatants killing each other, whether the Syrian military, Hezbollah, or jihadists. Arab governments, particularly in the Gulf, see the conflict mainly through the prism of Sunni-Shia relations, and a simmering conflict between Saudi Arabia and Iran over regional hegemony. But to a horrifyingly large extent, this is a war on civilians. Urgency, rather than complacency, should be the order of the day.

Central African Republic and South Sudan
Despite this failure in Syria, the final months of 2013 showed that the R2P doctrine still retained considerable force. When mass slaughter on religious grounds broke out in the Central African Republic, France and the AU sent troops to reinforce overwhelmed AU peacekeepers, the US contributed more than US$100 million, and the UN began preparing for its own, much-needed peacekeeping mission. Much more remains to be done to pull the country back from the brink, but the international community has demonstrated a greater acceptance of its responsibility to act.

In mid-December, in neighboring South Sudan, hundreds were killed as a political conflict degenerated into the ethnic targeting of civilians and a wider civil war. Within days, the UN Security Council approved an additional 5,500 peacekeepers for the country. That may not be enough to stop the mass killing or stabilize the dire situation, but the swift response suggests that, at least in the right circumstances, the R2P doctrine is still a force to be reckoned with.

Notably, the intervention in each case was as much about stopping the slaughter of civilians by government troops and militias as by rebel forces—one of the most controversial challenges for the R2P doctrine.

Rwanda and the Democratic Republic of Congo
The international community also mounted an effective international response in eastern Congo, where Rwanda has long supported a succession of abusive rebel groups, contributing to the massive loss of life over the past two decades. President Paul Kagame typically got away with this because of a combination of the international community’s
guilt at not having stopped the 1994 genocide in Rwanda and admiration for the economic progress that the country has made under his leadership.

Things began to change in June 2012, when Human Rights Watch and a group of UN experts uncovered compelling evidence that Rwanda was providing extensive military support to the M23 rebel group in eastern Congo despite its record of atrocities. For the first time, Western powers, including Rwanda’s most important backers, the US and Britain, began to publicly criticize the government and even suspended some assistance. Rwanda flatly denied supporting the M23, undermining the government’s credibility and reconfirming the importance of pressuring it to stop.

At first the pressure succeeded in forcing the M23 to pull back from Goma, the area’s largest city, but this was not enough to stop the M23 from preying on the people of the region. The UN Security Council responded by significantly bolstering the military capacity of peacekeeping troops deployed in eastern Congo. Then, when the M23 launched an offensive in October 2013 with ongoing Rwandan military support, US Secretary of State John Kerry and British Foreign Secretary William Hague phoned Kagame and told him to stop. This time, the combination of pressure and firepower seemed to work. Deprived of Rwandan military support and facing intensified pressure from the reinforced UN peacekeeping force, the M23 crumbled within days. Other armed groups, as well as the Congolese army, are still responsible for attacks on civilians, but eastern Congo is at the time of writing apparently free of the predations of a Rwandan-backed armed group for the first time in years.

Abusive Majoritarianism

Democracy has three essential components: periodic elections, the rule of law, and respect for the human rights of all. Many dictatorships fear allowing anything like free and fair elections. But authoritarian governments have also learned that it is possible to adopt the form but not the substance of democracy, permitting elections, often controlled, but nothing more. This feigned democracy rejects basic principles, such as that governments must be accountable under the rule of the law, limited by the human rights that protect minorities, and committed to allowing free and continuous public debate.
In the past year, many relatively new governments pursued this abusive majoritarianism, showing more enthusiasm for representing a majority—sometimes determined by elections, sometimes by their own convenient assessment—than for respecting the basic rights within which a democracy is supposed to function. Some leaders also seemed to adopt a conveniently narrow vision of democracy in which all that matters is a vote on election day, not public debate the rest of the year. Resenting the give and take of ordinary politics, they tried to suppress the public protests and criticism in the press and on social media that are also a staple of any meaningful democracy.

The most glaring example was in Egypt. First, the Muslim Brotherhood government of President Mohammed Morsy ruled in a manner that left secular and minority groups fearing exclusion in an Islamist-dominated government. Then, in the wake of Morsy’s ouster by the army in July, the military-dominated government of Gen. Abdel Fattah al-Sisi launched the worst repression that Egypt has known in decades, including by killing hundreds of Muslim Brotherhood protesters.

Despite Morsy’s narrow win in the 2012 presidential contest—a 25 percent plurality in the first round, and a bare majority of 51.7 percent in the second—he governed as if the rights of the minority were of little concern. He convened a constituent assembly that many felt gave an inadequate role to non-Brotherhood representatives, and rammed through a constitution, endorsed by referendum, which many feared would privilege an Islamist interpretation to the detriment of basic rights, especially for women and religious minorities. He temporarily gave himself exceptional powers to stand above judicial review “on sovereign matters.” And in a misguided effort to buy good will, he made little effort to end the impunity that the security forces enjoyed, despite their long record of killing, torture, and arbitrary detention. Indeed, the military was granted even greater autonomy under Morsy than it ever enjoyed under President Hosni Mubarak, a former general.

When millions of Egyptians took to the streets in June 2013 to demand new elections, the military read the protests as license to overthrow Morsy, claiming to speak for the majority without even the benefit of an election. It then proceeded to disregard basic rights far more blatantly than Morsy ever dared. It drafted a constitution that, while promising some greater protection for the rights of women and religious minorities, retained military trials for civilians and expanded the shield protecting the military from civilian oversight. And despite this constitutional exercise, the military acted as if unconstrained by any rights at all.
The military-dominated authorities used excessive lethal force to break up Muslim Brotherhood sit-in protests in Cairo, indiscriminately and in some cases deliberately killing up to 1,000 people. They rounded up thousands of Muslim Brotherhood leaders and rank-and-file members and detained them, sometimes without acknowledging their detention, frequently on trumped-up or no charges. They officially designated the Muslim Brotherhood a terrorist organization, exposing its members to criminal sanctions and even the death penalty, and seizing its assets. They also froze the assets of affiliated medical centers and threatened to take over Brotherhood mosques and replace their preachers.

The government adopted a law banning demonstrations without official permission, which it showed no inclination to grant. It deepened the military’s autonomy beyond anything Mubarak had ever allowed and worse even than Morsy’s permissive approach. And despite many liberals misguidedly backing these measures, it began turning its repressive attention to the secular activists who had been at the forefront of the original Tahrir Square movement three years earlier. For the second time since the fall of Mubarak in February 2011, a government is in power with little apparent inclination to limit itself by respecting basic rights.

Tunisia offered proof that Egypt could have taken a different path. In 2011 elections to the National Constituent Assembly, Tunisia’s first free elections, the Islamist Nahdha party won a plurality of the vote, well ahead of others. Despite a stalled economy and political polarization, the major political parties across the spectrum negotiated compromises that preserve important rights. In the draft constitution, they removed provisions referring to the “complementary” role of women, which could undermine gender equality, and criminalizing attacks on “sacred values,” a vague provision that could be used to penalize peaceful expression. A draft law on “immunization of the revolution” was abandoned to avoid excluding people from political life who have no history of criminal conduct merely because of their past political affiliations.

The hubris of claiming to speak for a majority without regard for rights could be found in other countries as well. In Turkey, Prime Minister Recep Tayyip Erdogan has repeatedly won a parliamentary majority, but his method of ruling has seemed increasingly autocratic as he shows less willingness to listen to opponents, critics, or rivals. The tipping point was Erdogan’s plan to replace one of the few parks in central Istanbul with a shopping-mall complex. The police’s violent dispersal of a small sit-in against the project in May triggered
a much larger occupation of the park and mass protests in other cities. Erdogan treated the demonstrations as a personal affront, repeatedly deploying the police to break them up. The police used excessive force, including deliberately firing teargas canisters at protesters, leading to deaths and serious injuries. Even once the protests subsided, Erdogan and his circle continued to exert strong pressure on media organizations that they saw as too sympathetic to their political opponents. And while strongly supportive of the police in their handling of the demonstrations, Erdogan was quick to demote dozens of officers and even a prosecutor whose investigations threatened to implicate government ministers and his own son in a corruption scandal.

In Burma, the government of President Thein Sein has committed itself to reform, but major questions remain about its willingness to allow open political competition, including by letting opposition leader Aung San Suu Kyi run for president. The government has been particularly disappointing in its response to violence by Buddhist extremists against ethnic Rohingya and other Muslims, with security forces often standing aside as mobs attack and doing little to bring the perpetrators to justice. It also has done nothing to prosecute security force personnel for war crimes committed in the context of the various ethnic-based civil wars along the country’s periphery.

Aung San Suu Kyi has been disappointing as well. Aware that the army will determine her ability to run for president, she has refrained from criticizing its abuses. And because the vulnerable and stateless Rohingya are so unpopular in Burma, she has refused to come to their verbal defense as they have been violently attacked. The Nobel laureate defends her stance by saying that she was always a politician and remains so. The world was apparently mistaken to assume that as a revered victim of rights abuse she would also be a principled defender of rights.

In Thailand, the government of Prime Minister Yingluck Shinawatra took advantage of its electoral majority to seek a broad amnesty both for people involved in violent abuse and, not incidentally, her elder brother, former prime minister Thaksin Shinawatra, who has been living in exile since 2006 to avoid corruption charges. This overplaying of her parliamentary majority sparked widespread street protests. Many in the opposition, however, seemed virtually to solicit a military coup, opposing new elections out of fear that, yet again, they would lose. That appeared to breach the principle that, even though elections are no excuse to abuse rights, they are a prerequisite for democratic rule.
In Kenya, the government of President Uhuru Kenyatta and his deputy, William Ruto, has used its narrow electoral victory—50.07 percent of the vote, barely avoiding a runoff—to deploy all the resources of the state toward stopping their prosecution by the International Criminal Court for their alleged leadership roles in the 2007-08 post-election violence. Ruto himself, as well as Kenyatta’s supporters, fought efforts to create a special tribunal in Kenya to address the violence, betting that the ICC would never get involved. They bet wrong.

Now that the ICC has charged the two, they have been decrying its so-called interference in their ability to govern, particularly since the Islamist armed group Al-Shabaab’s October attack on a Nairobi shopping mall, and what they portray as the ICC’s exclusive focus on African suspects—which also happens to be a focus on African victims. But the alternative they offer is not national prosecution but impunity. Their unstated and wrongful assumption is that their electoral victory is sufficient to extinguish the right to justice for the victims of the electoral violence and their families. Although its efforts failed to orchestrate a mass withdrawal of African states from the ICC, Kenya has succeeded in enlisting the African Union on behalf of its quest for impunity. One can only hope that other African leaders prioritize African victims over the powerful who prey upon them.

In Russia, President Vladimir Putin was clearly shaken in 2011 and 2012 by the large protests in opposition to his party’s parliamentary victory in a reportedly fraudulent election and his own return to the Kremlin. Since then, the government has taken various steps to prevent the opposition from mounting further challenge, including limiting protests, punishing dissent, and trying to force critical nongovernmental groups (NGOs) that receive foreign funding to wear the discrediting label of “foreign agent.” The Kremlin has also pandered to its conservative political base through a series of abusive measures such as banning homosexual “propaganda” (ostensibly to protect children), and imposing punitive, disproportionate charges on activists from the punk band Pussy Riot and the environmental group Greenpeace. Apparently to avoid international criticism as February 2014’s Sochi Winter Olympics approached, Putin then amnestied or pardoned many of Russia’s highest-profile prisoners. But the effect was largely to highlight the arbitrariness of his rule as the crackdown on government critics continued, drawing new victims into the revolving doors of Russia’s politicized justice system.

In Ukraine, when President Viktor Yanukovych’s decision to eschew closer ties with the European Union met with mass protests in Kiev, the authorities largely let the protests
proceed. But when episodes of police brutality against protesters and journalists reporting on the protests sparked wider demonstrations across Ukraine, the authorities promised to bring officials responsible for the violence to account. So far, they have mainly tried to intimidate protesters who complained about stalled investigations.

In Venezuela, after Nicolás Maduro was declared the winner of the April presidential election, the results of which were disputed by the opposition, state security forces beat and arbitrarily detained supporters of his opponent, Henrique Capriles, who staged anti-government rallies. Some of those arrested reported being asked, “Who is your president?” and being beaten if they did not respond “Nicolás Maduro,” yet public prosecutors failed to investigate credible allegations of abuse. When Capriles called for a peaceful demonstration in the capital, Maduro said he would not allow it to take place, vowing to respond to such “fascism” with an “iron fist” and attributing responsibility for all post-election violence to Capriles. Days after the election, while the opposition was calling for a recount, the president of the National Assembly—who belongs to Maduro’s party—refused to give fellow legislators the right to speak until they individually recognized Maduro’s victory. Maduro’s minister of housing threatened to fire any employee critical of the government. In November, at Maduro’s behest, members of his party passed legislation granting him sweeping power to govern by decree. The government has continued to intimidate and sanction media outlets critical of its policies, and has impeded human rights defenders with funding restrictions and the threat of prosecution.

In China, the government will not even risk elections for senior officials but claims to speak for the majority based on the self-appointed leadership of the Communist Party. The new government of President Xi Jinping introduced some modest reforms—abolishing “re-education through labor” but not other methods of detaining people without trial, and easing the conditions in which some Chinese couples can have a second child, but not ending altogether the use of official coercion and surveillance in such personal matters. However, the government continued its predecessor’s intolerance toward organized dissent, and even retaliated against journalists who work for media companies that took up such sensitive topics as the enormous unexplained wealth of Chinese leaders and their families. Nobel Laureate Liu Xiaobo remains in prison serving an 11-year sentence for advocating democracy, and his wife, Liu Xia, remains under unlawful house arrest.
China seemed most worried about the new threat to its monopoly over public conversation posed by the rise of social media. China’s “Great Firewall,” built to block access to the Internet outside the country, is worthless for preventing conversation among Chinese that social media sites like Sina Weibo now permit. And with China having an estimated 400 million social media users and growing, the government is having a hard time keeping up, despite its proliferation of censors. Social media have given the Chinese people new opportunities to spotlight official misconduct, and at times the government has had no choice but to be responsive.

Beyond elections, abusive majoritarianism comes in cultural forms as well. Whether it is Saudi Arabia or Afghanistan restricting the rights of women, or Uganda or Russia undermining the rights of gays and lesbians, abusive leaders often speak in terms of a dominant or traditional culture, as if that justifies abusing those who differ from it or fomenting discrimination against them. Typically these leaders pretend that alternatives to their tradition are imposed from the outside, as if all homosexuals in their country were imported or all women who oppose discrimination are transplants. In fact, the only imposition going on is by the dominant elites of those countries against those who dare to differ or stand up for their rights. No one insists that any particular women must reject gender stereotypes or that particular gays or lesbians must abide by their own sexuality rather than the government’s preconceptions. But if they choose to do so, anti-discrimination obligations make it their choice, not that of the government. The international community gets involved when a government denies that choice, not to impose any particular choice.

**National Security: An Excuse for Violating Rights**

Since beginning his second term in January 2013, President Obama has done little to alter his disappointing record on national security issues. To his credit, upon taking office he banned torture and closed CIA detention centers where suspects were forcibly disappeared for months or years—two of the most shameful practices of the Bush administration in response to the September 11, 2001 attacks. Yet he has refused to prosecute anyone for those abuses. He also has stymied efforts to investigate them and provide redress for victims.
In addition, Obama has done little to fulfill his promise to close the Guantanamo Bay detention center and has continued to try suspects before fundamentally flawed military commissions despite their dismal record. In two important areas—targeted killing, often by drones, and mass government electronic surveillance—he has built on and expanded his predecessor’s programs.

With respect to drones, the Obama administration has not followed its own stated policies or made clear what legal framework it believes governs specific strikes. Though formally eschewing the Bush administration’s “global war on terrorism,” the Obama administration has asserted that it is in an armed conflict with the Taliban, Al-Qaeda, and “associated forces” with no geographic boundaries. It has engaged in targeted killings in Pakistan, Yemen, and Somalia, saying it is at war with these armed groups or claiming national self-defense.

But given the at-most sporadic violence involving the United States in many of these places, it is far from clear that the more permissive laws of war even apply. And even if they do, civilians have been killed unlawfully under that legal framework without any US inquiry or known compensation to the victims or their families. The separate and more restrictive body of international human rights law allows the use of lethal force as well but in far more narrow circumstances: only if absolutely necessary to meet an imminent lethal threat. That would make even more of the deaths caused by drones unlawful.

In a May speech, Obama suggested that the use of the rules of war should end at some unspecified time, and outlined policies governing drone attacks to limit civilian casualties that are in many respects closer to human rights law than the laws-of-war rules that the CIA and military claim to follow. But it is far from clear that these announced policies are being followed. Civilians continue to be killed, and the Obama administration refuses to take public responsibility for carrying out all but a few attacks.

The US government seems to feel no urgency to demonstrate the lawfulness of its use of drones for attacks because for the moment it stands nearly alone in using them. But that will certainly change, and Washington will undoubtedly rue the precedents it has set of enabling governments to label anyone deemed to be a threat as a “combatant” subject to attack under the laws of war, rather than abiding by the more protective standards of human rights law.
Because of the disclosures of whistleblower Edward Snowden, the world is now aware of the virtually unchecked **mass electronic surveillance** that the US government and certain allies, most notably Britain, is conducting. No one questions that national security sometimes requires governments to use targeted surveillance after making an evidentiary showing. But the US government’s mass surveillance without such limits has largely eradicated the right to privacy in a modern world that virtually requires electronic communication.

To justify this conduct, the US government has invoked a series of legal assumptions that do not withstand serious scrutiny, even though most have been ratified by a secret and deferential Foreign Intelligence Surveillance Court that hears only the government’s arguments. For example, the government feels free to collect metadata about potentially all phone calls in the US because, under woefully outdated rules, no one is said to have any legitimate expectation of privacy when it comes to this information because they share it with the phone company. Despite a huge percentage of the world’s Internet and phone communications passing through the United States, the government has adopted the policy that non-Americans outside the country have no recognized privacy interest in even the content of their communications. And the government conveniently claims that the right to privacy is not implicated when it collects communications, only when it examines them—as if it would be okay for the government to collect and store a video stream from peoples’ bedrooms so long as it purports not watch the video until it comes up with some compelling reason.

Global outrage at this trampling on the right to privacy offers some promise of change. Brazil and Germany, for example, sponsored a unanimously adopted UN General Assembly resolution demanding further study of the violation of privacy “in the context of domestic and extraterritorial surveillance ... including on a mass scale”—a welcome development, as there is little transparency about the kind of surveillance that governments other than the United States and its immediate allies have undertaken. But for all the protests, there is disturbingly little willingness by any rights-abiding government to shelter Snowden as a whistleblower from US efforts to prosecute him under the US Espionage Act. Sadly, this has allowed Russia, which granted temporary asylum to Snowden, to recast itself as a champion of privacy rights.
To his credit, Obama appointed a reform panel that recommended 46 policy amendments—a strong starting point for reform. It called for an end to the government’s bulk metadata collection, greater privacy protection for non-Americans, and increased transparency, among other things. But it is unclear whether any of these recommendations will be acted on. Moreover, there is a danger that in response to the US government’s overreaching, other governments, some with poor rights records, will force user data to stay within their own borders, setting up the potential for increased Internet censorship.

Enhanced Human Rights Machinery

The defense of human rights depends on many elements: a vibrant movement of activists and NGOs, a general public that believes in the importance of basic rights, and governments that are committed to upholding these principles. In addition, an international architecture has emerged to bolster this defense. Two developments strengthened that architecture over the past year: the UN Human Rights Council in Geneva is increasingly living up to its promise as the leading multilateral institution devoted to the protection of rights, and two new treaties were adopted that should help protect some of society’s most vulnerable members.

Greater Hope for the UN Human Rights Council

Over the past year the council continued to show promise after a dismal beginning. The council was established in 2006 to replace the UN Human Rights Commission, which had lost credibility as repressive governments flocked to it in an effort to use their votes to avoid censure. The council has tighter membership standards, but for its first few years was little better than its predecessor.

In recent years, however, the council has come into its own. One important factor was the Obama administration’s decision to join it after the Bush administration had shunned it. Other governments have also played an important role, including Mexico, Switzerland, Chile, Botswana, Brazil, Argentina, Mauritius, Benin, Maldives, Costa Rica, and a number of EU states. Together they successfully bridged the political divides and overcame the apathy that often blocked effective action. Even traditionally more reluctant countries, such as Nigeria and Thailand, were persuaded to play productive roles.
The positive results were most visible with Sri Lanka. In 2009, when some 40,000 civilians were killed in the waning months of the conflict with the Tamil Tigers, the council’s initial reaction was to congratulate the government on its victory. But for the past two years, the council has pressured Sri Lanka to honor its pledge to investigate war crimes by both sides and to bring those responsible to account. Similarly in March 2013, among other useful steps, the council established a commission of inquiry to collect evidence of North Korea’s crimes against humanity—the first step toward possibly prosecuting those responsible. These and others such steps show that a pro-rights majority exists on the council, despite the election at the end of 2013 of several countries such as China, Cuba, Russia, and Saudi Arabia that historically have been hostile to human rights enforcement. With proper diplomatic efforts, this majority can be mobilized to respond to the most severe human rights crises.

**Two New Treaties to Protect Rights**

The tens of millions of women and girls laboring as cleaners and caregivers in people’s homes are among the world’s most vulnerable workers. Working in isolation and historically excluded from basic protections afforded most other workers under national labor laws, they are at high risk of economic exploitation, physical and sexual abuse, and trafficking. Many governments have been reluctant to legislate working conditions in the home, and employers have often pushed the myth that these workers are treated like members of the family.

That should begin to change with the International Labour Organization’s Domestic Workers Convention, which took effect in September. It entitles domestic workers to protection from abuse and harassment as well as key labor rights such as a weekly day off, limits on hours of work, and a minimum wage. Domestic workers, trade unions, migrants groups, and human rights activists have leveraged the convention to advocate for national reforms. In the two years since the convention was adopted, dozens of countries have embraced important reforms, including comprehensive legislation in the Philippines and Argentina and new protections in Brazil’s constitution. There is still a long way to go, but increasingly domestic workers’ second-tier status under national labor laws is coming to an end.

The world also took a step forward toward realizing the right to the highest attainable standard of health by addressing the danger of mercury poisoning. Much of the world’s
artisanal gold mining uses mercury to separate gold from ore. Mercury is toxic, and particularly harmful to children. Exposure can cause life-long physical and mental disability. A treaty adopted in October requires governments to eliminate the most dangerous uses of mercury in mining and promote alternative forms of gold processing that do not require the metal.

Conclusion
Despite the year’s turmoil year, with numerous atrocities in some countries and deepening repression in others, 2013 also featured a vigorous movement fighting back. In several cases there were victories to savor. More often there was a struggle that, if not immediately victorious, at least raised the cost of abuse—a strategy that, over time, tends to mitigate human rights violations.

The Responsibility to Protect doctrine was certainly strained, at an unspeakable price for the people of Syria, but it retained enough vitality to provide a modicum of assistance to people facing mass atrocities in several African countries. A notable number of leaders opted to govern under a convenient assessment of majority preferences without respecting the rights that allow all elements of society to participate in the political process or to live secure from governmental abuse. But as the public protested, this stratagem did not bring leaders the legitimacy they sought. And as the perennial problem of human rights abuse in the name of counterterrorism centered on mass electronic surveillance and targeted killings by drones, the traditional efforts to avoid legal challenges by hiding behind the secrecy of national security were clearly failing. So while the year certainly had more than enough suffering, it also held out promise that steps were being taken to curtail these rights abuses.

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