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CONTENTS

Programme	3
Welcoming Remarks	4
Keynote Speech.....	7
Keynote Discussion.....	17
Normative Panel Introduction.....	19
Maria Banda.....	20
Evan Cinq-Mars.....	25
Naomi Kikoler.....	30
Normative Discussion.....	36
Legal Panel Introduction.....	46
Monte McMurchy.....	47
Jillian Siskind	51
Michael Mandel.....	56
Legal Discussion.....	63
Policy Panel Introduction	70
John Kirton.....	72
Martha Hall Findlay	76
Kyle Matthews	80
Policy Discussion.....	84
Closing Remarks	98
Canadian Centre for the Responsibility to Protect	99

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

PROGRAMME

8:30am- 9:30am: Registration / Breakfast

9:30am- 9:45am: Welcome Remarks from Co-Chairs & Introduction to the CCR2P

9:45am-10:15am: Keynote Speech – Hon. Bill Graham

10:15am-12:00pm: Panel 1: Normative Panel

Moderator: Patrick Quinton-Brown

Panellists: Ms. Maria Banda

Mr. Evan Cinq-Mars

Ms. Naomi Kikoler

12:00pm- 1:00pm: Lunch Break

1:15pm – 3:00pm: Panel 2: Legal Panel

Moderator: Sarah Yun

Panellists: Monte McMurphy

Prof. Michael Mandel

Ms. Jillian Siskind

3:00pm -3:15pm: Coffee Break

3:15pm – 5:00pm: Panel 3: Policy Panel

Moderator: Michael Valpy

Panellists: Ms. Martha Hall Findlay

Prof. John Kirton

Mr. Kyle Matthews

5:00pm – 5:15pm: Closing Remarks

5:30pm – onwards: Cocktail Reception (Junior Common Room – Massey College)

WELCOMING REMARKS & INTRODUCTION TO CCR2P

Tina Park: Good morning everyone, it is with great pleasure that I welcome you to our inaugural symposium under Responsibility to Protect. My name is Tina Park, and I am one of the co-chairs of the Canadian Centre for Responsibility to Protect, based here at Munk School and at Trinity College.

The CCR2P is a non-profit research organization with aims to promote scholarly engagement and political implementation of the principle. The Responsibility to Protect, also referred to as R2P, is a newly emerging norm coined in 2001, under the leadership of the Canadian government and later adopted by 150 states at the 2005 World Summit. It maintains that when sovereign states are unable or unwilling to fulfill their responsibility to protect their own population from genocide, crimes against humanity, ethnic cleansing and war crimes, the international community has the responsibility to do so.

The CCR2P is the brainchild of Victor MacDiarmid, one of the co-chairs, and myself. While taking an undergraduate seminar at Trinity in 2009 on protecting people in peril taught by Professor Erin Mooney, an expert on IDP (Internally Displaced People), we recognized the need to systematically and more intentionally study the emerging norm before it can move to implementation stage. Yet, it wasn't until earlier this year in February 2011 through the Canadian foreign policy seminar, taught by the Honourable Bill Graham, that I was once again reminded of the Canadian government's role in giving birth to R2P in the aftermath of so many terrible human atrocities that we witnessed in the 20th century. The Rwandan genocide being only one of the many examples.

With the support and encouragement of wonderful advisors and mentors, including Bill Graham, Allan Rock, Ramesh Thakur, Lloyd Axworthy, Naomi Kikoler, Erin Mooney, Janice Stein and Mayo Moran, our vision for a research group on R2P finally materialized this past spring.

Our summer research team was composed of 40 undergraduate and graduate students selected from highly competitive pool of applicants. Our normative, legal and policy divisions conducted in-depth research and rigorous analysis to better understand various challenges that R2P was faced with as a new concept in international relations. Our policy division in particular paid attention to R2P's place in Canadian foreign policy-- the findings of our summer research, which will be made available shortly after this symposium.

The CCR2P has five core mandates: first, to conduct research on the normative, legal, and policy dimensions of R2P; second, to trace the evolution of Canadian government's policies related to R2P; third, to serve as a hub of information research and analysis on R2P; fourth, to communicate our R2P-related findings with the academic community, political actors, civil

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

society and the general population on a regular basis; and lastly, to provide a forum for public discussion on R2P.

In line with the mandate, the CCR2P's communications division has been working very hard on the creation of "R2Plife.org"-- an online site that collects and shares any parts of R2P-related studies, media reportings as they become available, in languages ranging from Arabic to Korean to Western languages, which are most regularly found at and followed by other R2P institutions, such as Global Center for R2P or the International Coalition for R2P. With our analysts, we currently have the capacity to follow R2P-related news in at least 12 different languages. Such information gathering capacity in R2P is found nowhere else in the world.

Today marks the official launch of the CCR2P, and we're truly honoured to have such dedicated and passionate speakers and all of you in the audience on serious debate on past and future of R2P.

We're tremendously grateful to the International Relations Society for co-hosting this symposium with us, and to our generous donors and sponsors, including the Munk School, Hart House Good Ideas Fund, Trinity College and the Arts & Science Union. In particular, I'd like to single out our logistics director, Patrick Quinton-Brown for making this symposium happen as well.

We hope that this will mark the beginning of many more public discussions to come on R2P and renew our commitment to undertaking scholarly research on R2P for the actual implementation of the concept in the future.

Now, I have the honour of introducing the Honourable Bill Graham, our very special keynote speaker of the day. Dr. Graham is a man who needs no introduction and my short intro will inevitably do injustice to his distinguished career as politician, scholar, lawyer, philanthropist, and incredible mentor to all of us.

First elected as Member of Parliament for Toronto-Centre-Rosedale in 1993, he was appointed the Minister of Foreign Affairs from 2000 to 2004, and served as Minister of National Defense until 2006. He taught international law at the faculty of law here at U of T and is the Chancellor of Trinity College, which is where I first met him.

Dr. Graham's commitment to the study of international affairs in general and Canadian foreign policy in particular is widely known to faculty and students well beyond Trinity College. While I represented the International Relations Society in 2008, Professor Graham gave us his full support for our inaugural conference and joined us as our keynote speaker for a conference called "Canada and the World." The IR Society continues to hold its annual conference on various issues relating to Canadian foreign policy and the world.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Today, we're so grateful that Honourable Bill Graham could speak to us on R2P, and without further delay, please join me in welcoming the Honorable Bill Graham.

(Applause)

KEYNOTE SPEECH

The Honourable Bill Graham: Well, thank you very much, Tina. I think that was a very generous introduction and perhaps, when I look outside and see the wonderful weather, maybe we all need our heads read to be in here. It's a beautiful day when we all know winter is coming, that is a testimony to the effort of Tina and her fellow colleagues who have organized this conference and the interest in this amazing subject that you are all here today to discuss this.

Tina has very kindly billed this as a keynote speech -- that's a kind of a weird term. I think it's really just a pillar for getting things going so, what I'd like to do is be a little bit informal, share some ideas with you that arose out of my own personal experiences, and then maybe if we have time for a few questions, anybody wants to ask me questions, depending on the time before we go into the next panels, where you can expect a real experts to talk to; I discovered in my political life one is not expected to be an expert in anything. You can get away with murder and many politicians do, actually, but fortunately not in Canada.

It is amazing though, Tina, when you think that when you came -- was it 2 years ago? -- and talked to me and others about this concept of setting up this Centre to advance the idea of R2P, who would have foreseen that within the beginnings of your own Centre and the efforts you're doing, we would have been faced with a Libyan conflict where as we know, both the moral and legal justifications of what we as Canadians have been engaged in for the last few months, and the international community has been engaged in Libya, is directly related to the doctrine of responsibility to protect.

I know the panels will be talking to you about this, but it's worth maybe to set the scene to reflect a little bit on how we got there. Tina made some reference to the historical background, but I think it's important for us to reflect and think and recognize that the concept of the R2P is really a part of a larger human security agenda that emerged after the end of the Cold War. The famous peace-dividend, that we were supposed to get at the end of the CW as you know, as scholars, was really accompanied by a great deal of degradation of order around the world. And then suddenly, in places like Africa, Asia, and many other places, there was less human security in some respects than there had been when you had that balance of terror by the nuclear threat of mutual destruction that lasted for so long. And that has in turn, given birth to an enormous international law developments, international policy developments, a recognition that we have to change the way in which we think about things, and approach them, a way in which when I became your defense minister, we had to think about how we had to recast our defense department and our defense capacity and what we asked our young men and women in uniform to do, to be able to intervene in the type of conflicts we've seen in Libya and other places, since the end of the Cold War. I will first put then this concept, if you'd like, in that broader context. And within that broader context as well, I'd put it in a context of what Canada was seeking to do in the share of human security agenda, which really started under when Lloyd Axworthy was

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

foreign minister under Mr. Chretien. And which included, not only the R2P doctrine, but the international community's creation of the International Criminal Court (ICC), Rome Statute, and the landmine -- the Antipersonnel Landmines Convention. So, I see these three things, if you'd like, as being pillars in a human security agenda.

But, there was far more to it than that. There was also an attempt to control the use of small arms in Africa. There was all sorts of agendas, if you'd like, as a part of the human security agenda, and I personally engaged in that when I was your foreign minister, and we worked together on the human security network. But, all of those things were brought together -- landmines, criminal court, R2P-- all moved together in the same idea: how do we move, in a way, away from the idea of the Westphalian nation of states as being the only actors in the international world? And, recognizing that ordinary citizens are the ones that suffer in wars, when you see, I mean the last, the Second World War... the First World War had terrible degradation, but it was mainly soldiers that died in the First World War-- millions of soldiers, as it was a seriously insane conflict. But, the Second World War, it was mainly civilians. Millions of millions died. And in every conflict since then, it's been civilian populations that bared the brunt of armed conflict around the world. So, we have to come out with a legal concepts and diplomatic concepts and military responses to be able to respond to that sort of situation which prevails now, whether you think of Darfur, I mean the list goes on and on in today's world, which we can still look out there and see they are still there-- the threats.

So, that is where, if you'd like, the broader context is. R2P itself, however, grew out of a specific conflict. And that was the Kosovo conflict. The notion of R2P really arose because you recall that when we went to Kosovo, and I was then the Chairman of the Foreign Affairs Committee, House of Commons, and we held hearings every once a week, on the TV some of you may remember seeing those here, so we heard from our generals, "What are we doing in Kosovo? Why are we there? What are we seeking to do?" Well, as you know, it was a form of genocide that was being practiced by Milošević government against the Kosovars and we decided to intervene with NATO. Now we could not intervene, we sought to intervene with U.N authority, but when we sought to intervene with UN authority, we couldn't get it because the Russians threatened a veto on the Security Council. And NATO decided to intervene anyway. And so, how then could we justify what we were doing? I remember Ted McWhinney who was an international legal scholar, who was on the committee, coming to me one day and saying, "Bill, we should ask legal advisor to the foreign ministry. What is the legal status of our intervention in Kosovo?" And so we did that, we wrote the foreign minister Lloyd [Axworthy], "we'd like to get..." and the letter never came. Some years later, I said to Lloyd, the letter never came, [to which he replied]: "Well, you know what the letter would have said. The letter would have said, 'what we were doing was illegal.'" So, then, we developed a notion whereby we said what we did was illegal, in the then concept of international law, but it was legitimate because of the circumstances which cried out for us then.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

So, to address that lack of a legitimacy or the legitimacy issue and the legality issue around that, then Kofi Annan wanted to develop a concept which would respond to that, which would bring in the international community and allow intervention in a way which would be both legal as well as legitimate. And he [Kofi Annan] actually couldn't get the study done in the UN itself. Partly because the very thought of intervention -- well, we could think of usual suspects such as China, the list is..it wouldn't just be China. There would have been a lot of countries that would say, "We're not going there, we don't even want to think about this sort of thing." So, in order to deal with this, he went to Lloyd and others, and said, "Can you set up this commission which will study this outside of the UN but report to the UN when you have completed it?" And, with the help of the McArthur Foundation in U.S. and private donations-- not UN money, but private donations-- and government moneys from different governments that were interested, the commission was set up and it was set up deliberately to try and draw on as broad a representation within it to give it legitimacy in its recommendations. So, as you know, its panel was headed up by Gareth Evans, who was former Australian foreign minister, Mohamed Sahnoun, who represented his constituency, it included remarkable people like Lee Hamilton, a former member of the US Congress and an extremely respected voice in international affairs in US, Michael Ignatieff, who is now with us here at this university, Vladimir Lukin, who was my counterpart as chair of foreign affairs committee in Russia. So, it was a representative group of the international community that made the reports that, as we know, and as Tina suggested when she came in, made the recommendations which it did, which we'll be studying today.

So, when I became foreign minister, as Lloyd's successor, I was having dinner with Kofi Annan one night, and he said, "You know this is a very important report." And at that point, we were all concerned about the fallout of the consequences of the Iraq War. And, where was the UN going? If, in fact, coalitions of the willing could do what they wanted to do outside of the scope of international controls, who conferred legitimacy upon them? He [Kofi Annan] said, "I want you to take this report and sell it. We want countries to buy into this." And there was, you can imagine, considerable resistance to the idea of the fundamental idea of the report of intervention. So, it was rather, I mean, this is just some background, it was rather fun actually. I had many copies of report, so at every international meeting I'd go to, I'd distribute copies of the report to all the foreign ministers. I remember one meeting I put one on every chair, there were 32 chairs, and Colin Powell said to me, "Professor, what are you up to? What are you doing?" [To which I replied], "Well you know, I'm just handing out this report that you don't particularly like, but I'm trying to get some people interested in it." And he said, "Well you know, this is going to go nowhere, but you know, good luck." Well, as it worked out actually, there were quite a few foreign ministers in that group who were law professors like myself, the former dean of the Singapore law school was Singaporean foreign minister, the dean of the law school from Thailand was, or Bangkok, was the Thai foreign minister. So, there was a lot of people who had a legal background saying, "Yeah, this is really good, this is something we got to talk about." And overtime, as you know, and as we'll see, it evolved into the remarkable doctrine in a space of time that is quite remarkable; it got to be accepted, and I just want to come back to the idea

TEN YEARS AFTER THE ICISS

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

that while we were pushing this, this was a part of Canada's foreign policy priorities at the time. If you recall, the human security agenda was a pillar along with the landmines and the ICC and Canada's specific role has been recognized by Gareth Evans and others in their comments on it.

So, what's in the concept that is so remarkable? Some people says it turns the Westphalian notion of sovereignty on its head. I say it modifies the Westphalian notion. But, when you think of it, I mean it's sort of goofy to think that in the year 2005, when this came, working on this, that people were still using the term Westphalian notion as the key concept of the rights of sovereign states in the 21st century. You know, what was the year of Westphalian? The Treaty of Westphalia is the treaty of 1648 that ends the Thirty Years' War in Germany. 1648! And in 2000, we're talking about the guarantees and nature of state sovereignty after all the world wars and all the interventions the creation of the WTO and the creation of the United Nations and everything else, we're still talking about a Westphalian notion. And there are still many states and legal advisors to states and others that use that language when they talk about the right of a -- sacrosanct right of a state -- not to have their internal state of affairs interfered with. You can understand that context if you read about the Thirty Years War -- a huge devastation created in Germany and the whole concept was designed, as you know, to protect all those small states against the interference by the larger powers. But, to think that it was still prevailing in our time is incredible.

So, the basic notion then says, well you know, state sovereignty is not absolute. The state actually forfeits its sovereign rights in the case of egregious crimes against its own population when it's not exercising its sovereignty properly. The international community has not only the right, but the responsibility, to intervene in order to prevent or halt genocides or other crimes against humanity. So, I'd describe this as an erosion of the Westphalian concept. We already have the WTO, the UN, we have all sorts of erosions of state sovereignty by this time, so let's not get too caught up in that.

What I think is more important for us to realize -- and I hope that the panels will be talking about this, I've had several of my law students study this issue in depth-- is that when we talk about R2P, everybody thinks about the end game of military intervention. But, intervention in the sense of the report and in the sense of the doctrine is not just about military intervention. It's about a whole gamut of diplomatic sanctions and other forms in which you can try and constrain a state's activities. It's diplomatic actions, it's economic sanctions and ultimately military action, which of course provokes the most controversy; but, as Gareth Evans put it, "Intervention is a continuum of obligations and a graduated menu of response."

Kofi Annan, for example, says that his intervention in Kenya couple of years ago, when there was tremendous internal strife in Kenya, he cites that as an example of R2P. He specifically says, "When I was asked by the government in Kenya to try and help deal with the civil strife, I was acting as an outsider, giving diplomatic pressure and it's a direct idea, a consequence, of the notion of R2P." The stronger the measure, once you get into the military intervention-- I would

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

argue and I hope our panellists will discuss this-- then the closer you get in needing a legitimacy that is conferred upon a true legitimacy by international... if you're going to have just a diplomatic intervention or maybe sanctions or something, you can see states acting alone. But, once you start invading somebody with armed force, the closer you get to that the closer you get to the core of the nation of not only state sovereignty, but the whole notion of maintaining the global order and global peace, and at that point, you've got to have the security of some form of international legitimacy. Conferred by who? By the United Nations, by the Security Council. Otherwise, the intervention is just coalition by the willing, and it is just another form of gunboat diplomacy or humanitarian interventions of the 19th century type. In fact, Gareth Evans, when he was working on the report, was attacked by a journalist in newspaper columnist in Colombo, who said, and I quote, "The so-called R2P is nothing but a license for the white men to let himself to intervene in the affairs of dark sovereign countries whatever the white man thinks to do so."

So, that was the criticism and when I was going around trying to sell this doctrine to Latin America, Asia, to various governments, that was their answer; [that] "this is just a form of the imperialism dressed up in another, you put some nice colourful robes on it, but it's still imperialism by another language. But, the answer to that was: No, it's not, because it can't be used unless it has Security Council approval. So, there's your protection. Protection is: it's a doctrine that is there and can be used, but it needs the legitimacy conferred upon the one body in the world that we all recognize has that legitimacy and order to confer that. But, that of course then brings us back to the problem, which I imagine we'll be discussing today: what happens when the Security Council is unable to act? And we're just right back to the Kosovo situation of when you've got a doctrine that allows you intervene, but don't have the authority or the legitimacy to do it, are you going to intervene anyway, as we did in the case of Kosovo, and then we'll have another doctrine to try and justify that?

As Tina pointed out, this doctrine has... For those of you who are not international lawyers, you would have no idea how long it normally takes to move an international law concept from concept to fruition. I've done work on International Commission and I mean, they were working on stuff they were talking about in 1905 and it's still just being talked about. 100 years is nothing in international law lawyers for development. And yet, this doctrine moved in the mere space of ten years from an academic notion to an endorsement by the UN World Summit outcome, which Tina referred to. It is endorsed by the UNSC in May 2006, then referred to in UN resolutions. It totally blew my mind that at one Security Council debate, I looked at John Bolton himself, who was endorsing it. So I thought, "Oh my God, this is some form of extraordinary revolution that is taking place here."

And for those of you who are interested in some of the more obscure things International Law found out that in 2007, the doctrine was adopted unanimously by the Illinois State General Assembly. I don't know where Illinois is intending to intervene, but the Illinois Assembly has

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

adopted this doctrine as part of the internal affairs of Illinois. Let's not give Rob Ford any ideas. *(Laughter in the audience)* It may be a topic matter of debate before our municipal council before we're finished.

In spite of this universal acceptance or not universal there are still those..I think, Tina, I didn't bring my introduction programme. But as said here in your introduction, it remains a concept, not yet a policy. What do we mean about that? Basically, it's a political not a legal concept, if you'd like. Well first, there is the problem of the uneven application. We used it in Libya, but not in Syria and Bahrain. Does that delegitimize it? It's also used in spurious circumstance. It was used by some to justify the invasion of Iraq. So, let's not forget, we're not the only ones that can use the language of R2P. For those of you who watched the Russian invasion of Georgia just a couple years ago, everything that the Russian foreign minister said about invasion of Georgia was couched in the language of R2P: "We're here to protect Russian citizens, to act on behalf of these people whose lives are being destroyed...we're using the legitimacy of the R2P to cover what we're doing." So, just bear in mind that when we create these international legal doctrines, what happens is you've got legal advisors to foreign ministers all over the world, they grab them and give them to their ministers to use them as justification for whatever they are doing, and that's the nature of law, that is the nature of lawyers, that is the nature of international politics.

Another issue that I think -- I hope the panel will discuss-- is what I would call the trade-off between legitimacy and efficacy. I was on a panel recently with a man by the name Jim Steinberg. He was the Assistant Deputy of US State Department and advisor to the US government on the Libyan intervention. And he said--he made a very interesting point--I was on a panel with him at the trilateral convention recently, he raised a point about the trade-off between legitimacy and efficacy; how, if you're working on the legitimacy issue, are you going to be efficient enough or are you going to miss the chance. My son Patrick was in Benghazi. He phoned me, he said, "If the tanks are here tomorrow, it will be too late, there won't be a Benghazi left." And NATO bombing campaign started that night. In fact I think the French got out a little bit ahead of everybody. But there was a real, there was an efficacy versus legitimacy. You saw the US getting the Arab League on the side. Then the UN and everybody had to get on side because they did not want to replicate another Iraq, they didn't want to get into another war of that nature, without having the proper legitimacy. But legitimacy takes time. They were lucky, we were lucky with the Arab League because Amr Moussa had been one of the original drafters of the ICISS report; he was one of the panellists. So, Moussa is the Secretary-General of the Arab League, he is now running to be president of Egypt, but at the time he was the Secretary-General of the Arab League. So, who had that sort of background was very important in the discussions that led up to it all, but it takes time.

There's also the debate around whether or not R2P has established the status of a legal principle. Gareth Evans argues that it has. Others, like the president of the American Society of

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

International Law, argues that the elasticities and ambiguities of the core principles means that R2P remains a political instrument and rhetoric not a legal principle. This, I'd suggest to you, is not a purely academic debate. As professor Kennedy at the Harvard Law School has said, and I quote: "Legal terminology is now a practical vocabulary for the politics of armed conflict. Law has now become a mark of legitimacy, and legitimacy has become the currency of power." So, to be able to argue that this is a legal justification is a very different thing than just saying, "We're right." That is important. And that is the core of whether this doctrine can be legally binding and be used as such, because of the legitimacy in which it confers on it. And you heard that because if you recall when we went to Libya, I saw the prime minister of the UK, David Cameron, get up and said, "This is the necessary thing to do, this is the right thing to do, and this is the legal thing to do." Those were his words. "Necessary, right, and legal." And that was repeated by every European that intervened in Libya. So, where do we go from here? As we've said, there is no overwhelming consensus on what R2P is, whether it is a legal principle, moral stance or political argument. But, we'll have to see what effect the Libyan experiences had.

And as I've said, I was recently at a panel at a trilateral commission, and Allan Gottlieb was chairing the panel and he asked three questions which I think are worth reflecting on today. His first question was: do R2P interventions require a regime change? It was clear, Janice Stein was on the panel and said that the Obama administration made it clear regime change was the end-game. There was no point going in to intervene if you weren't going to get rid of Gaddafi and leave him there so he can slaughter people two weeks later? So there was sort of a -- it's hard to imagine an intervention without regime change as being a part or part of the endgame. Now, Kosovo was not, you recall, we didn't get rid of Milosevic by doing the intervention, because you had a discreet geographical area, where you were able to keep the Serbian troops out of that area, so we didn't change the government in Belgrade, but we...so you can see, regime change is something we'd have to talk about, and is that a legitimate part of it.

He [Alan Gottlieb] then asked about the effect of selective application that I refer to: why Libya, why not Syria or Bahrain? Does the selective application delegitimize R2P? But I'd argue that selective application is inherent in all principles of international law and international relations. There are always practical relations that make it impossible for states to act consistently. I can remember the time at the Kosovo intervention saying to Lloyd, who was then the foreign minister, "O.K. Lloyd, this is great, we're going off to Kosovo, look what those Russians are doing in Chechnya. Why don't we go a little further east and solve that problem too?" Then he said, "You damn fool! They've got nuclear bombs! We're not going near Chechnya. We're not attacking a nuclear power." So, *realpolitik* is a part of international law, international relations. International law is a part of international relations, it's governed by a whole host of constraints and things that we've looked at, but does that de-legitimatize the process or the concepts? That's up for you to talk about that, to decide.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

And finally, Gotlieb asked about the doctrine status in international law. And Lloyd, who was with us, said: "Well, we have to look at R2P as a part of a broader evolution of international humanitarian law." It's one tool in the toolbox. Yeah, there's indictment for the ICC, and they can be used in conjunction. So, again, would you assume that in the case of R2P, there would automatically be an indictment before the International Criminal Court as there was with Gaddafi and as there has been? I'm sure if we were going to go to Darfur, I'm sure the fact the president has been indicted would be part of the toolbox that would justify what we're doing.

Fourth question which Allan didn't ask, is one of the key questions you're going to have to consider today: "Does it confer a responsibility?" It talks about responsibility to protect. So, if the conditions exist, does this mean that we *have* to intervene? There is a legal or moral responsibility to do so? We're going to commit our troops, lives of young men and women of this country to a faraway place because a UN doctrine says that conditions are bad there and therefore we *must* go? That's a very long bow to draw in international relations. There are some international legal instruments which require that, as you would know, the Genocide Convention requires if genocide... It says in it: "If genocide is taking place, there is an obligation." Then you would recall, that at the time of Rwanda, the Clinton Administration did everything in its power to make sure that in the UN, or in any other diplomatic talk or cable or anything else, the word "genocide" never appeared. *Never* would they admit that there was a genocide taking place. Because the minute they did, they were going to have to get on a plane and go and do something about it. But you can appreciate that, ladies and gentlemen, we live in a democratic country. Governments often fall and rise on these sorts of issues. So, sending troops abroad is a very important consideration. Does this doctrine require us? Are we willing, as Canadians, to say that we would, yes, risk the lives of our young people in an unpopular intervention in circumstances which we didn't ... I think we have to think about that.

So, all those things, we'll have to deal with. We'll have to deal with the fact that there usually is going to be regime change. Well then what sort of the interventions do we want? What are we building --I don't know to what extent you intend to discuss this today, but as a former defense minister I would be interested in people thinking about what we are building in terms of instruments to be an effective intervention of this nature? We learned in Afghanistan that pure military conduct is not conducive to resolving problems. It's a political problem. We had the former Afghanistan ambassador here in this room last night. Some of you were here. I mean, it's a political conflict... to create peace and security, while the diplomacy and other things take place-- aid, construction and things like that-- well what are we going to do if we do more of these interventions? It's just not a military matter. It's got to be in conjunction with other things: reconstruction, development assistance, "nation building," to use a phrase that Americans hate. One model we can look at and consider is the European Union's common security and defense policy and rule of law missions. They integrate military forces w/ the provisions of the police, legal and other capacities, that you need to stabilize and rebuild societies, and states after an intervention.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

We also have to think about, if we'd like to test some of the panellists here, what are the limits? What justifies? We know genocide, so that's easy. But what are the other threshold questions we ask before you're entitled to intervene? This is not an idle question. At the time of the tsunami, Kouchner who we all know – the co-founder of Medecins sans Frontieres, but foreign minister of France at the time-- and he asked the international community to consider moving on R2P grounds into Burma, or into Myanmar, because the Burmese government failed to provide the necessary help and support that it should have provided to its citizens. Well, again, I'd suggest to you that is drawing a very long bow. I can think about a couple of interventions in this country which will be justified considering some of our reserves up north and all the things that go on in our own country, and I can really cook up some for you in the United States and other places, so you know, what is going to justify? What are the threshold questions? These are some things that we have to ask ourselves.

What is the effect of technology? Michael Ignatieff asked this question at the panel I was at yesterday: what is technology doing about this intervention stuff? Why about drones? Why don't we just send over a drone and knock him off? That's what we can do now. Why go in and have a bombing in Libya, just send in a drone and get Gaddafi. What is that doing to international legitimacy? And is that where modern technology is taking us? That is a big question in U.S. now. Considers the use of this type of instrument. And is it going to be an instrument that would advance international law or destroying it?

All these issues, "What are the technology changes?" "What are taking place?" These are all things that are appropriate for us to ask. Now I think when we're doing... I'd like to suggest to you that again, putting on my defense minister's hat, we, at least in Canada, have had a tradition of peacekeeping and we've had a tradition of asking our troops to undertake very complicated delicate missions. I can assure you that our troops in Afghanistan, when they operate in the field are accompanied by a lawyer to make sure that what they do is proportionate to the threat which they are dealing with, because under international law rules, rules of the ICC to which Canada is a signatory, they would be committing a war crime if they do not behave in that way. And this is the new modern world in which we operate. And other countries too would have to develop armed forces that can operate within these rules and engagements which are specific, limited and are very complex nature and require a certain cultural sensitivity to apply. I'm very proud of our young Canadian men and women who do this; they are very culturally sensitive. I've seen them in many theatres. It's amazing how they are able to work in ways that other armed forces don't because they see the complexity of the situation, they understand the problems of the other party etcetera.

So, all of these are issues we want to talk about. So, it's all very well to have a doctrine, but we have to know when it's going to be applied, how it's going to be applied, when it is legitimate to apply it, and who is going to apply it, and what circumstances and what capacities we'll have to make it work. All of those questions, I think, remain to be fleshed out.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

I think that that is one of the reasons why I want to commend the panel, and Tina and her colleagues for starting this. I remember when the Cuban Missile Crisis -- you youngsters here wouldn't know anything about that, but for those of us who literally crawled under our desks at school-- at the time of the Cuban Missile Crisis, Dean Acheson, the then-Secretary State of US, was asked whether stopping the Russian ships at the high seas was not contrary to international law. His answer was: "There are times in the lives of nations when international law has got nothing to do with it." And that will always be true. But, we're also living now in a time when international law has more and more to do with it. And understanding what that law is, understanding how those rules will be applied, is important part of what we're doing in civilizing this world in which we live.

So, I want to congratulate you, Tina and your colleagues, for organizing this session, and I look forward to hearing how serious people are going to be able to deal with these difficult issues that we have to face. Thank you very much.

(Applause)

KEYNOTE DISCUSSION

The Honourable Bill Graham: Martha is here. She'd recall. You know what it is called in the House of Commons; it's called "question period," not answer period. But, if anybody's got a question... Yes, by all means.

Audience Member: *[inaudible]*

Graham: Absolutely. Well, the answer is: first, as I tried to make clear in my introduction, I mean, and as Gareth Evans and others pointed out, "intervention is a continuum of obligations that are graduated menu of response," in which military is the last resort at the end. So, I quite agree. I think that's the premise of your question. And then I think: how does Canada deal with that? In the same way that Canada deals with all of, really all of, these types of issues; and that is recognizing that as a country our size, we'll rarely, if ever, act alone. And therefore, it is precisely in building a multi-lateral world and building a world which has international legitimacy, under which Canada can act, is very important for us to work on doctrines like this, because we don't want to go unless its UN sanctioned. Look in the case of Iraq, and we do want, and we do recognize that we are not going to be acting alone, we're going to be acting multilaterally. We'll therefore be acting largely with, in the case of recent interventions, largely with our NATO allies, because they've had the capacity to intervene in the way that you with the UN does not and that is something we have to think about. But we do have to think about it, because what are we building? When I was defense minister, I kept saying, "Look at Afghanistan, let's get rid of all those stupid airplanes. We need helicopters, we have boots on the ground. This is the type of mission that requires engaging in the community." That wasn't really bright, wasn't it? And suddenly we get to Libya and we don't have any boots on the ground, we're flying around in jet planes, the very things that I would have got rid of. You can never foresee the nature of a future combat, as you would know as a military person. So you have to kind of prepare yourself and equip yourself for a gamut of things and be able to act in a way. But at the core, we will be acting multilaterally. I think that is the key.

Audience Member: *[inaudible]*

Graham: Certainly, I don't think you actually voted for me, did you?

(Laughter in the audience)

Audience Member: *[inaudible]*

Graham: I agree with the premise behind your statement, I don't wish to quibble with you, but I do want to emphasize: NATO does *not* have nuclear weapons. Certain member states of NATO have nuclear weapons, but they have reserved the right to use those weapons themselves, and they never conferred to NATO any authority over their nuclear weapons. That's a hell of a fight we've had at every NATO meetings, so there's non-nuclear members to NATO, which Canada,

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

I'm proud to say, could have been a nuclear state, only chose not to be, so you know, and there are other countries like ours. But if you're looking what's happening at the moment with Iran and with Israel with nuclear weapons, you know, everybody says, "Oh well, stop the Iranians." Well, I've been to Iran, they said, "Sure, we'll stop, stop those guys, take theirs away and we'll stop too! Who is going to take theirs away?" So, we're going down a bad path at the moment on this nuclear thing, so anything we can do to stop it.

And you're right, I mean, we know war usually begets more war. Violence begets more violence, so that's a legitimate point. And I was saying, I was just reading something the other night about the armistice of 1918, someone said in 1918, he said: "This is not a peace treaty" --he was referring to the Treaty of Versailles--"This is an armistice which will last 20 years." That was the guy who had run the war. So, he knew that they were seeding the conditions for another war. And of course the European Union was created specifically out of that experience, to make sure that they could never have another European war. That was the whole purpose of Coal and Steels Community and putting their assets together and there could never have another war because nobody could have the capacity to have a war anymore. That was the whole concept of the European Union. It was all about eliminating the possibility of devastating European wars, which was, anybody who knows about it calls the "civil wars of the 20th century." So, that's true but, in our own community here, we do have to have police forces, there are drug dealers, there are people that are out there that are not necessarily because you and I say that what could really be rather better for society if you didn't conduct yourself that way; there could be other people saying, there's a lot of criminality out there, those of us who know about cyberspace today, crazy. I see the world as not that different. It's a community, it's a global community rather than a local community, but it requires police, and justice, and courts and other things just the way an ordinary society does, and as long as human beings are the way they are, we require that, and what we are looking for really here is to create that use of force in a way which is legitimate, governed with justice, and in an appropriate circumstances and it's not just overriding group force of the powerful over the weak. That's what we are trying to do, and that's the purpose of the conference to consider. Okay? So, I'll get out of here.

Conference Staffperson: On behalf of the CCR2P, and the IR Society, I would like to thank you very much for providing us with this fantastic introduction.

(Applause)

[inaudible]

Thank you so much. We'll now have a five-minute break and Patrick Quinton-Brown will be going over the itinerary for the day.

NORMATIVE PANEL

Patrick Quinton-Brown: If everyone can take a seat, we're going to get started.

Welcome Back, and thank you again for coming to our conference. At this point, we're going to move into our first panel discussion. This is our normative panel. The normative panel will be focusing on the evolution and the future trajectory of R2P as a normative concept within the international system. This includes the way in which R2P approaches or is regarded by states, IGOs, NGOs and other actors of the international system.

The format for our panel for today will be as follows: If you have any questions for the panellists at the end of the panel, throughout the discussion, please open up your conference packages and find two cue cards, and on those cue cards, you can write down your questions. If you have any questions that you would like to be answered at the end, just simply put up your cue card during the discussion, and one of our volunteers who are situated in the audience will come and pick up your cue card and deliver it to me so that I can ask all the questions to the panel.

So, once I introduce each of our speakers, each speaker will come up and deliver a ten to fifteen minute presentation on their view of R2P in the normative world, and then we'll have our discussion, where we can ask questions. I'll be asking the first question, which will be followed by the questions from the audience.

MARIA BANDA

Patrick Quinton-Brown: Our first speaker is going to be Maria Banda. Maria completed her doctoral dissertation in International Relations at Oxford University, which followed the evolving doctrine and practice of the R2P in 2001 and 2009 from the perspective of international relations and international law. She is a Rhodes and Trudeau Scholar, and a graduate of Trinity College at the University of Toronto, which is a great school, Oxford University as well, and Harvard Law School. She has worked with several international organizations and written on Canada-US relations, global governance, climate change and the environment. She is also a member of the New York State Bar, and currently is clerking this year. I'd like to ask Maria to deliver her presentation and I'll follow with the introduction of our other speakers. Thank you.

Maria Banda: It is a great pleasure to be back at U of T, probably in a way where all of us begin, and especially to see the formation of a new centre on R2P and I have to congratulate Tina and her colleagues in setting this up. It's a huge advancement from what I remember seeing on R2P when I was here.

It was actually probably this conference room that I first heard about R2P and Canada's efforts to promote it, and I thought it was such a neat little concept that I went on to study it. But that was shortly after Iraq and obviously at that time, R2P was just not going very far at the UN. Against all odds, as Mr. Graham has mentioned in the keynote speech, R2P moved incredibly rapidly in the international arena from basically being a term coined by the International Commission on Intervention and State Sovereignty to becoming endorsed by the UN world leaders in 2005 and now being used in the media as a reference for the intervention in Libya, for example. So, the pace of R2P's evolution is nothing short than remarkable and it was, and remains, a controversial concept. Naomi will tell you more about what is being done to implement R2P and where it is heading.

In my allotted time, I was going to discuss a bit more about how it got to that point. We heard from Mr. Graham about the overarching context in which R2P emerged. I was going to give maybe a little bit more detail on the context on the norm that R2P and how it evolved. Particularly, how it evolved in what I see as three major phases in response to different international political developments and deliberate advocacy strategies.

The first phase that I will describe began with the ICISS report in 2001. The second phase followed the R2P's endorsement at the World Summit in 2005. The third phase coincides with the election of the new UN Secretary-General in 2007. So, this is necessarily a very abrupt sketch. R2P went through a lot of bumps on the road, and what I'd like to put to you generally is

the following: R2P is an evolving norm. Its content is not fixed, and in some ways, it will become what we make of it. In addition to this contested norm, contested by many states that fear R2P's impact on their sovereignty. So therefore, it is always hard to speak of a global consensus that R2P beyond a most limited sense.

So, phase one, ICISS. As Mr. Graham explained, Canada set up ICISS as a response to Kofi Annan's challenge to the UN member states to try to reconcile the seemingly reconcilable concepts of sovereignty, state sovereignty and the need to protect human rights. And part of this conceptual development that ICISS tried to do was to get away from the notion of humanitarian intervention, which was so distrusted by many states in the South. So, what ICISS suggested instead was that responsibility was a *part* of every state's sovereignty, and were thus when state fails to act on its sovereignty, the international community had to step in as a guarantor in a way. Force, a military force, could only be used as a last resort, and while the UNSC's authorization was preferable, it was not necessarily mandatory, and this was a big struggle of course for the Commission, given how divisive the Kosovo intervention had been. But, the commission in the end decided that avoiding another Rwanda would be more important than avoiding another Kosovo.

More specifically, it [the Commission] described R2P as consisting of a three-part responsibility to prevent, to react, and to rebuild. But, really, the core of this concept was that responsibility to react. The other two in a way were window dressing to make the concept more palatable to try to intervene that responsibility to react, ICISS proposed a set of criteria on the use of force, which would make intervention more consistent, predictable, and legitimate -- things like proportionality, necessity.

It [the Commission] also described the kind of threshold that could lead to intervention, which included fairly broadly understood as large scale atrocities and even state failure. Canada tried very hard to promote ICISS among UN member states and civil society, but the timing of the report really could hardly have been any worse. After 9/11, the Bush Doctrine, and the war in Iraq, there was very little appetite to actually adopt a new concept that many states saw as a potential Trojan horse for intervention regime change.

So, we see R2P beginning more traction and visibility only about 2004, when the UN high level panel convened to discuss threats to international security remained a part of their proposals, and especially when Kofi Annan included it in his blueprint for the upcoming UN World Summit in 2005. So, this is how we get to the second phase in R2P's normative evolution.

[Phase II] The World Summit however was not convened to discuss R2P as such. It was actually meant to be a 5-year review of the Millennium Conference of Development, which covered a whole range of issues from security to development, including R2P. Canadian diplomats worked very hard to make sure that R2P would somehow end up in that final

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

declaration. And there was a network of likeminded states and civil society groups that were engaged on that topic as well and I know that Evan will speak to that.

The opposition, however, was fierce, and not surprisingly given the kind of context we're talking about. There was a small group, maybe about 16 or 20 states at the most, including Russia and China, two of the P5, as well as a number of very important countries in the non-aligned movement that acted as norm spoilers. And, basically until the very last day of the Summit, it was not clear that R2P was going to survive that negotiations process. And it is quite a fascinating story of what happened in that basement room of the UN where states were trying to negotiate to get R2P included and even the last moment India objected for example R2P's title. Because the UN, the term "R2P" seemed objectionable because it could seem to appear imperialist interventions by powerful countries of the North in the weak countries of the South.

So, given this opposition, it came as a great shock to many UN observers that R2P survived at all. There are various explanations that we can see for that, but one of them is probably that countries that were so opposed to R2P and so worried about its implications for sovereignty. Partly and strategically, no one in 2005 could stand out and say that they rejected the purpose of R2P, which was to protect civilians from mass atrocities. It's a bit like human rights. Everyone is for human rights in theory, but these countries knew that what they had agreed to was sufficiently ambiguous that it could be challenged in specific details, and primarily when we talk about implementation. So, if there was a high level of agreement on R2P, the devil in some ways is in the details, and we can see that in reference to specific crises where R2P was not acted upon. And so, the Summit version of R2P was essentially a slightly watered down version of what it could have said and wanted.

Just to give you three examples, the Summit underscored more the primarily responsibility of each state to protect its own people, and it added a lot more caveat to the international responsibilities possibility for action. It completely shut the door to unauthorized unilateral intervention, and finally, the criteria under use of force were dropped in the negotiations. Many R2P advocates of this last element -- the omission of the criteria-- was the great loss to R2P. The question arises: if there are no rules by which to play, how do you give R2P-based intervention legitimacy among states? Especially if because a lot of countries in the South are concerned about inconsistent application. So, that is probably one piece of R2P's unfinished businesses as we go forward.

I should also mention the claim that one of the things that was on everybody's minds at the time of the negotiations would be unfolding catastrophes in Darfur, which gave the delegates a source of, a sort of urgency to push the norm through. So, on the one hand, we've seen 9/11 and Iraq delaying progress, Darfur gave it a major boost. And there was an expectation among many advocates that after R2P was now adopted at the World Summit, that these could actually probably serve as a basis for more concerted action to respond to the atrocities in Darfur. Of course, this did not quite play out this way.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

So, to summarize phase two, R2P got its UN stamp of approval, but there were two major camps that basically formed and did not understand R2P in the same way. To R2P advocates, R2P was still the ICISS version in some ways, the broader the more purposive understanding. To some, the detractors, it was still subject to sovereignty, Westphalian kind of sovereignty concerns. Here, I mean Russia and China, and also any states in the non-aligned movement some of which felt R2P was dead. Some of them had said we had killed it at the Summit. And of course the UNSC couldn't get its act together on Darfur.

So, this brings us to phase three. So, the norm is out there, it has been agreed upon, but opposition remained. As the newly elected Secretary-General, Ban Ki-moon had strong interest in R2P. He even appointed a special advisor, Professor Ed Luck to try to develop to broaden the consensus on the norm. But given this kind of opposition, a decision was made that consensus had to be broadened before it could be deepened. And necessarily, this resulted in a slightly reformed norm.

And so the UN Secretary-General's first report in R2P in 2009 described R2P in slightly different terms. He talks about three pillars. The idea was that we had to move away from ICISS which was not UN report, which was still seen as slightly contentious as some member states, toward a UN product that would have basically larger buy-in. So, the three pillars, which you'll see discussed now in UN documents and committee meetings, is pillar one: state responsibility, that duty of every state to act. Pillar two: international assistance to states' capacity building to actually enable them to act on that first responsibility. And finally, pillar three: the most contentious pillar, which is international responsibility. And the emphasis was clearly on pillars one and two, meaning preventive, capacity-building actions and essentially, trying to build consensus on that before moving into the most controversial part. And this was done strategically to try to emphasize to sceptical states that R2P was not primarily about military force, and so as to get more people on board.

And, so, in the period following that, we see again more strategic framing to try to get larger buy-in. For example, Kenya in 2008 was used by some as the first test case of R2P in a non-military preventive, regional response. But if you're wondering here, "Wait a minute, what about Darfur? Wasn't that the first test case of R2P?" Well, you're probably right, but for an emerging contested norm, Darfur was a very bad example, which many in the advocacy community felt damaged R2P's responsibility. And so the search began for better examples of what R2P was supposed to be.

So, to conclude, I think what emerges from this is that R2P's content is evolving and has evolved greatly in the first 10 years of its existence. The consensus that is forming is still very limited. It is probably focused more on the prevention, on capacity building. We're still a long way away from really having a broad international consensus on the responsibility to react as the international response. And in things like the use of force criteria as Allan Rock and Lloyd Axworthy like to remind us probably have to be part of that package at some point.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

So, advocacy strategies, issue framing, and ultimately state practice in what is done in actual crises, matters hugely as to how R2P develops in its next decade. And things like, you know, when Canada fought like a terrier as UN official said, to preserve R2P in the summit declaration, can make a huge difference. So, it's safe to say that in 2011, R2P's not the same as it was in 2001. And, after Libya, we might have a different R2P altogether. It might be different in 2021, and perhaps some of you through involvement either through academic work, or advocacy, or work for the UN, might actually have a hand in helping to shape its development.

So, I'll leave it at that, and I will welcome any of your questions at the end.

(Applause)

Quinton-Brown: Thank you very much, Maria.

EVAN CINQ-MARS

Patrick Quinton-Brown: Our second speaker, Evan Cinq-Mars is the Blogger & Social Media Coordinator at the International Coalition for the Responsibility to Protect (ICRtoP). He is the lead contributor to the organization's blog, writing on thematic issues related to the *responsibility to protect* and crisis situations in Libya, Sudan, Syria, Yemen and beyond. He also manages ICRtoP's twitter account, employing the social media outlet to start an online conversation on R2P and mass atrocity prevention. Prior to starting this position, Evan was a research and advocacy intern with the ICRtoP Secretariat in New York City. Evan recently commenced working with the Montreal Institute for Genocide and Human Rights Studies (MIGS) as the Zimbabwe Desk Officer for its Media Monitoring and Early Warning Project. He is also currently a Governing Council Member of the World Federalist Movement-Canada. Prior to this, he was involved with the national team of Stand Canada, a student-led anti-genocide advocacy organization, as its National High School Chapter Coordinator, and he was a member of Stand's Parliamentary Engagement Team. He holds a Bachelor of Public Affairs and Policy Management (BPAPM) with a specialization in International Studies from Carleton University's Arthur Kroeger College of Public Affairs.

Thank you, Evan.

(Applause)

Evan Cinq-Mars: Thanks very much, Patrick. First of all, I'd like to extend my warmest thanks to you and everyone at the Centre, Tina as well, for the hard work you guys have done in organizing this. And I express how honoured I am to be able to contribute to this panel with my colleagues, Naomi and Maria. And I'd like to thank Bill Graham, I know he left, but his insights are always welcome in this topic, given that he was involved as a Liberal cabinet minister during R2P's development.

So, I'm here to talk to you today about the role of civil society in advancing the R2P. As Patrick mentioned, I work with the International Coalition for the R2P, which is a project of the World Federalist Movement Institute for Global Policy, and which was founded in 2009 by the representatives of eight international and regional NGOs after six years of consultations with civil society organizations in all regions of the world, through the response to protect civil society project.

A bit of an aside here, a much younger version of myself represented Stand Canada, a student-led anti-genocide organization at the R2P civil society consultation with the Canadian NGOs in Ottawa in 2007. There I was, a 17 year old who had just started his university degree, sitting with much more distinguished individuals than I was, and feeling very out of my league in attempting to talk R2P with individuals in many ways today is quite similar to that day. Back to ICRtoP, We are currently a coalition of 34 member organizations from Abuja to Buenos Aires to

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Toronto. We also recently launched a new category for membership in October, and now have over 20 NGO supporters from Minneapolis to New Delhi. Our mandate as an org is to bring other NGOs from all other regions in the world to strengthen the normative consensus for R2P further the understanding of the norm, push for strengthened capacity to prevent and halt the four R2P crimes -- which are: genocide, crimes against humanity, war crimes and ethnic cleansing-- and to mobilize NGOs from around the world, push for action, to save lives and countries-specific situations, like Sudan, Syria, Libya, and beyond.

So, as I said earlier, I'm here to speak to you on the role of civil society in advancing R2P since the publication of the ICISS report in 2001. I'm going to touch on the important role of civil society, a role that is played in building consensus on R2P, leading up to and during the 2005 World Summit, where R2P was internationally endorsed by the UN General Assembly, which Maria touched on in her talk. I'm also going to discuss the role of civil society in ensuring that that consensus is not lost, as the norm and the discourse surrounding it evolves as it is applied or not applied to countries-specific cases. And to conclude, I'm going to cover some of the challenges moving forward for R2P advocates, and proposals to meet those challenges. I would be remiss, given my current job, not to talk on the role of social media in the evolving situations in Libya, Syria and Sudan, so I'll comment on that very briefly.

Story of civil society's engagement with R2P begins far beyond 2001, with the efforts to advance human rights and to end impunity. But I'm going to specifically focus on civil societies' involvement after the publication of the ICISS' report. After the publication of that report, the Canadian government approached the World Federalist Movement Institute for Global Policy to hold a series of international consultations with NGOs to get their views on the report and the concept of R2P in general. As mentioned earlier, the R2P Civil Society Project was created, and in consultation became very clear in all regions of the world that there was a resounding support for the concept of sovereignty as responsibility, which was developed by Francis Deng and Roberta Cohen at the Brookings Institute on their work on internal displacement. It also became clear that there was resounding support for the international communities' R2P populations from befalling avoidable catastrophes as well. As we know, Maria touched on that more from ICISS which covered avoidable catastrophe in general, and moved on to the four specific R2P crimes, included in the 2005 World Summit.

There were, however, main hesitancies with civil society organizations in these consultations, primarily of which was that the principle would be misused to justify military intervention, and that's one many would call the Iraq or the Kosovo Syndrome. After Libya, many of the same questions and concerns are being raised today, after the use of force to protect populations and the ouster of Moammar Gaddafi.

In the lead up to 2005, however, at the World Summit, the R2P Civil Society Project worked very closely with NGO colleagues and governments around the world to ensure that R2P would be included in the 2005 World Summit outcome document. As Maria said, those

negotiations were tenuous and up to the last minute, it was very uncertain whether R2P would be included in that or not. If not for the involvement of civil society and the skilful diplomacy of a group of R2P supporting states, we would unlikely be discussing R2P in its present form. It was this new diplomacy, as some may call it, with global civil society teaming up with like-minded governments from the north and south, and various international organizations that helped secure this major advance in the global effort to mean “never again” when we do say it.

While the World Summit was a watershed for R2P, however, concerns remain regarding the norm. Civil society needed to step in to ensure that these gains were consolidated after the 2005 Summit. In the wake, a group of NGOs, including Human Rights Watch, Oxfam and Refugees International continued to meet to discuss how to best advance R2P and sustain the consensus reached at the General Assembly. The strategy was twofold: to create a global centre for R2P, which my colleague Naomi over the is from, to be focused on research and policy, and to establish an international coalition of NGOs from all regions of the world, from diverse sectors, to collaborate on the promotion of R2P agenda.

The strategy to build the coalition was based on the belief that the process of rendering a norm like R2P into a reality on the ground required extensive work on the part of numerous players in all regions. In 2008, the R2P civil society project would hold a number of consulted round tables in Africa, Asia, the Americas and Europe, to raise awareness and support for the R2P agenda, to identify partners in the creation of core groups of R2P supporters and to elaborate the goals, principles and activities of collations that would work primarily in advancing norm.

Since the adoption of the 2005 World Summit, civil society has played an important role in working, I should actually say, "fighting," to ensure that: consensus on R2P is maintained; that number of states that support that norm grows; that prevention and protection capacities are strengthened; and that political will and resources are mustered and mobilized to respond to the threat of outbreak of mass atrocities wherever it occurs.

At the national level, civil society worked to promote R2P to ensure national engagement and support for the norm by engaging government officials, holding conferences and seminars, and publishing materials. An example of this is the Asia Pacific Center for the R2P, based out of the University of Queensland in Australia, which organized a series of seminars on R2P for academics, government representatives, and students in Manila, the Philippines.

At the regional level, NGOs consulted and coordinated with regional and sub-regional regional organizations on what we like to call "entry points" on R2P in their regional frameworks and sub-regional frameworks. The International Refugee Rights Initiatives sent a letter on behalf of African civil society organizations to the AU Peace and Security Council on the need to strengthen the mandate of the UN assistance mission in Darfur. Another example is the Kofi

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Annan International Peacekeeping Training Centre, which drafted policy briefs on the operationalization of civilian protection within the ECOWAS stand-by force.

Internationally, civil society works to continue building consensus on R2P and calling for action in situations where populations are at risk. The Global Centre for R2P engaged the government and UN officials on the norm, and develops policy briefs and press releases on population at risk -- another key role that civil society plays is in shining light and calling for action when it is needed. Amnesty and Human Rights Watch and 100s of other NGOs on the ground play a crucial role in investigating and reporting on human rights violations, and mass atrocity and providing concrete recommendations for actions. Who knows that the decision to send 100 US military advisors to Central Africa without the detailed report and calls to action by Human Rights Watch and other organizations like it that detailed decades of egregious abuses by LRA would have happened?

Despite the very good picture I've painted here of civil society engagement with R2P, and in a number of different regions that are cross-sectors, we are not without challenges in moving forward. There exists a knowledge gap with regards to R2P, a related misconception of R2P as military intervention, *solely* military intervention, and the debate of R2P's purpose -- is it a speech act or is it a policy needing implementation? And the situations that it should apply to. For example, like Maria suggested, ICISS covered avoidable catastrophe, natural disasters, famine, R2P as it is now is just the four crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity. The recent attention given to R2P in the wake of Libya, Cote D'Ivoire, and Syria provide R2P advocates opportunity to close this gap. We need to clarify the third pillar of R2P, which is its most controversial pillar, timely and decisive action and demystify the notion that the norm is simply a military intervention.

Another challenge that exists is the abuse and misuse of R2P in various situations. The examples provided by the Honorable Bill Graham of the situation in Georgia where Russia invoked R2P over South Ossetia is an example of a misapplication of the norm. While many called out for R2P action in Burma in the wake of the tsunami was also seen and characterized as misapplication of the norm. One challenge for civil society in moving forward is in ensuring that the norm is not abused and misused.

There also exists a lack of national engagement with R2P, specifically regarding the establishment of national policies, frameworks, and guidelines that include R2P and mass atrocity prevention. There is also a lack of regional engagement with R2P in the Asia Pacific and Latin America, which do not have any present mechanism through which to address the outbreak of mass atrocities. Africa's relative success in its engagement with R2P is very much the exception rather than the rule when it comes to regional and sub-regional organizations. A focus is needed to extend collaboration to extend the collaboration in the activities of civil society organizations in these regions, to boost their involvement and engagement with R2P on the ground.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

And finally, one of the most important challenges in moving forward is the application gap. Many people ask, you know, “Why Libya and not in Syria?” We need to make sure we are clear. Kofi Annan puts it best: “Just because we cannot intervene everywhere, does not mean we should not intervene where we should, or can.” We need to move forward and address this application gap to ensure that R2P remains legitimate.

Moving forward, and to conclude, what is necessary is a wide variety of actors from different sectors and diverse realms engaging with R2P. We need to continue to further the understanding of the norm through events like this. We need to strengthen the normative consensus on R2P at all levels within and outside the UN, and push for governments’ regional and sub-regional organizations and the UN to strengthen its capacities to prevent and halt for R2P crimes. We also need to help build and fortify a like-minded group of national governments in support of R2P. And finally, mobilize NGOs to push for action when it is needed.

In my mind, R2P is a tool both to catalyze action internationally, and a policy network in need of operationalization. Its added value is dual: great strides have been made as the debate has shifted from not whether to act to protect vulnerable populations but how to act. And civil society plays an important role in ensuring that this trend continues.

Thank you very much.

(Applause)

Quinton-Brown: Thank you very much, Evan.

NAOMI KIKOLER

Patrick Quinton-Brown: And finally, we have Naomi Kikoler. Naomi Kikoler is the Director of Policy & Advocacy with the Global Centre for the Responsibility to Protect where she oversees the Centre's work on populations at risk of mass atrocities. Prior to joining the Centre she was a legal fellow with Amnesty International Canada, where she focused on national security and refugee issues. Naomi has worked as a legal consultant on genocide prevention, clerked in the Office of the Prosecutor at the United Nations International Criminal Tribunal for Rwanda, and interned with the Brookings-Bern Project on Internal Displacement at the Brookings Institution. She has a B.A. in Peace and Conflict Studies from the University of Toronto, an L.L.B. and B.C.L. from McGill University, and an M.Sc. in Forced Migration from Oxford University, where she wrote her thesis on the Rwandan Genocide. She is a member of the Bar of Upper Canada. Thank you.

(Applause)

Naomi Kikoler: Thank you very much. I would like to start by thanking Tina and Victor and their entire team for launching the Canadian Centre for R2P. It is an incredibly important moment, I think, in the history of R2P, and I look forward to following your work very closely.

Also, I'd like to thank you for bringing me back to Toronto and to have this opportunity to talk about an issue that I care quite a bit about, and also the first time my father can hear about what I actually do. *(Laughter in the audience)*. Which is quite good.

Ten years ago, I graduated from the University of Toronto, I did a joint specialist degree in IR and Peace and Conflict Studies, and this building had just been built when I left. It's a phenomenal facility. I never thought that in the ten years from which I graduated that I would be spending my days in New York City, lobbying Security Council members, urging them to care that people are being massacred around the world. I feel incredibly fortunate and privileged that that room is a room that I try to spend my days implementing. It's incredibly humbling job, because at the end of the day, even our friends care more about --at the end of the day-- about other strategic interests than they do in many cases, let's say, in saving lives. I'm going to actually use that as my starting point.

What I would like to discuss with you is how is this norm being actualized? How is it being operationalized? At the end of the day, the judgement for R2P will be: has it saved lives? It won't be how many resolutions have been passed -- but I'm happy that there are resolutions increasingly being passed with R2P language-- it won't be new institutions, it will not be more people talking about R2P. It will be, at the end of the day, if we face situations like Benghazi, like in Rwanda, like in Srebrenica, like in the Holocaust, will the world stop, care, and act?

So, for my presentation, I'd like to focus, and actually we'll start the timer, I'd like to focus on three things. I'm going to start with just a quick survey of what is the state of play on which bonding to populations at risk around the world. What have cases from 2009 to present taught us about moving R2P forward as a norm? And what does the road ahead look like for those of us who are advocates but also for us as Canadians?

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

So, for a starting point, Kenya. I think I'm being fair to say that the picture over the last few years has been quite mixed. I'm going to focus on about four or five cases very quickly. 2009, we saw the offensive in Sri Lanka where we had at least 150, 000 civilians trapped between the government of SL forces and the Liberation Tigers of Tamil Eelam. Both were harming civilians. They were crimes against humanity and war crimes that were rampant during that time period. In my opinion the international response was abject failure. I think we had ample early warning to identify that civilians would be at risk in Northeast Sri Lanka, we saw it coming. The language that was used within the Security Council and amongst the member states was the war on terror. This was the Sri Lankan government tackling, and I agree that the LTT were a very serious directed at civilians, but the rhetoric was always a war on terror and national security. Unfortunately, when you use a "war on terror" language, and we've seen it repeatedly used now in many cases, including most recently in Yemen and in Syria, what you essentially do is create an environment where war crimes are permissible. There is a sense that a certain amount of collateral damage is acceptable when you're tackling a terrorist organization. As a result, we saw absolutely no discussion, save for NGOs, about the R2P; the Security Council never put the issue of Sri Lanka on its formal agenda. We saw no discussion of options to try to encourage both sides to moderate their positions, and as a result, we do not actually know how many people were killed. We believe at least around 20, 000 people were killed, and the conditions were horrific that these people had to endure for a period of three to four months.

The next case is actually slightly more optimistic. We didn't see R2P language used in the case of Guinea, although I try to use it so in the same way as we use Kenya as a positive case, we can look at Guinea as a positive case. Guinea experienced in 2009 a massacre at a stadium. There was a serious concern that because of the coup and upcoming elections, the country would dissolve into grave kind of ethnic conflict. What we saw there was remarkable. We saw the international community work with regional actors, work with domestic actors, work with local actors, to avert what would have been in our minds, impending mass atrocities. It was quite a remarkable case. We saw that a country in which there was very little strategic interest, although we could argue Russia and some countries did have some interests because of the natural resources that exist in Guinea, but a country with few strategic interest, managed to muster a fairly significant international response to avert these crimes. There was early warnings that was acted on, it was never officially put as an agenda issue on the Security Council, it was put under another agenda item called "Peace and Security in West Africa," -- which if you have questions after, I can explain the technicalities of Security Council agenda-- but we saw a time where we had a little bit of Security Council engagement, we had some targeted sanctions that actually had an impact on key government officials, we had the threat of the ICC, but without the ICC actually being invoked, actually works. And I look at Guinea as a positive example of how R2P in its *preventive* mode --and the mode that I think should be the one that most states should be focusing their energies on-- *can* actually work.

We then had Kyrgyzstan where 191 to an upwards of 2000 people--again, we don't know-- were killed in a matter of days. There were clear strategic interests there. Kyrgyzstan is at important crossroads for troops to Afghanistan, for the transfer of oil and natural gas, so more countries had a vested interest there. No one wanted to talk about it, it never went to the Security Council, a lot of people argued that they were caught off guard. I think that it was an example of

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

poor early warning particular case. And, even in the aftermath when the OSCE-- the Organization for the Security of Central Europe--discussed sending police after to help stabilize, it was remarkable, we started off asking for a couple hundred police advocates, and we sat around with Human Rights Watch, Amnesty, International Crisis Group, and at the end, we managed to get a request for about 52 police to be sent, which I think took about a year to actually deploy so that was an interesting case.

Cote D'Ivoire I think can be looked at as a case where we can say there was mixed success. There are few countries in the world where there has been as much early warning as possible as mass atrocities as Cote d'Ivoire. In 2005, Juan Mendez, the special advisor on the prevention of genocide, was in Cote d'Ivoire and made a statement saying, "I'm concerned about the potentials for mass atrocity crimes here," in quote because of the hate speech, and he invoked a threat of kind of an ICC investigation, people have been following Cote D'Ivoire for many years, civil war, large peacekeeping mission there. It was remarkable to see the way in which Security Council member states, the Department of Peacekeeping, the UN system scrambled around Cote d'Ivoire's most recent election, which was contested and led to wide break violence at least the loss of lives of about 2000 people. There is no reason why people should have been scrambling. Our messages and the messages of our colleagues from other organizations were consistent: hope for the best, plan for the worst. I mean, it seems like a basic principle that even if it's a cold day out, your parents would say to you when you go out, "Figure out what you're going to wear to school that day." Unfortunately, it's not a message that resonates very well in organizations that are more comfortable doing crisis response, than doing the long-term prevention. And that's something that will be an ongoing problem for all of us who want to see the R2P actualized.

They were given clear maps that identified western Cote d'Ivoire as being at risk of ethnic conflict and crimes against humanity and very little was done to actually respond to those crimes. We did see R2P language actually used though in the case of Cote d'Ivoire, but only at the moment where the Security Council had already been seized of the situation in Libya. And it's really interesting talking to Security Council members, "Why suddenly the interest?" I wrote three statements, and I remember the last statement was: "This is the third time that the Security Council has met and failed to do anything about Cote d'Ivoire. People are being massacred. There are reports of mass graves. And you can't seem to find consensus to do anything because you keep saying that the African Union first needs to act." It became untenable for them to continue to do that when they authorized action in Libya. So, because of the French spearheading action in Libya, the French similarly put pressure on the Security Council to finally act in the case of Cote d'Ivoire, it was not perfect, but there was a more robust response to help to end the crisis there.

Finally, I think in the case of Libya, we'll go into more details in the conversation, but very briefly, I think there were a couple of, you know, if we look at the counter-factual, reality is that there likely has been a massacre in Benghazi. It's hard to look after the fact to make these arguments. But, I think you know, if we were standing here today and there had not been an international response, we would have been talking about yet again Libya joins the long list of long failures, yet again the international community shows that it can't act. I don't think that the action was entirely perfect in terms of what happened, but we saw some interesting things in terms of Security Council. We saw the use of R2P language, we saw the use of Security Council

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

act in lightening speed. I mean, Bill Graham talked about 100 years for international law to come into fruition. I sometimes feel like in the countries that I'm working on, you know, it'll take us 15 years just to get the council to talk about anything. So, we saw the Council act quickly, we saw them act fairly unanimously, and interestingly enough, in the absence of information. Information is always the key. Certain information is privileged by Security Council. The information is used as a way to barter back and forth on whether or not we should do anything. It's particularly disturbing. But in the case of Libya, I think to certain degree, we have to all acknowledge that the stars were aligned. There were strategic interests at play, at the same time civilians were at risk. And I think that we would be living in a kind of dreamland if we thought that strategic interest did not help motivate the action that we saw in Libya.

Part of my work is now dealing with the consequences to a certain degree what certain people see as being an overreach of the Security Council mandate -- overreach by NATO, a lot of member states now feel that their acceptance of especially resolution 1973, which authorized the no-fly zone, was something that was needed by the west for about 24 hours to legitimize a response, and after that time period, they didn't matter anymore. So now you see the backlash from South Africa, you see the backlash from India, you see the backlash from Brazil as a result of that. I think to a certain degree, there is a failure by NATO and by some of the states that were more active, which includes new voices like Qatar, to manage the message and to manage the multilateral response. I think that there is really interesting things that have come out of Libya, this stuff is difficult to do, it is messy, it's expensive. I mean, for every Tomahawk missile that was used in Libya, we probably could have done some pretty good preventive work in Cote d'Ivoire if we wanted to.

I think that what Libya and all these cases also show is that we have to be more critical of our friends to a certain degree. I find it particularly disturbing that the major group of friends members in this organization in New York, it's a group of 40 member states who were supportive of R2P, many of them happened to be world's major arms dealers. And they didn't have a problem selling arms to Bahrain and to Yemen, not too much to Syria, but to Libya and other countries. So, I mean, we need to look a little bit more carefully at who our friends are when they talk about R2P. R2P is not just a response. R2P is what you do every day when you engage with other countries, when you consider how you're going to craft your development policy. R2P has to be more than just a Band-Aid solution when everything else has gone wrong. I'll skip over because I'm running out of time, unfortunately.

I think it would be fair to say that we haven't seen much action [in Syria], we've seen what happened in Libya used routinely as an excuse why not to act in the case of Syria, we've also seen some of very difficult realities when it comes to, again, those strategic interests, and how do you raise strategic interests, national interests, with populations at risk. We also see some very difficult questions about are those types of cases Syria in particular, is that what R2P was created to prevent. R2P deals with four crimes: crimes against humanity, genocide, war crimes, mass atrocities. You don't necessarily need a lot of people to be killed or to be at threat for R2P to be invoked. That makes people very uncomfortable. I spend a lot of time trying to explain why R2P is relevant in the cases like Bahrain, Yemen, in Syria, even in the DRC where people don't think that mass rape warrants the invocation of R2P.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

In terms of, very briefly, what have these cases taught us? They taught us of course that consistency is a problem and will always be a problem. They taught us that capacities exist for us to utilize. I'm always wary of trying to say we need new institutions, we need to go back to the beginning and recreate the wheel. Capacities exist. There is ample, early warning information already out there. Contingency plan is something that governments and militaries have had to do for centuries. And we've gotten better at it. They just need to start using it in the cases of mass atrocities situations. UN Security Council putting an issue on the agenda. We don't need new institutions for UNSC members to put something on the agenda and talk about it. An issue needs to be on the agenda for the Security Council to actually authorize anything, be that deployment of a special envoy, economic sanctions, or in the most extreme form, use of force. That's all problems associated with political will. That doesn't mean that there aren't capacities that need to be built. There are. And I think that Evan did a good job of explaining that there are parts of the world where a lot of these institutions are not there at all. But, a lot of it comes down to the issue of political will and political will can be much more harder. I don't want to just privilege the Security Council, but that is the group that I work primarily with, but the next incoming Security Council, that Council was a dream team. Costa Rica, Croatia, even Mexico, albeit they dealt with Sri Lanka and didn't do anything. But you look at the incoming council, we've got Azerbaijan, we've got Pakistan, we will still have South Africa, India-- this work is only going to get more difficult.

In terms of how R2P -- very briefly in the last ten minutes-- is moving fwd, R2P is a really important framing tool. R2P should be used in cases like Sri Lanka, to put governments on notice that the rhetoric does not permit the condition of mass atrocities. Advocates have to use it to frame crises such as in Myanmar/Burma and situations where populations are at risk of crimes. We're talking real people, lives lost, not an academic discourse about international law. It helps to frame failure and states should be held accountable for those failures. There are positive things that are under foot and states should be encouraged to kind of continue those when it comes to preventions.

There have been structural changes; 20 countries have appointed vocal points for R2P, Canada has not, I hope they will, we've seen new voices involved in the discussion, we've seen suddenly the Arab League become an entity that has for once actually decided to take a stand against governments that commit atrocities, that's something that should be encouraged. We've seen, ironically, Mugabe and Assad used the language of R2P to justify their actions. We are upholding the R2P. In part because they are concerned about what the impact will be if they don't.

What are the lessons, quickly, for advocates? Going forward, this discussion, as Evan said, has to move from New York, this has to be something that is discussed at the global level. We need multilateral responses, there's only so much that countries like Canada and the US can do. And I'm glad to see that in situations like Syria, they are trying to exhaust every possible avenue. But we've seen, we cannot be successful unless the response is truly multilateral, and those that have leverage are engaged. So, it's going to be very difficult to figure out how to motivate for example the Arab League, motivate the African Union. We need to join forces with parallel constituencies. Those that work on small arms, those that work on accountability, those that work on freedom of speech, that work on gender issues, all of those are relevant and parallel

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

mandates to moving R2P forward and make our message that much more effective. When it's coming not just from us, but from others, working on the latest issues.

And finally, just for Canadians. A lot has been said on the important role that Canada plays in moving R2P forward, and I have to say that it brings an immense amt of pride to work on this issue in NY as a Canadian. At the same time, I have to say that we need Canada or a Canada today to be a champion of this norm. We need a country that is willing, in partnership with others, to work at every level and I was amazed to hear Bill Graham actually put the report on people's seats. We need someone to do that today, because our support for this norm is diminishing in the global south. This issue is not a partisan issue. In my opinion, Canada can be very much seen as a country of survivors, their descendants, their friends, their coworkers. This is an issue that we understand intimately. And that expects us the values that this country has come to embrace in terms of being a leader on human rights, on rule of law. It's important when I say that then to just highlight that I simply have an important role to play because there are countries that can't talk about R2P. When I meant with South East Asian states, they would say privately that we're supportive of this norm but you have to understand that our regions for us to talk about this publically, it would be suicide. The Canadian government has done more things in the last few years it seriously takes to heart its R2P. The thing that slightly disappointing is that they have clearly taken a clear step back in terms of being a leader pushing this norm forward as a norm, as a concept internationally, they don't use the language of the R2P. I have people in Indonesia, the Philippines saying we can't be out there talking about R2P. Canada is one of the few countries that *can*. That has more authority, that we can speak from a place where this is a sincere value and commitment embraced by all, and we need that today.

I'm going to just kind of end on that. I had a couple of points about what Canada could possibly do, but I'll leave that for the policy discussion, if anyone has any questions. But, thank you very much. I look fwd to the questions.

(Applause)

NORMATIVE DISCUSSION

Patrick Quinton-Brown: So, at this point, we will be moving into questions. I have received one so far -- oh perfect-- our volunteers can just grab those. Just bring them up to me.

I do have one question, though, that I wanted to ask our panellist. Naomi touched on the language of R2P, and she talks about that in contrast to, say, language of terrorism, actually her research at the CCR2P examined a little bit about how states like Canada and United States used the actual word, "responsibility to protect" in official statement speeches. Surprisingly, actually, our current government, the word R2P were noticeably absent around the PMO regardless of how critical role we've had to play in the formation of the human security agenda. Now, my question is: if there is a hesitation among states to actually state "R2P," why? And does that matter? And I guess we can start with Maria and move towards Naomi.

Maria Banda: I think it's a terrific question, Patrick. And I think that the way in which the language is used is also very important in how states respond to it, and so I think my co-panellists touched upon the use and the misuse of the norm, and so I think part of where the hesitation comes from is the idea that R2P was invoked by US officials in the relation to Iraq, it was invoked in relation to Georgia and by the foreign minister, it was invoked in relation to Burma, after the cyclone. And so, for a lot of people who were already sceptical, this was just further proof that at this thing R2P could basically be extended and applied against them in a number of circumstances that they did not necessarily anticipate or did not necessarily agreed to, because they agreed to it for crimes then, not this broadening concept.

As to why Canada is not using the concept though, what my co-panellist touched upon on that issue, but I think that yeah, basically, the idea of R2P for a lot of states that were opposed from the outset is just not any different from humanitarian intervention, and in the UN statements, you'll hear Sri Lanka, Venezuela, Iran, and Pakistan, say, you know, they came up with this new term, but it's just a flipside of human intervention, you know how we feel about it, given the history of colonialism and imperialism, so I think that it's partly for those historical reasons that the sphere of intervention where this hesitance comes from.

Evan Cing-Mars: I would absolutely agree, and I think that the points for the reasons why it is critical for states to engage in R2P in both words and deeds. I mean, if we're being really realistic as R2P advocates post-Libya will pose a number of challenges for the norm moving forward. There is, as Naomi said, diminishing support in the global South for R2P post-Libya up until Libya, we saw the fact that states in the global South were actually coming around on R2P, most R2P advocates within the United Nations were states from Sub-Saharan Africa, from Latin America, we even had some states in Asia engaging in R2P. There is what I would call a "normative battle" still going on within the halls of the UN and in the capitals of the world. I think it is critical that states use R2P language moving forward because you know, supporters, norm supporters, can assist in clarification of the norm, can assist in demystifying the notion and the norm that it is just military intervention, or as David Wright has said, "The old Kosovo wine in a new UN sanction bottle." This is a normative battle that is going on, and it is important for supporters to engage on that.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Quickly regarding Canada and R2P, I think that Conservatives continued moratorium on the language is confusing, given that they have carried out R2P in Libya in all but words, you know? Canada was maybe not instrumental in the political developments regarding the UN operation in Libya, but it did conduct 10% of NATO's sorties, a Canadian commanded the entire mission, Canada was very much involved in R2P mission in Libya, and the Conservatives not acknowledging that is, you know the Liberals can say that they created the norm, the Conservatives can say that they were the ones that implemented it. This is a strategic move that Conservatives can play with this. That an event in Ottawa few weeks ago where Chris Alexander, the Parliamentary Secretary of Defense was basically pushed, and urged to even utter R2P, and it was the first time to hear Conservative MP to say the word R2P but he said them in French. It's no different, but regardless, he actually said it, which is a big victory for some R2P advocates, but yeah no, I think that the Conservatives do need to take a strategic shift and focus on engaging in R2P in both words and deeds.

Naomi Kikoler: I think that most of it, I think that there is a real concern amongst a lot of countries right now, especially in the broader global South that R2P is really just a license for regime change. I think that again, part of the failure of Libya has managed the multilateral relationship has evolved in a situation where people feel like we're back in a Kosovo type of situation, where we got Security Council authorization, but really what we're talking about is a coalition of the willing to act.

I think that also, even before we get to that point, there are a lot of countries in government that fundamentally don't understand what R2P is about to begin with. We still have a lot of work to do at a very basic level. My colleagues in Asia Pacific Center gave a really good description recently in New York at a briefing of member states, where they said that -- I don't remember which country it was-- but they were talking about local NGOs, and someone stood up and said, "Wait a minute, you're saying that my government has a responsibility to protect me?" I mean, it was so profound. We sit here quite privileged in our position, in terms of the rights and protections that we are afforded, but this is very novel -- human rights remains a novel concept. So, I think it's important to bear in mind that there are a lot of countries that still very much hold on to this traditional notion of sovereignty.

In terms of the Canadian position, I think that unfortunately, I can't come up with any other explanation other than the idea that this was a Liberal concept, and that this is part of the politics. As far as I'm concerned, part of that politics is no room or no place where we can talk about saving lives. I want to say clearly that I think that Canadian government has been doing R2P, but to mention in speech is important and it is critical that it says it is doing R2P and that it is out there as a leader. It is one of few countries that can go out and say these things but doesn't say these things from the perspective of colonial baggage associated, it doesn't have imperialistic grandiose ideas of what the country is going to be in the future, we're not the US, we're not the UK, we're not France, we don't have the same baggage associated with it, and as a result, I think that it's a real shame that we have been taking this step backwards. And I hope that in the Conservative government, there is a message I would say, it would be: from coast to coast, this is something that Canadians care about, there are survivors of genocides and mass atrocities and their descendants that live in Lethbridge Alberta and live in St. John's, not just in the major cities, and they live in their constituencies, and they care, and they continue to care about seeing that

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

people in their countries of origins don't get massacred, and they care that Canada be seen as a country that is working to stop that, and to make sure that future generations do not have to experience these crimes.

Quinton-Brown: I do have a bunch of questions here; we'll try to get through as many as we can. We may cut into a little bit of lunch; I hope that that's okay. There are some that are directed towards individual speakers, as well as to the whole panel.

The first one here is towards the whole panel, and the question is: do you see Secretary-General Ban Ki-Moon as a norm entrepreneur? Given the strong oppositions from various state actors, what role can the UN play, i.e. the Joint Office in advancing R2P as a norm? We can start from Naomi's side, to give Maria a break.

Kikoler: I think the Secretary-General has been working as an R2P norm entrepreneur. I think that increasingly, especially after Cote d'Ivoire, he's been taking a more public and forceful position on R2P and on the protection of populations' mass atrocities more broadly. I think that it's an interesting position that he is in, coming from Korea, he does have, he has talked very much about wanting to use his platform to promote values with sensitivity to kind of a different way of politics, essentially. A different way of doing diplomacy, which means that he does engage with much more with countries that are more critical of R2P. He has put R2P as a priority as a second term, but we still don't know what that means, but I think that that's an important step. I do think that he can be regarded as a norm entrepreneur, on this one, he wants to have a legacy, and he wants this to be a part of this legacy. I think that that's positive in and of itself.

The Joint Office, I think that there are many many ways in which they can engage on moving R2P forward; I think that what's good is that this is, for those who aren't familiar, there is within the UN system a special office dedicated to the prevention of genocide and to the R2P. There are two people who are the special representatives for R2P, and for genocide prevention., Francis Deng and Ed Luck, I think what's positive is that increasingly, they are allowed to speak publically, they are allowed to issue statements, for example on Syria, and they were able to put statements out. In the past some of their statements had been blocked, so I think that this is a positive change within the UN system. I think that they have an important role to play in constantly trying to bring concerns to the international attention, through speaking out, but I also think that they have an important role --really important role-- to play in privately engaging with the countries that are concern, engaging with countries that are not familiar with R2P, what R2P is and I think that it's a tension, because I think that there are concerns that the more they speak out, the more doors are closed in terms of them engaging with the more sceptical states. So, there is a fine line in terms of how they have to undertake their work.

Cinq-Mars: Yeah, I would agree with everything that Naomi said. I think that the Joint Office is an important focal point for consolidating consensus on R2P, as found in the World Summit outcome document, and what we've seen is Ed Luck, who is the special advisor on R2P, he has made it his priority to say, you know, ICISS was a very interesting development, lots of interesting ideas, but the 2005 World Summit outcome document applied R2P to four crimes and those are the four crimes that states have agreed to. And I think that that ought to serve as a very important focal point for states to forge consensus around that idea and ensure that progress is

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

made at the yearly dialogues within the General Assembly. The General Assembly has held dialogues on a yearly basis on R2P. This past summer, it was on the role of regional and sub-regional organizations. Next year, it should be on timely and decisive action, which I am sure there will be fireworks at. So, I see a very important role with that office moving forward in consolidating consensus and continuing to constructive negotiations on R2P within the General Assembly. And Naomi covered everything regarding Ban Ki-moon.

Banda: I think there's not very much to add to what Naomi has said. I mean, the important thing to remember is that R2P is a UN doctrine, it is focused on the UN, to the UNSC on the one hand for the action, but the UN General Assembly for deliberation that is part of the World Summit document, and so, having a Secretary-General who is supportive of R2P is essential in a way because the Secretary-General has a key role to play in agenda setting. It is the Secretary-General who picks the topics that will be debated, and can prepare reports, we've heard about the office and the other opportunities with which to engage. Keeping R2P on their radar. I mean, just talking about it in a certain way, and clarifying what it is, demystifying it, is another key aspect.

And the other thing that UN Secretary-General can do is engage with regional organizations. When Kofi Annan was Secretary-General, he addressed the African Union, this was just before the adoption of the World Summit Outcome Document, and he said, "Look, African Union, you have already adopted a doctrine of intervention to protect human rights from mass atrocity situations. How can you expect any less from our world organization?" And so, that kind of ability, for example, for Ban Ki-moon to go back to Asian states and to try to garner support I think would be tremendously helpful, and there is a lot of entrepreneurship to be done.

Quinton-Brown: Thank you.

Our next question, addressed to the whole panel: This morning, the Arab League suspended Syria and proposed sanctions against the breakdown of the agreement the Arab League reached. Please comment on the regional powers in implementing the R2P.

Evan, do you mind if you take this one first?

Cinq-Mars: The regional and sub-regional organizations an integral role in ensuring that R2P becomes reality on the ground for populations at risk. You know, for example, if the United Nations Security Council is seized of the matter, they can delegate responsibility or give responsibility to regional organizations through Chapter Eight of the UN Charter. On top of that, regional or sub-regional organizations are often the first ones that know when you know, there is a threat or an actual instances of the outbreak of mass atrocity, or widespread human rights violations, they are normally the first ones that are involved in collaborating on responses, on developing recommendations for responses. So, I see a very important role for these organizations moving forward, particularly in situations where there could be deadlock of Security Council as we've seen in Syria. And in Syria, we need a robust Arab League to pressure the Syrian government and say, what you're doing is absolutely unconscionable and you will-- as I guess happened today, I was not aware of that-- you will be suspended, and there will be ramifications for your actions. So, yes, briefly, very important role for regional and sub-regional organizations in implementing and operationalizing R2P.

Quinton-Brown: Would any of the other panellists like to mention, otherwise we do have more questions.

Banda: I just want to say thanks for the update.

(Laughter in the audience)

I would say that in terms of Syria and the case with Syria, there is..I will start first with organizations and I agree with everything that Evan said. I would add one caveat, which is that to some degree, sometimes, regional organizations there is almost a double-edged sword associated. Increasingly, we see now the Security Council deferring action, and deferring discussion of a situation until a regional actor has given the O.K. So, in Cote d'Ivoire as I mentioned before, they kept saying, "No, wait for the AU to act." And the AU should act. And there is this principle, I'm going to quote some of my African colleagues who kind of laugh at this, they say, "Oh yeah, African solutions for African problems, means we don't do anything." Though not always the case, but sometimes that can be a very real problem. And with regional actors, we have to keep in mind that in many case, regional actors do not want to act when it comes to their neighbours. Rwanda, no one wanted to act. You know there are far too many cases when we wait for the regional actors to take the lead, we won't see any action until far too many lives are lost. So, we have to remember that it's always best if you can get regional actors engaged, but the councils-- Security Council, Human Rights Council, General Assembly-- have to be ready to act in the absence of that "O.K." So, that's why I have mixed feelings about the kind of about the recent discussions of regional institutions. I think that it's very good if regional institutions in general start taking human rights more seriously. The Arab League, when I worked as a legal consultant for the UN's office on the prevention of genocide, I was looking at legal norms on the prevention of genocide, I was looking at the Arab League's text, instruments and finding documents, I was rather disturbed by some of the so-called rights that were enshrined in it. I mean, if we can encourage institutions like that, if we can encourage ASEAN and others in taking human rights more seriously. I think we're in a very good place to internationally.

On Syrian suspension: very interesting. The Arab League is an entity on to its own. I would look at what's happened today as positive, in the sense that it does send a clear signal. I would, again, going back to the point of national and strategic interests always factor in. This message is a message as to Syria a message to Iran. So, we need to look at it from a number of different vantage points, and I would be curious to see the votes online in the end. Saudi Arabia and one of the others are clear opponents of Iran, and of Syria as well, so there are many interests at play, whether or not I think it's a good or positive thing that has happened today.

Quinton-Brown: This next one is directed towards Naomi, but if other panellists would like to comment, please feel free to: Can you talk about the of R2P on North Korea? How can R2P impact North Korea as it seems the diplomatic situation on North Korea is difficult to be achieved?" I think that this actually says, "sanction on North Korea is difficult to be achieved."

Kikoler: I'm happy if others would like to jump in on this one. I actually don't do any work on North Korea, I would say that you know, from an important starting point is Vaclav Havel did a

report on North Korea where he used some language of R2P, and I think that that report and a number of subsequent reports have been quite clear and quite compelling in talking about the fact that populations appear to be at risk for crimes against humanity, in terms of restriction of food, and other kind of gross human rights violations that have been happening in North Korea. It goes back to that difficult question, and I think I am evading the answer on this one, it goes back to that difficult question: What was R2P created for? And what are the types of cases that people identify when we talk about R2P?

I haven't done enough thinking about North Korea to be able to say whether or not I think it fits, I definitely think that populations are suffering immensely there, and the international community has to somehow be willing to mobilize and look at those issues in addition to things like nuclear threat and others, but sorry, I can't really say much more.

Quinton-Brown: The next one is directed towards Maria and Naomi.

And it says: "R2P as a moral concept. Both have mentioned the idea of development, and crisis as a response vs. long-term prevention. How does the morality of R2P obligate development as prevention? Does it? In other words, is there a duty to prevent through development?"

Banda: That's a great question, something that a lot of people have been grappling with. Basically, this idea of prevention, the very concept of prevention can be understood in two terms: there is a structural prevention, in which the development comes through the floor, trying to make sure that basic human rights are, you know, there, so that we can basically, you know, build a stronger society on that basis. And there is the idea of prevention, which is more immediate, a basic one where we are already approaching the risk of commission of crime, and the question is, at what point do we come in? A lot of states in the global South are very keen to include development in that and I mean development aid, there is capacity building measures as part of R2P. There is some concern, however, that even though this can in the long-run scheme of promote the kind of social cohesion and stability and livelihood, that it might actually dilute the concept of R2P somewhat. So, in the sense that if R2P is everything, including development, including health, including you know, social cohesion, and policing, and good governance, it's going to be nothing at all, because it's going to be too overarching, and so when we get to a situation like Rwanda, or Syria, or Darfur, which is about to explode, we will not have the kinds of tools that we need to really think of prevention in the more concrete terms, and so I feel that probably development is something that has to be considered but not necessarily as part of a more narrow understanding of what R2P is, and maybe my co-panellists will disagree, but I think that there is something to the idea of trying to keep the concept focused and clear because the more we try to expand to encompass the entire range of human security issues, we might lose some of the clarity and its force.

Kikoler: And I agree with all that Maria said. I think that though I would just say that I think R2P, and states' embrace of R2P, is something that they should live and breathe to a certain degree. We talk a lot about what it means to mainstream R2P within the UN system, and that could mean a million different things, but what I think it essentially, should hopefully mean is that there is, at some point-- it may not be the first or the tenth consideration, but at some point--

it is *a* consideration that states take into account and the UN system takes into account when making major decisions on how it's trying to engage in a country that is where populations are at risk and how it's going to respond once the crimes have developed. And you know, I think that, if going back to Korea's case to a certain degree, I think that you could make an argument that in that particular situation, investing in some kind, this is a very very difficult to do, but in strengthening rule of law, governance structures, in North Korea or be it in Nigeria, where they are suffering from a lot of problems in the north as well, is something that can be seen from an R2P rubric. And can be seen in a more upstream preventive aspect. But, I am conscious that we're in the risk of losing too much. Just as a starting point, every single country has a R2P. Canada has a responsibility to protect. I think it's almost as a kind of artificial distinction when we talk about "R2P" situation, and when we attach the label "responsibility to protect." It's always there, it's always present, every state has a responsibility to protect. It's just a question of whether or not crimes are imminent, are occurring, are at risk, that changes the way we evaluate what states need to be doing.

Cinq-Mars: If I can just very quickly make two points. In Ban Ki-moon's 2009 report, there is, you know, a pillar of R2P is now assisting states in capacity building to improve their prevention and protection capabilities when it comes to the populations at risk. That could be seen as incorporating some form of development in a sense. I would agree with both Naomi and Maria that you know, right now, R2P is, I would say not at a fragile state, but there is definite contestation over the norm, and expanding it and applying it to other situations, I mean the question of North Korea also brings up the issue of Somalia. Does the famine in Somalia reach the levels of, you know, crimes against humanity threshold? Do the actions constitute crimes against humanity, right? You know, the consensus reached in 2005 is what states agreed to -- opening it up to apply it to other situations, environmental catastrophe, you know, pandemics, you know, these are some things that former ICISS members are still very adamant about, that risks, threatens, the consensus on R2P, I think. At the same time, the situations need to be addressed.

Quinton-Brown: Interventions in the name of R2P as mentioned in the speeches have often been criticized as many as imperialistic ambitions? How do we see this issue affecting R2P in the near future? Would anyone like to start with that?

Kikoler: I'll hop in. It's interesting, because, just as you were talking, I just went back to the fact that Syria's been suspended by the Arab League, and I thought wow, my work on Monday is going to be very different! And I actually think that today's events will put a damper, I think to a certain degree, on some of the discussions on Libya, and Libya being a western imperialist endeavour, because if the IBSA countries, which are India, Brazil, and South Africa, or maybe we'll say the BRIC countries which include Russia and China, have been talking about this, as having been kind of regime-change, with the protection of civilians and R2P lens, or justification associated with it. I think it's going to be far more difficult in every conversation that I've had with those countries has been: "We don't want to see another Libya happen in Syria." And look, the neighbours aren't even talking about it, the League isn't engaged. and when we talk about language in draft resolutions on Syria that have been put out in the past, there's talk that we need to be very explicit about there's not going to be any military intervention or tough-targeted sanctions or arms embargoes, makes it much more difficult for these countries to continue their

line that you know, this is just going to be another excuse for intervention in Syria, if the Arab League themselves are saying, recognizing what happened in Libya, recognizing that our decision to suspend and call for a no-fly-zone was the kind of major hurdle that the international community needed for them to act. I think sends a really powerful message to the countries that continue to talk or are increasingly talking about R2Ps as humanitarian intervention, because it debunks to a certain degree some of the myths that they're espousing.

Banda: Well, the thing which strikes me as interesting about the idea of the imperialist baggage that a lot of the Western countries carry with them, is the way I see it shaping R2P in the near future is twofold: one is that I think there is really a need, a strategic need, as well as an actual need, to engage the global South fully so that we get away from the idea that R2P is really being prompted by a group of Western countries. There is support for R2P in the global South, but Southern countries usually have other greater priorities in their daily life, such as development, so they don't tend to be as outspoken about R2P and that is partly what is feeding back into this perception that R2P is still remains a Western project. So, the effect of this has been that the western states that have been arguing for intervention in any number of cases, have always needed the support of regional organizations that Naomi talked about the fact that this is not always a good thing, either because the regional organizations lack capacity, or because they might have their own strategic interests at stake. So, when we look at Burma, when we look at Darfur, when we look at Kenya, what was emphasized by all of the actors involved at the UN and in Western states was that basically the idea what the region was thinking if the region agreed then we saw some action and it was put to the forefront. If the region disagreed, such as in Burma, there was no action and basically the idea of applying R2P was killed at the outset. And increasingly, we also see the notional R2P being grounded in the African Union's norm of nonindifference. In 2005 when the AU already adopted the norm of humanitarian intervention in its own neighbourhood, nobody talked about this. But, in 2009, in the UN General Assembly, there was a lot of discussion that this was actually an African invention. So, nobody said that this was a Canadian invention, so I think that these are all ways in which advocates are trying to get away from, the imperialist baggage and the western baggage.

Cinq-Mars: I think there definitely needs to be some clear and consistent messaging from R2P advocates. And I would bring up three points: The R2P as a concept was developed by a Sudanese diplomat. This is not some "Western imperialist agenda" that was cooked up in the backrooms of Ottawa and Washington, and Paris and London. You know, Francis Deng at the Brookings Institution came up with the idea of IDPs in Africa, providing the essential services for IDPs because they were often neglected by governments. So, you know, that's my first point, that R2P itself sovereignty's responsibility as precursor is not some western imperialist idea.

Second of all, what we look at states that support R2P, while the majority of the loudest supporters come from western governments, there are and there does exist significant support in Sub-Saharan Africa, the startings of support in Latin America, in Asia, there are global players in this. IT's not just Western governments engaged.

And third of all, regarding Libya, my point is simple: NATO may have carried the ball for the intervention, but it would not have happened without support of the Arab League, it would not have happened without the support of the organization of Islamic Conference, and it

would not have happened without strong regional support from Qatar. That is hardly a global North intervention. You had a number of players in the ME involved in that intervention, either giving consent or participating, that made it a global intervention. A combination of NATO's assets, and regional players on the ground as well, providing not only diplomatic support but military and economic support. This was *not* a Western imperialism 2.0. This was R2P in motion, with a diverse group of players.

Kikoler: Just two or three quick points. I think that there are some things that happened and have happened recently which could lend people to think that this is some sort of an imperialist endeavour. Bahrain, the same time that we're seeing concern about Libya, Bahrain, you see people being killed, you hear horrific stories of government forces going into hospitals, and of course we've got major US fleet that is based in Bahrain, and Obama coming out very quickly within about 24 hours with some sort of language that says, "don't worry, Bahrain, you're going to be okay, we're not going to do a Libya to you." Really difficult for those of us who work on R2P when we argue that there has to be consistent response. People dying in Sri Lanka, their lives are just as valuable as lives in Bahrain, as in Serbia, as in Toronto. So, you know, there are, we have to remember that those that have the most media-voice, i.e. those who get the most pick-up do happen to be the Americans, the French, the nd sometimes they say the darndest things and we just can't get them to take it back. So, I think the Bahrain example, I think Kenya right now, has intervened into Somalia to tackle the issues posed by Al-Shabaab. What I find very interesting is that we hear a lot of talk about violation of sovereignty...Of course Somalia is a different state, and quite a lot of trouble, and you could argue that the government isn't a true government, but still, you've got an intervention happening right now, and one of the reasons of the intervention, although not high on the list, is to save Somalis from the threat posed by Al-Shabaab. And it's not creating this big international debate and it actually worries me quite a bit because the Kenyans haven't engaged in this type of military intervention in over 20 years. They have a history of committing gross human rights violations, they're being supported by the US and others, I think there is a lot of questions that need to be asked there. \So, when we talk about imperialism, there are, you go to Africa, people believe that the Nigerians are acting imperialistically, that South Africans are acting imperialistically, there are a lot of different ways in which we can tackle the question of imperialism, and then just we also have to be conscious that today, there still are only couple of countries, a couple of regional organization that can carry out this third pillar extreme form of military intervention, and that will always lend itself then to allegations that there will be imperialistic motivations behind it, because the reality is NATO is one of the only entities, the EU, the US, are only ones that have this type of capability that can actually do it fairly well. So, I think that and finally on Libya, I think that the decision by the Americans, the British, and the French to declare the NTC the legitimate government of the people of Libya, was something I thought was slightly problematic, because it took away the onus from the Libyan people to determine who they wanted their government to be. And I think when you see interventions take on those types of characteristics, where we say we are going to get rid of the government, and we don't say that it's because we need to protect civilians, where we appoint a new government to govern the people we run the risk of opening ourselves up to more criticism about this type of imperialistic endeavour.

Banda: I just wanted to add one more point.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Quinton-Brown: A quick one.

Banda: A short one. Basically, the talk of imperialism can be counter-productive in a way. And it is in this sense that if there is no capacity to intervene, and we're basically looking to NATO and a couple of western countries with a military force, a lot of those countries are not welcome in the place of intervention, not just by the regime, but also by the region, so whether we're talking about Darfur, the region did not want troops from the West coming in, so now you're in this conundrum. You want to avoid the kind of you know overtone of imperialism, and these people are not welcome to intervene, then the question of who can carry out the intervention, and in a way, I think it takes away the responsibility from the countries that have the capacity to act, to actually act. Because we can say, well, we're not welcome, so we can let the region take care of it, and I think that's problematic because the region oftentimes doesn't have the wherewithal to do it.

Quinton-Brown: Thank you.

Unfortunately, that does exhaust all the time we have for questions. There were a few we had to miss. If I did miss your question, then maybe during lunch, if you get lucky, maybe after this to maybe talk to the panellist if you want to speak to them one-on-one. We're going to move into Lunch. I'd like to thank all the panellists very much for coming; we really appreciated all your comments.

(Applause)

Thank you very much for your fascinating contribution. Thanks again. We're going to aim to be back on schedule from lunch, at 1 o'clock, it's now 12:15, there's lunch outside, everyone is welcome to grab a sandwich and some juice, there's some tea and coffee just outside, and we'll be calling you back in at around 1 o'clock.

LEGAL PANEL

Sarah Yun: Welcome back! My name is Sarah Yun, and it is my pleasure to be moderating the legal panel of the CCR2P conference today. We have three very distinguished guests, and it promises to be a very thought-provoking discussion.

This panel is dedicated to looking at the legal underpinnings and the legal implications of the R2P. This morning, our keynote speaker, Hon. Bill Graham discussed how international law is becoming increasingly important in the face of the numerous case studies discussed this morning. And the law is intricately tied to the legitimacy of the state action in the global stage.

MONTE MCMURCHY

Sarah Yun: We'll begin with Monte McMurchy. He is the advisor to the United Nations, the UNDP Expert Roster for Parliamentary Development, and the UNDP Expert Roster for Crisis Prevention and Recovery. He comes with twenty plus years of international experience, in civic and electoral building and civil governance and development. He studied at the post-graduate level in ethics, epistemology, education, political philosophy and administration of law and moral philosophy at the University of Toronto, University of Cambridge and Osgoode Law School. He's had international assignments that have involved good governance delivery under the aegis of the United Nations, Commonwealth, Council of Europe, OSCE, and CIDA. We are very lucky to have him today, and please join me in welcoming him.

(Applause)

Monte McMurchy: First of all, I want to say thank you very much to the organizers because this is truly what I would consider to be a most excellent topic worthy of discussion, worthy of consideration, worthy of reflection.

I thought long and hard yesterday and last night as to what I was going to say, and more importantly, what I ought not to say. I will admit that I have studied law. I also will admit that I have studied ethics, and moral philosophy, which allows me to consider or to reflect issues that may not necessarily be legalistic, but are highly legalistic in the very relevant, fundamental way.

My experience has allowed me to understand and appreciate the cardinal element to be a good practitioner in this particular area of what I consider doing least harm is to come in with abject and utter humility. I recognize that I know very very little and I am constantly amazed as to how little I do know. But the little I do know, I know very well. And what I hope to do and share with you today are certain glimmers of my impressions, because I'm a field individual. I am the one that gets the boots dirty. I am the individual that provides the first report that will go to a committee that you're seeing right there where it becomes sanitized bowdlerized and for the most part, ignored.

Good law or law in essence, is law that is respected, and law that is obeyed. Nothing more, nothing less. You can add or introduce norms, or you can create rules provide expectations, rules for process, rules for accommodation, rules for procedure, rules for objectivity. All well and nice as we sit here in Toronto at the University of Toronto. But let me assure you, when you are staring down the barrels of, and I counted them before I shit my pants, fifteen AK-47s in Zimbabwe in 2000, when I was there under the aegis of Commonwealth, assisting, or in their electoral procedure, the law wasn't too salutary for me. And I understood in terms of who was I protecting. I was more concerned about protecting myself.

And then I thought about Romeo Dallaire. And here we come into what I consider to be a fundamental issue in terms of the right or the rule to protect. Here is an individual, a newly minted brigadier general, schooled in Canadian norms and traditions, fundamentally a decent, sound man, sent for the very very first time, not only to Africa, but also to be in charge of the military adjunct to the United Nations Observer Mission. No such thing as a chapter seven

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

mission, which under the UN rules of procedure, where the use of deadly force is authorized. He was there as particularly as an observer, and as I always say, "to do least harm." He, being an observant, critical individual, could see what was happening. And the time before e-mails, would be faxing. I'm not going to say where I was but I had a rough idea of what was going on.

The head of UNPO was a chap by the name of Kofi Annan. Kofi Annan may be many things, but he is highly ambitious. There is one slot yet left for him to achieve, and that was Secretary-General. And to do that, he did not want to create disturbance. He did not want to broil the flames. He did not want to upset your major fund donor, that being the United States of America, which was just bloodied a year or two prior Somalia in that decade. They had not yet recovered what I call their moral fibre.

Dallaire phrased the issue and in retrospect, it was succinct, was correct, and he pleaded for assistance. He pleaded for protection. He pleaded the law is not being properly, the rule of law is going to break down. People are going to suffer. Grant me the authority to intervene, take out the radio stations, line of major communications, take out the cutlasses and machetes, and please, please, please, send me one company. In military terms, 120 first-rate soldiers. Not the rent Nigerians. The rent Bangladeshis that you rent for a couple of dollars a year and they source out to the United Nations for several thousand dollars a year. These people are nice, they are wonderful, but I wouldn't trust them in what I call a mud-fight. There is always a SWAT team with every mission, with every field mission. These cables were buried. Put things into perspective, and there was an issue going on in Kosovo, and Serbia, where whites were being slaughtered. I don't mean to decry that.

The rule of law is fungible. The rule of law is elastic. The rule of law is based on what I call character: good will and knowledge. I heard this morning, and I heard with a great deal of respect and sensitivity, and it is important. These issues need to be dialogued. They need to be searched. They need to be sourced. It needs to be academicized. But, if it is not robust, if it is not respected, if it is not obeyed, where in is the value? We are in the situation, and I will speak with some insight because these are my own personal comments, I'm not speaking under the imprimatur of any organization, and if I were, I would just say very nice generalistic things, saying absolutely nothing at all. They are my opinions and only my opinions.

We are on a precipice of what I call moral fibre or the lack of moral fibre. The economic situation--which may be discussed later as I see John Kirton in the room-- is only one exemplar of what is not working. Ability is a very, very, thin veneer. Respect for law is a very thin, thin veneer. It can be punctured, it can be breached, and chaos will ensue. It does not take much. In the sensitized regions of the world that countries are very young-- young in age. They are desperate for responsibility, they are desperate for education, they are desperate to be recognized and to participate in the process. Words are not necessarily enough. Words are important if they are supported and if they are endorsed.

I will admit that I spent most of my time when I am in the service in the field. And decisions are made on a daily basis. And the rules are very fragile. Because you yourself are the first one that they will see. So if you do not subscribe to the rules, as what is happening in the DRC region where you have UN soldiers committing atrocities, or allowing certain tribal

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

interlocutors to commit atrocities, that does not necessarily build up what I call *esprit de corps* or the goodwill. But therein, you can always go back to the rulebook. The rules have been followed. The rules are being obeyed. But the question I ask you and I have no idea of my time, but the question I ask you: are rules enough on their own? It helps to have a profound understanding of what I call the legal nomenclature. Because law is based on tradition, law or the legal process is based on respect, law is based on what I call the sanctity that all are treated objectively as equals, and law objectively is not biased. And when you go into regions, you deal with customary law, an area that I am no working on. How does that reflect as to what we are discussing today, in terms of local needs, local issues? It actually contravenes what we consider the western normanized law. But who are we to dictate what another country or another sovereign state ought or ought not to do?

Bill Graham earlier very well eloquentized about the Westphalian accord of several centuries ago. Put it down to your own basic principles. How would you like it if someone came into your house and started to tell you what to do with your own children? Not being fed properly, not cleaned, I'm sorry, you're not doing it right, we'll come in and we're going to do it right. What does that do to your own psyche? What does it do to your own spirit? What does it do to your own strength? They may be the rules, but the rules have to be buttressed and grounded with what I call a degree of sensitivity. A degree of value-neutrality. Then, once you acquire the goodwill of the people, and that does not take days, it does not take weeks, it certainly does not take months, it's generational. I made a statement in, uh, to solve a problem in Afghanistan, I said, "We decouple everyone over the age of 15, we write off. We just pay them and hopefully we get them through the process. We focus all of our resources on the men and females, and I believe not only in gender neutrality, but I believe in the empowerment of the females because they are the harmonizing aspect in every society. The men will respond. You educate them, you empower them, and you build a critical capacity.

The Taliban were totally aghast because: (a) it would totally undermine their authority in the long run. These are long-term decisions to be made by leaders or leadership, which is lacking. Because we work on short-term cycles. All our aid agencies are buttressed into the political infrastructure or the political nomenclature. I was in Haiti not too long ago. I wish they gave me the money I'd go and win the Americas cup. They just burnt the money. Nothing has been done. And now, the current president is asking for assistance to raise an army. I have no idea what he wants the army for in terms of civil order. But he says under my constitution, I have the right to raise the army, thank goodness, the words came down, it was "fine, you pay for it yourself. We're not paying for it." Terms of control.

I may have deviated, to a degree, from the topic, but I do know that my other two panellists' discussions will be a little more circumspect and deal with the rules. It does not mean that I do not respect. I am strong supporter and believer in what I call the rule of law and good governance, but I have seen the fudgeability, I have borne witness as to what is now prescriptively correct, but we all need to be critically reflective. If I leave you with any thought, don't take anything that has been said today for granted. Always push back and redact, because that is how the process will go on.

I thank you for your time.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Yun: Thank you very much, Monte, for that wide sort of overview on discussions of rule of law. So, from here, I do want to encourage you, if you have any questions throughout, to raise your new cue card and we will pick them up for the discussion component.

JILLIAN SISKIND

Sarah Yun: On to our second speaker today, Jillian Siskind, she is the President of CLAIHR, which is Canadian Lawyers for International Human Rights. She manages the board of directors there, as well as numerous volunteers within the Canadian legal community and law schools across Canada. She is also Counsel for Tarion Warranty Corporation, has extensive experience in the public sector as a lawyer she was the former Senior Advisor for Ontario's Attorney General and the Minister of Community Safety and Correctional Services. She has also worked for Canada's Dept of Justice on criminal and immigration matters. And internationally, at the International Criminal Tribunal for the former Yugoslavia in 2001. Jillian has been a guest lecturer at the University of Toronto, and she has a BA from Simon Fraser University, an LL.B from the University of Ottawa, and an LL.M from here, the University of Toronto. Please join me in welcoming her.

Jillian Siskind: Thank you very much; it's a pleasure to be with you today and to be on such an esteemed panel, as well. I come to you from the perspective of law and politics. In terms of my public sector experiences, certainly am a prosecutor, but I also have worked at Queen's Park and worked in Ottawa as well, with ministers and so my perspective in looking at any problem often, I come at it from the lens of both the rules and the reality. And I suppose that reality check is the political angles that's where I'm coming from today.

This year has been a big year for the R2P doctrine, which is why we're all here today at this conference. And not only do I say this because it is the tenth anniversary of R2P, but it also a year that has demonstrated the strength and weaknesses of the doctrine, as it has been implemented truly for the first time as we saw this year in Libya. R2P is a very interesting doctrine to follow because it is an example of really what is at an early age of international law. Michael Ignatieff recently spoke at an event that CLAIHR put on just a couple of weeks ago, and he referred to this anniversary and referred to R2P and the building of the doctrine being a norm entrepreneurship. And that's really an interesting way to look at what we have with R2P in terms of what it was developed 10 years ago, and even today, when we're starting to consider it and mold and play with it in different examples around the world.

This is a broad overview because I don't know how many of you are law students vs. IR students, but in order for anything to become recognized international law, it has to be based in either convention or custom. And so, for something to be found to be existing in customary international law, we look at the practice of states to determine how widely a practice or belief is accepted, and how it is implemented. R2P is different and was put together as a step away, or a better version, an improved version of humanitarian intervention, and that it considers the use of military power, as a tool of last resort, and at the same time, it is very sensitive to state sovereignty. R2P is generally supposed to apply only in situations where populations are in grave risk and they require protection from the international community. as I mention this year has been very interesting for R2P and we have a number of examples but I'm going to focus on two today, in terms of observations from what is going on, and I'm going to start with Libya.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

It's been said that Libya has given R2P a bad name. So, let's take a closer look at that. Following the waves of popular uprisings in Tunisia and Egypt, against the government, the Libyan staged their own rebellion to oust the long standing dictatorship of Gaddafi. The government response was swift and harsh, and fighting led to thousands of deaths. The international community and the G8 in particular, waited for a response from the regional powers, before getting involved. As required by the R2P framework, the Libyan government was of course given the opportunity to protect its own people, but as we know, this didn't do too much, it didn't stop them from continuing to fight the rebels, causing mass deaths, committing atrocities, and general actions that amounted to violations of international law. The world watched, and many states soon became quite willing to intervene to protect the Libyan civilians that were at risk. It might have been perhaps that many of the world leaders saw Gaddafi as the thorn on their sides, so it might have been a little bit personal, but if you take it in a very highest and most positive light, I do believe that there was a wish to protect the Libyan civilians who were clearly in grave danger.

So, who supported this intervention? We're looking at state action: European nations, the Arab League and the African Union. Very importantly, though, there were two international powers who were opposed to this intervention, and that was Russia and China-- both of whom are very sensitive about sovereignty issues. They also tend to oppose western intervention in foreign states, and they also have different economic relationships that many western countries have. And with the growing strengths of China, I put to you that this would certainly affect finding a consensus if you're looking for what becomes custom in international law. Because China is not on the periphery anymore, and they are opposition to R2P actions are significant when taken into this context.

So, theoretically, R2P was designed to protect the vulnerable populations, but in the case of Libya, the issue of regime change came to the fore very very quickly. Security Council certainly did authorize it, but it became clear that the involvement of the US, Canada and Canada and other NATO nations was predicated on regime change, whether or not this was the official policy of the country. But it became the reality very very quickly, and it is this fact that has certainly attracted the most criticism from observers of R2P in Libya. So, this regime change, or the goal of regime change, changed the nature of R2P in terms of international law. Frankly speaking, I don't think so, really, but it is important to understand it and recognize it because it is here that law and politics are truly intersecting.

R2P creates the framework that sets out the way that the intervention must be approached, first by using diplomatic and economic or other mechanisms to influence the state to protect their own citizens, but if it doesn't work, then the international community can resort to military force. In the case of Libya, the UN didn't really wait very long for Gaddafi to respond to sanctions because they had been there in place for very long time anyways. And this part of R2P is I think where a lot of the tension also lies, is this waiting at the beginning, and it's the diplomatic or trying to influence the country before you go on with military might that people get upset about, and I think, and I will return to this situation in Syria as an example of where we're in the earlier stages, the pre-military intervention stages.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

So, what if regime change is the main reason why people intervene? In most situations when states are putting their own citizens at risk, regime change is really the only logical and realistic outcome. Not always, but I think if we look in terms of the governments that are putting their citizens at risk, it is unlikely that they've gotten a change in their mind and actions because the world is telling them to do so. Where regime change brings with it a whole host of other difficulties that need to be considered for example, with the government of Gaddafi in Libya, the way that society ran under Gaddafi was that opposition groups and independent media and civil society was essentially outlawed. So, they didn't really exist. They don't really exist very well now. Now that there is no government or the former government is gone. So, what this means in a situation like this, there is very little choice as to who is going to take over power. What we have seen in Egypt and Tunisia and Libya is that who are the groups that are ready and organized to take power? Unfortunately, they tend to be the ones with international connections and those tend to be and what we're seeing right now is a fundamentalist religious force that is ready because they are organized. The one major issue I think with R2P, particularly if you're doing it with a group, and Libya is a good example, working with the rebels that nobody really knew very well before we started helping them, we have to accept if we're going to go forward with the military power and supporting local rebels, we have to understand that this might be left in power if there is a successful regime change. As we also saw in Libya, these rebel groups that NATO did support, it appears that they did commit war crimes as well. That NATO has essentially, not committed themselves, certainly not, but the group that they were helping certainly has. As well, we see now that Sharia Law is being implemented, and there are certainly policies that are very unfair to women that are now being put into place in Libya. I certainly would not suggest that we require that these new regimes be run like western governments, and certainly I wouldn't suggest that even desirable as we witnessed in Europe as of recent time. But, we should be mindful of the ramifications of changing governments, so that human rights of the entire population can be protected if a new government or governing force comes into power.

So, what I would suggest, if we're going to commit valuable human and financial resources to the plight of another state, we should try to make sure that it is as much in line with our values or with groups that we trust and feel that we at least have some kind of knowledge of, so that we can best direct our energies.

One difficulty with R2P and intervention generally, and as we've seen in Iraq and in Afghanistan, and now in Libya, is that it is very difficult to create an effective civil society community in a state that has been repressed for decades. However, as we look forward to improving on interventions and R2P generally, I think this is the area that really needs to be bolstered the most and looked at, and worked on.

I believe that the society building exercise becomes the most important factor in determining the success of an R2P intervention. And in the case of regime change, which may be inevitable in certain situations, if a more safe and just society doesn't emerge, then the intervention really may not have been worth it in the end. Military intervention always results in civilian casualties and massive property damage, so if the end result is merely to return the society over to a new set of dictators, then it can be hardly worth the cost. Of course, the problem with what I am saying is that by looking forward to the rebuilding of society, we're forcing in a

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

delay in action. So, there is a real tension that comes to quickly helping people, but also planning for future society, and it's really a very difficult balance.

But, let's turn now briefly to the situation in Syria. The Syrian government, as I am sure all of you know, has staged a bloody crackdown on protesters, and thousands have been killed, many more remain homeless, they are seriously injured since earlier this year. Since that time, the situation has deteriorated, and interestingly, the international response has been mixed and very very different than what we saw in Libya just a few months ago. The UN has denounced the actions of the Syrian government and has called for an international inquiry, but it is also affirmed or reaffirmed Syria's independent sovereignty and territorial integrity. American and European officials have circuited a draft resolution to this Security Council, that would have implemented sanctions and an embargo, but this was turned down by the Russians and the Chinese. Once again. Regional bodies have also had mixed reactions to what is going on in Syria. The EU did announce embargoes and visa and asset freezes, but these were very weak, and didn't end up including the leadership in Syria. The Arab League had initially turned a blind eye by, not a, well, had a very watered down response, urged dialogue, for example, between the government and the protesters, but just today, and now it's much more serious sanctions are pulling ambassadors, are buying the Syrians from sitting in the Arab League meetings. The US has also implemented some targeted sanctions, aimed at President Assad and key supporters of the government. Despite these efforts, the violence continues, and it is clear that no one is interested as of yet of intervening militarily. However, perhaps this still is a good example of watching R2P because R2P does require the international community to put on pressure for the state itself to protect itself. So, this, while some have complained that this in fact R2P should be implemented, I would say it probably is being implemented in Syria, just perhaps not with a strong enough hand that some of us would like to see. And I think that now is probably a good time for western nations, and civil society organizations to help and support like-minded groups inside of Syria itself, to help them bolster their ability to care for their population and create a more just society.

It's clear that the implementation and full exercise of R2P from diplomatic and financial pressures to military intervention depends entirely, or greatly, on politics and political will. The *realpolitik* of foreign intervention dictates that states will only be willing to intervene into other states when they have an interest to do so. And I wouldn't suggest this is always based on oil, which is often what people suggest. I think that there are many different interests that we may have. Considerations may be paid to financial arrangements, to have their countries' allies may view their actions, you know, by essentially violating the sovereignty of this particular state. But as an emerging norm in international law, we have to view it from the vantage point of R2P creating a framework in which to act, not a dictate in which to act. In closing, I'd say that as an emerging norm, we have a long way to go before R2P reaches the level of international customary law, but most importantly, we have a lot of work to do to ensure that the interventions that do go ahead are most effective and actually have a positive outcome for the citizens whose countries have essentially been invaded.

Thank you very much.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

(Applause)

Yun: Thank you very much, Jillian.

MICHAEL MANDEL

Sarah Yun: And now we have our third and final speaker, Michael Mandal. He teaches the law of war at Osgoode Hall Law School in Toronto. Among his many published works are: *How America Gets Away With Murder: Illegal Wars, Collateral Damage, and Crimes Against Humanity*. Professor Mandal has also taught in universities in Italy and Israel. He is a founding member of lawyers against the war, and frequently comments in the mass media on issues of war and peace.

Thank you very much for being here. Please join ...[inaudible]...

Professor Michael Mandel: Thank you very much; it's a pleasure being here. I enjoyed the speakers and I am looking forward to your questions.

You know, I have a funny relationship with this report because I remember when it came out, and at the time, it was you know, the enemy because people were opposed to the war in Kosovo saw this, and I think correctly, as an attempt to justify that war, and what strikes me is that I was looking at it, and you know, I killed a tree to print it out, but the cover art struck me as extremely ironic because the cover starts with the preamble to the charter of UN, which of course is "we the peoples of the UN's determined to save succeeding generations from the scourge of war...*scourge of war*...which twice in our lifetime has caused untold sore to mankind. And to reaffirm faith in fundamental human rights and the dignity and worth of the human person, and the equal rights of man and women, and at nations large and small."

I find this ironic because it seems to me pretty clear that the main object of this report and the main object the doctrine has been actually the promotion and justification of war. In fact, imperialist wars of aggression by big nations against small nations-- the kind of war that I think the Charter was primarily aimed to end and discourage of.

As I said, this report first saw light as one of the many attempts by the NATO countries to justify the 78-day bombardment of Serbia under the pretext of what was then called "humanitarian intervention" over Kosovo, the Security Council had denied NATO permission and there was no plausible cause of self-defence, so they hauled out the old notion of humanitarian intervention, the unilateral kind, and that's a big difference with Libya. Even though it had been overwhelmingly repudiated by the international court of justice when in another imperialistic aggression, the Reagan administration was bombing the crap out of Nicaragua.

You know, in fact, if you look at it, the R2P, at least the unilateralist humanitarian intervention, anyway, any humanitarian intervention, nothing can be farther from the objects of the Charter of UN, which was written, remember, 6 years or so after Adolf Hitler and the Nazi regime justified a war that killed 50 to 80 million people, on the base of humanitarian intervention in Poland! On behalf of the beleaguered, ill-treated German minorities in Poland- it was a 'humanitarian intervention,' and when the crime and when the crime that was committed

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

by the Nazis was condemned at Nuremburg as a aggression, as a supreme international crime, the American delegation defined aggression, or excluded from aggression any consideration of what they called “whatever nature, political, economic, military or otherwise,” and when the General Assembly came to define “aggression,” they said, “It’s an armed attack, not in self-defence, not authorized by the Security Council, and no consideration can justify that.”

In the middle of the Kosovo War, if you remember the presidents of the International Criminal Tribunal for the former Yugoslavia, the late, lovely guy who just passed away, he came out with an article that declared Kosovo War such a breach of international legality, that its acceptance would have to create a norm --this humanitarian intervention norm. But between the war, and the issuance of this report--the ICISS report-- the explicit repudiation of the concept of humanitarian intervention by the vast majority of countries, there was a south summit in Havana, where 130 countries said we reject this humanitarian intervention because it is a right of the powerful countries against the weak countries. And that was the specific reasons that it was declared illegal in the Corfu Channel Case in 1949 by the International Court of Justice.

And the one-sided nature of R2P is clear when we ask, well who can protect... I mean we talk about regime change and how desirable that would be...who can protect the Americans from their own government? Talk about the need for a regime change, they have a military that is big as the next 17 countries in the world, but they also have the fourth biggest income inequality differentials in the world, and they have social conditions that lead to 15, 000 murders a year. A minimum of 85, 000 rapes, 2.4 million of its own people imprisoned on any given day, and once a week they execute one of their own people. At one time it was twice a week, I think they had enough blood in the last decade to reduce that. It sounds like a case for humanitarian intervention to me. (*Laughter in the audience*). But who is big enough to do it? The regime change, it’s been written that “state sovereignty is about to go out of style, but not for the most modern countries,” like the US, who have their sovereignty guaranteed.

Now the ICISS report was sponsored by the Canadian government who just participated in this imperialist war of aggression and should have been prosecuted for it, and its egregious violations of the rules of war along with the other NATO leaders, many people in governments call for their prosecution around the world, Lloyd Axworthy, who was the main author of this report or main sponsor of the report, main promoter of it, who recently came out of hiding in celebrated its fruition in Libya, whereas in our list of indictees of who went to Louis Arbour in the Hague and asked to indict all these people for the supreme crime of aggression, and for the violation of the rules of war, there was unbelievable, but the tribunal was corrupt, and its prosecutor was rewarded for her kind treatment of the Canadian government by being appointed the Supreme Court of Canada by the very indictees, or would-be indictees, who we wanted to indict. Now, at the time, it was noted that the tribunal, it was kind of modus operandi operating here.

If you saw the way that the ICC operated, the time it was noted by many people that this tribunal played an important role in justifying this humanitarian war. It relentlessly from the beginning trumped up the fake case for war, it worked it out with William Walker in State Department hack to treat into crime against humanity, there was the fake peace meeting. And in

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

the middle of the war, really scuttling the peace efforts of the Russians and the Germans, a NATO member, Louis Arbour issued an indictment against Miletovic. Right? And with no hope of investigating or prosecuting it. And a lot of the claims turned out to be false, they had to abandon a whole bunch of claims. Madeline Albright came out with a dossier with you know, 5,000 men, 10, 000 men, 100, 000 men, 500, 000 men murdered and they had claims that this atrocity happened in this city, and they had to abandon it because there was no evidence. It was a hoax. And certainly, no prosecutor issues an indictment in the middle of the war could hope to investigate until the war was over. It was clear it was propaganda to justify the scuttling of the peace efforts, the next day Madeline Albright went on TV and said you can't negotiate with an indicted war criminal; it was the most severe day of the bombing of Serbia-Kosovo followed on this indictment.

Now, the ICISS report tried to justify the legality of the intervention of this unilateral humanitarian intervention, but by the time it came out, this was really not on and I think they had to admit, there was a companion report issued by Richard Goldstone, also using Michael Ignatieff as an author, they tried to justify it, but they really by that time, was so obvious that they hadn't convinced anybody of the legality of it, that they didn't push this realm, although they have a complicated , in other words, without Security Council authorization, a complicated paragraph E, which sort of warns the Security Council that if they were to authorise it, then states will take the law into their own hands, kind of a "just do it," at this point, people were saying, "What the hell, does legality doesn't matter anymore." But, there is a kind of real threat and this notion that you could seek Security Council authorization afterwards, but this sort of thrust of the report, which was really about unilateral norm authorized humanitarian intervention, was rejected. We had a report by the UN which said "No, the Security Council is the only part that can authorize this." They hedged it in with all the considerations, very much like in the ICISS report about last resort, you know, exhausted diplomatic means, right intentions, minimum harm, grave imminent danger.

And then we had the Millennium Summit in 2005, after the Abu Ghraib scandal and everything then John Bolton's hand must have withered to sign the document that said, "No, the Security Council alone can enforce the R2P." So, this I think, put pay to the idea of unilateral humanitarian intervention, although obviously, you know, in this report, the idea is that if the Security Council doesn't go along, any country perhaps maybe not the most powerful country in the world, will take it upon itself to intervene nonetheless.

But anyway, now we have an example of Libya, a very interesting, of collective humanitarian intervention, one authorized by Security Council, we were very adamant in 1999, and this was an aggression because it had not been authorized by the Security Council, but I think that Libya is a real eye opener. First and again, one difference, the key difference is that it is an explicitly, all necessary means, a resolution that authorizes the use of force by countries that want to do so, and NATO countries in this case were the ones who were promoting it, but there's another thing that's a real eye opener. Jillian said the world watched it first, and then she said it didn't watch very long. Unbelievable haste in which this was approved. I mean February 15th, February 15th, and they were marching the troops, the troops were marching, as they always do, in March. That's why they call it "March." And it's no accident the action in Kosovo was in

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

March, Iraq was in March, and the Roman year started in March because that's when the troops started to march. And then they added January, February afterwards, but originally, it was March, and I guess you can't blame the NATO countries for the fact that the pretext only occurred in February. They don't know it's March in March as they always are. And you can't get this kind of operation in place in such a short time.

Anyway, obviously they had not exhausted all the means to make peace the unprecedented five abstaining members of the Security Council were really dissents, said as much. We haven't done anything to promote peace here. And then the role of the International Criminal Court (ICC) – it's quite amazing. In the same breath as the Security Council authorized the sanctions, this was on February – let me see, what was 1970, February 26th, I think was the day of that resolution, February 15th is when the demonstrations take place-- they authorized sanctions *and* a referral to ICC. And the hypocrisy of US is so obvious in this. This is the first day, but of course the United States refused to submit itself to this jurisdiction, and always has, the trust to submit to other people. In fact, the immunity from prosecution, which is an inevitable thing, it says "No state outside of the Rome statute, or Libya, can be prosecuted for anything done in Libya," and that caused a rebuke from the presidents of the Security Council --you remember, the representative from Brazil-- that they couldn't tolerate this kind of exemptions.

But anyway, the speed with which the ICC went to work to demonize Gaddafi was reminiscent of the role that played by our Boer in the 1899 – that was in five days of the referral, Luis Ocampo held a press conference, where he said basically that crimes had been committed, and he named the criminals under investigation and said we gotta really be impartial. He repeated it so many times, it was like Shakespeare, he doth protest too much, he said, "We are going to be impartial," but he named only of course Gaddafi and his sons, and he said that crimes that had been committed.

Crimes alleged to occur only two or three weeks before, this was the impartial prosecutors, this was so identical to what Louis Arbour did in 1999. What was the rush? At a press conference? You're a prosecutor, gather the evidence, nothing is gonna happen 'till the war is over. You cannot investigate this! If you read the indictment, there is a very interesting film going around, the information came only from the rebels, the thousands of dead came only from the rebels, of course the rebels also said there were 15,000 people at least killed since the bombing, and Fox News report, appended to this indictment. But obviously, it was just like when Arbour was going to indict... I mean it was meant to demonize. It was putting them on notice that you cannot commit war crimes. But that's phony! He just wanted to demonize them, because the idea was to justify the war. That was the whole point of it, because you know, two weeks later, after this, well two weeks after this, what happened? I'm jumping around here.

But anyway, in March 19th, the war is on. And seems to me, this R2P has a modus operandi, which is that first they refer you to your own criminal tribunal. Ocampo's so worried about the United States, that every time he writes an article, he says "we're not a frivolous court, we're not imposters, you don't have to worry about us." And he proves this every day when he puts Africa on trial, and the only people he's put on trial are the enemies of the United States, and with all the war crimes being committed now, so we'll see what happens, I mean the

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

evidence is obviously very flimsy, we'll see if all the evidence that Jillian talked about the crimes of the rebel groups, NATO's bombing, you know, 3000 or 4,000 bombing missions, is investigated by them. I highly doubt it, but I keep an open mind about these things.

Now, it's especially important because the Security Council resolution have a limitation that are essentially laughed at by the NATO countries, and can quickly turned into regime change. The necessary means to authorize were, quote, "to protect the civilians and civilian populated areas under the threat of attack in the Libyan-Arab area including Benghazi." But NATO pounced every civilian populated area that the rebel attacked. You look at, what, they didn't pound desserts, they pounded cities. You might want to ask, how the, you know, bombing to support the siege of Sirte six months afterwards, was protecting civilian populations from attack. I mean, they just laughed at those limitations. And, you know, an independent court presumably would think of investigating them, prosecuting them for the supreme crime of aggression. Of course, the aggression isn't in the ICC jurisdiction, because the US didn't want it there. You know the United States didn't join it, the US didn't join it, they said, "Well, to please US, we've kept this out." And now they have this kind of fake amendment coming up in 2017 that is an opt-out aggression rule.

There was another limitation which was, this was supposedly understood supervision of the Secretary-General...In consultation with the Secretary-General. That was his resolution...But of course, you know, when Boutros-Ghali had the same resolution in Bosnia—Boutros-Ghali, and he actually supervised American bombing, he was fired by the Americans in the second term, he was replaced by the ambitious Kofi Annan, who authorized the bombing in his absence, that's how he won his job, and then he kept his mouth shut during Kosovo, and said some other egregious things like Srebrenica being the worst massacre in Europe since WWII, a guy from Africa saying that. And thinking that in Europe, you know, made a difference about it. Anyway, Ban Ki-moon didn't say a thing. Obviously there is an ix memory here, if you say that to the Americans, you don't get a second term. The ICISS report made a big deal of the importance of right intentions – can we really believe that humanity motivated NATO here? I mean, NATO is basically the US, the Supreme Commander is always an American general, and they have all the hardware and nothing gets done without them wanting to have it done, but they not only tolerate but they actually underwrite, talk about Egypt for thirty years, the Mubarak regime, horrible regime, Saudi Arabian, Bahrain.

And you know I want to talk about Palestine for a minute, because here we have forty-four years of aggression, a military occupation, millions of people, in violation of many provisions of the Rome statutes, the world court unanimously held, and what did the United States do? Well, the Palestinian authority used the "terrorist action" of applying for membership in the UN in UNESCO, they punished them! They punished the UNESCO for granting them status. That's how much humanitarian, that's how much respect the US has for human rights. I think to think of this as a right intention is so implausible it's like in a fairy tale.

There is a mad scramble for Africa now. Gaddafi was a problem, he was a problem for a lot of people, he was supporting African independence, strategically placed on the Mediterranean, I wouldn't put oil so high because they all had access to oil, there is an opportunity of saying

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

within 15 minutes of Gaddafi do something, was an opportunity to overthrow him, they don't care who the rebels are because they know that the rebels can't survive just like in Afghanistan Karzai can't survive for five minutes without NATO troops on the ground, they have another dependent regime.

So, the problem that I see is a kind of global inequality and imperialism kept that way mostly at gun point, and if you weaken the sovereignty of the weak countries, the exploited states, but make no dent in the sovereignty of the exploiter states, and then there is all the more inequality and more wars, and more war crimes. So, I think that some part of my opinion, R2P has been a failure in alleviating humanitarian crises, 1000s of people killed. By the way I don't buy the distinction between being combatants and non-combatants. I mean you can see Don Cherry will shed tears for every Canadian soldiers that's killed in Afghanistan, and rightfully so! This notion of distinguishing the Gaddafi killed demonstrators and NATO and the rebels killed 60, 000 combatants, I don't see the difference frankly.

But it's been a success, R2P, in legitimating imperialist war. Can we think of an example for where it might be useful? Rwanda is always the case that is mentioned. But if we go about granting NATO, the powerful countries, the power to make war seems obviously absurd. Every agrees that the intervention was stopped by the US and the US was trying to get some precedence out of this, for humanitarian war, because look what happened in Rwanda... most of the time, people say, the Americans didn't stop them because they didn't want to look bad. But, in fact, it was clear that the American clients, the Rwandan Patriotic Front, the Kigame regime which took over, in which the one calling for more intervention. And in fact, the invasion, which was a successful invasion, was one that was you know, strongly supported by the United States, and one that was very congenial to them. And consequently the idea was that I think the RPF didn't want intervention. They didn't give a damn about the people being killed, just like the KLA didn't give a damn, until they won the war and took over the country, which is what they did.

Interestingly, legally speaking, Rwanda is an example where state sovereignty was an obstacle to intervention. Usually, we say, well that wasn't the obstacle. But, if you read the Security Council minutes of the meeting of 21st April 1994... This is right, 6th April was the shooting down of the plane, the invasion, the massacres start then. The representatives of the genocidal Rwanda regime makes what he terms an "anguished appeal," for the people of Rwanda to the international community not to be abandoned to its sad state. The Security Council, this is the US reducing the forces, the government of Rwanda asked UN members should be increased for supervision of the ceasefire, of security conditions that could bring an end to the violence. In other words, any intervention would have not violated sovereignty, it was the government, it was the Hutu government that wanted the intervention, because they were about to be overthrown, and it was the RPF, the victims, the Tutsi army that didn't want intervention, they were the only ones saying, "Don't intervene," and so, as a precedence for a legal violation change in the situation seems to me bogus.

So, the important lesson from Kosovo is *[inaudible]* that UHI is legal, that humanitarian intervention, and R2P is illegal and should remain so. I think the lesson we learned from Libya is

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

that collective R2P is also something that is very bad medicine, I think we should get back to the opening words of the Charter, and remember that war is a scourge and not to try to create new excuses for it.

Thank you.

(Applause)

LEGAL DISCUSSION

Sarah Yun: ...*[inaudible]*... Thought-provoking session. And I hope that so far, it has done the job, but we have questions now, and some of them are for specific panellists and some of them are open.

We can start, however, with a bit of a softball, perhaps, a larger question of *why* we're having this legal panel, in particular. We've talked so much about how the politics and the law sometimes are difficult to distinguish. And in the earlier panel, we talked a lot about the politics side, and now I'd also like to present to all of you who have the legal background, why is it important to consider R2P as a legal instrument, and what does that add to our understanding of the doctrine? So, could we start perhaps with Monte?

Monte McMurchy: Procedures are important, without rules you have chaos. And knowledge and precedent are also of importance because what that does it builds up on the body fabric as to what one must do, what one must ought to do, and what one not ought to do. And yes, mistakes will be made, but it goes back to my original statement: we need to have common ground for understanding. We need to have rules of conduct, we need to have rules of procedure, but more importantly, or as important, we need to be aware that these rules may be subject to modification as a situation dictations. But we also need to have a critical capacity to a wide variety of despaired view points, and it also helps to have solid understanding as to what government can, what government cannot do, and what government is or what government is not.

Jillian Siskind: I agree, actually, but just to add something on to that, I think what R2P adds legally is the framework that you have to consider when the international community wants to intervene in a country and R2P provides a basis for a more thoughtful and methodical approach to intervention and I think that this, as it becomes improved upon, or perfected, can perhaps prevent some hasty actions, like in Libya, we've seen in the past we're either hastily intervened or hastily did not intervene and do anything at all, including, not putting on any kind of pressure onto the governments. So I think that this provides a very useful and specific framework to consider.

Professor Michael Mandel: You know, oftentimes talk to my students about this because I teach the law of war, and they ask, "What's the point? The Americans flaunt it all over the place, what is the point of this? It's unenforceable." You know the dumbest question of the 21st question is "is it legal?" – what does it matter? And you know, there is a deficit of enforcement, but only one way deficit of enforcement. You can ask Charles Taylor and Milosevic, the Bashir from Sudan, whether the laws are enforceable, and it is enforceable; it is one way enforcement – that's very important to understand. And that leads to the conclusion that somehow, law is really important, and maybe is not important as a defence, but maybe it's important as a realm of debate. Some people seem to think that it's very important. You remember when George Bush came up on March 18th of 2003 and read that, "Security Council resolution 1441 687 and 678 authorized this." Evidently, people think that it's important to justify actions by means of law, and therefore it's important to engage in realms of law, I think.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

You know, I think the international law, especially approaches our ideals of justice and equality, Equality especially, the Charter of the UN, you know, which regards, except for the five permanent members, all the countries as equal, large and small. And bans war, except you know, very rare circumstances. That appeals to people. So, people don't want to be scoff laws, Americans don't want scoff laws. So as a realm of debate it's very important. The legality, because of its connections with our democratic ideals, is a very important realm of debate, but it's also can be a very effective tool of imperialism, it seems to me. And, therefore, it has to be engaged, so it's important to gage R2P on a legal level as well as on a practical level.

Yun: Thank you.

This question is for the whole panel: At the end of the conflict in Libya, Gaddafi was killed outright before possibly facing trial. How can R2P further be equipped to bring wrong doers to justice? More specifically, how can the doctrine assist in that process?

McMurchy: Well, I think Gaddafi was murdered, he wasn't killed. He was murdered. And I suspect that it was an executive action. Let's just take that for what it is. Are the right to protect in terms of a dictator, or ex-dictator, on one level, he was allowed an opportunity to make a choice or make a decision to leave power. He exercised not to, for whatever reason. And hence, decisions were made, whether they were right, wrong, is irrelevant at this point. The fact is that they were made, and we must now abide by them, and the big issue is how are we going to reconstitute or reconstruct this country? This country, Libya, that has no background in political party capacity development. These are the long-term fundamental issues. (What about education? What about providing equality or sourcing that each tribe or ethnic group will be preserved and protected? These are the fundamental issues. The easy choices, as Chancellor Bill Graham Mentioned earlier, they were done before. Whether by drones or by intervention. The tough decisions are of the slow, grinding choices, which are going to be decades, and this will be off the map. Haiti is just an example of what has gone wrong, what went horribly wrong in terms of reconstitution of the country.

Siskind: I think this comes back to the point that I was making earlier about the civil society or the society building that is necessary to put in place this support for the people in the country before you go in with military arms. I believe that the murder of Gaddafi and I see it as well in that same way, was a glaring glaring example of putting a lot of power into the hands of people who are disorganized, and not have real leadership of their own, or were not really able to apply any kind of law or justice in a way we'd consider meaning of those words. So, I think that this is a great example of the need to act in a more thoughtful and measured way at the outset, to ensure that, or to ensure to the best of our abilities if we're going to intervene somewhere, that there is as peaceful and as a safe a society once the regime is toppled, in fact what appears to be inevitable.

Mandel: I don't have anything to add to that. Obviously, what struck one about it was the outrage over that (*italics*), and I don't know how many 10s of 1000s died in that war, but it looks bad because it was on tape, you know, Gaddafi was a brutal dictator for a long time, you know, his fate doesn't really interest me that much, but there are 10s of 1000s other Libyans who were

killed. It's like Saddam Hussein, the war was fought to get rid of Saddam Hussein, but million Iraqis were murdered by aggression in that case. So, you know, those people, it's more of an observation, what will happen with this? He was murdered on film, and let's see how the people who want to make this some kind of a legal intervention deal with it, but his personal fate, really, it's a kind of obscenity that we're worried about the leader's fate and not the 10s of 1000s of people who were killed by the intervention.

Yun: The second question is also addressed to the whole panel: Why weren't the various wars in the Balkans following the disintegration of Yugoslavia labelled as "genocide"?

Michael, could we start with you?

Mandel: Why weren't the wars...because of the uh... you mean the genocide? Well, you know the...What happened, the notion of genocide, there are couple of things. Genocide, of course, during the Kosovo war, justified as a genocide, was an invitation to genocide, the genocidal intent--and Michael Sharp-- and all of you who said that they should, the bombing was justified because it was "genocide," when the dust had cleared, all these Nazi concentration camps turned out to be empty, and they couldn't charge Milosevic, the mastermind of genocide, so they had to drag the one from Srebrenica, from Bosnia and tie it up in a trial, so genocide was the banner, the fake banner, obscenely fake banner under which that war was fought, the Srebrenica case, which was mass murder of POWs, was also the abasement of the corners of the insult to real victims of genocide. They call that a genocide. But I guess the people wanted to say that the bombing was a genocide, are kind of rising to the bait and saying, "that's the genocide.: And certainly, you know, the UN Convention on Genocide as loosened up as you can use it, the jurisprudence says that there has to have been a specific intent to destroy a people, physically destroy a people, and I don't think however bad the bombings in NATO was, it wasn't for that. It just doesn't bear. I understand why people wanted to call it genocide, because they were being called genocidal maniacs, and this was worse than what they were being blamed for.

Siskind: I take a little bit of a different view, but I think what happened in the former Yugoslavia may be as a whole, they was a lot of killing going on by Serbs and Bosnians and Bosnians and Serbs and back and forth in every direction, and so it was quite a complex war. I do think that what happened in Sherpa was an example of genocide, and I think the intent to destroy in whole or in part, an ethnic group and, O.K., so 4000 people wasn't billions of people, but it was four, it was those 4, 000 Muslim men, very specifically singled out for, based on their religious, their religion and ethnicity. So, I do believe that that falls into it. I think that calling the entire war a genocide, or the entire conflict, is more of a complicated thing, because it wasn't just one side against, I mean the tribunal tends to look at things as Serbs vs. Everybody else, but you know, it obviously was more complex than that. But I do think that there were examples of genocide within the larger conflict.

McMurphy: I wouldn't even want to start to begin to articulate the complexity of that region. Even if I was in Kosovo for that period of time. The complexities are so profound, I myself can't even comment. I would say it is homicide extenuated, and the term Genocide has a very precise meanings, and I suspect it's been used and abused and have become somewhat emotive, which

takes away from it, hence what I call legal clarity, when it is black letter law, in terms of procedure or rule or a definition of matter, it provides you with a discursive, but in terms of Balkan, it is so complicated in terms of individual, it is emotional, it is ethos, and in terms of family, to cite one example, that you could be killed because your great great great grandfather twice removed committed an act. And, hence, the, and yet on the other level, if you were to act perfunctory, they would do whatever they could to protect and preserve you. It's conflictive, and I don't even presume to even comment.

Yun: This next question is just for Michael: When it comes to the exercise of the legal power, can you name a country that does not exercise it when it is in their interest and ability to do so?

Mandel: Well, you know, there is 192 members of the United Nations, I don't, I mean, there's been great examples of heroism and solidarity by various countries by various times, Cuba famously sent doctors all around the world, the Israelis have sent their, you know, much as they've sinned, they've also done acts of solidarity and acts of reward that have no interest but public relations I guess. But then that's the reason, and that's why we all do good deeds, because we want recognition of our fellows? So yes, I think that countries are capable of acting selflessly, the cost and the enterprise of war is a different thing. The selfless war would be a harder example to find, but nations have the capability. Look at, I'd often thought that if we had no R2P, and no option of war in these cases, that we might seek other kinds of options—the ones that work nation building, support development. Look at the UN report, the big responsibility to protect; number one thing has been development. So, if we were to allow that, the right to bomb the crap out of the people, and we really were interested in it, maybe we'd seek, you know, other means desperately. I remember the *Star Trek* series when they had this machine, this painless war machine that they were for five hundred years, they were killing each other, and Kirk comes down and destroys the war machine. He says now you have to either make painful real war or make peace, and he thought, that was a good point, I thought.

Yun: This next question is for Jillian. I think the essence of the question is that the R2P-- is it practically applicable only to non-nuclear armed states? And, this question cites North Korea and Libya in contrast.

Siskind: No, certainly not. And I mean, the issue of follow-through, perhaps, is. But I think what the R2P requires us is to think of alternative measures to, I think, you know, what's happening in Syria is an example of not using the military, but people are starting to slowly be serious about political and economic sanctions, which may or may not have much of an effect—it's hard to say what's going to happen. So, I don't, in order to do that, I don't think nuclear capabilities really factor into it. But of course it does. If it comes to, I guess you have to look at it as, if you're going to start on it anyways, if you're going to embark and go down that road, I guess you have to think about where is this going to go? That's usually, probably the better way, when you're starting to intervene in somebody else's backyard, is how far are you going to take it, and what are you going to do to ensure a success? So, if you're dealing with a country, North Korea for example, or Iran being another current example, I think you have to be careful of where you're willing to go, but I think that in fact, you probably should be using the diplomatic and financial

and whatever other mechanisms that you have, because I still think that we should be trying to protect people, whether or not their country has a nuclear arsenal.

Yun: Thank you.

And, another one for Michael, quite popular today: How do you explain the mass resignation of Libyan diplomats across the world before the UN Security Council Resolution 1973 was passed? And how about maybe you could speak to Gaddafi's threat to go house to house, quote, "to get the rats?"

Mandel: I think the first one is jumping from a sinking ship. Everybody does that, I wouldn't say that they suddenly had a change of heart. I think that referral to the International Criminal Court is a signal: the bombs are going to fall. And you're in for it. Not that you're going to trial. One of Gaddafi's sons begging to get to the Hague, he's dying to get to the Hague, if he gets to Hague, it's going to be heaven, the marzipans, wonderful, the climate, the food, and the culture, so that's, you know, I'd explain it by the, you know, "the jig is up" as they used to say.

That's why, what was the second question?

Yun: Gaddafi's threats –

McMurphy: Gaddafi's threat to go house to house.

This is a complicated affair. I saw a movie which was based on the guy, the rebel, the guy who denounced it to the human rights commission, and the Security Council. And he said that they had no idea what was happening, and his words have been interpreted in a number of ways. Seems to me, what I've read from them is that rebellion, Benghazi people have rose against Gaddafi in the 1990s, they were supported by the NATO countries, there were a lot of contacts with them, just like the South Sudanese, let's not be naive here, and he was saying that if you're going to rebel against me, I'm going to fight you, that's all I thought he said, I don't have Arabic, I have very little Hebrew, in fact, but you know, my Italian doesn't help me in cases like this, so I can interpret that what I read was , it was a threat to fight the resistance fighters. Who had hanged a policeman, by that point you know, February 15th. So, I think that it was a rebellion, and he was going to fight the rebellion. That's what I read from it. The Israelis were doing Gaza, they go house-to-house, you know?

Yun: If there are no further questions, to bring this panel to a close, I was hoping that perhaps each of the panellists could speak to the idea that we started with, I think at the keynote, which was "R2P and sovereignty," and I think that's a theme running throughout each of your talks, how do those 2 concepts jive legally speaking, what are the legal justifications then? What do we need to make them stronger, if anything, if they are not strong at the moment?

So, these are sort of closing remarks, and could we start, Michael, with you?

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Mandel: You know, I really don't think I should take much time adding to what I've said. Obviously, sovereignty, you know, was meant at the, by the Charter of the UN, the absolute sovereignty to be a protection of human rights, because the threat that we've just experienced was the invasion of the Nazi armies and the Japanese armies, and aggression was the main threat to human rights, and sovereignty was the main protection, and therefore aggression was a supreme crime, and you know, the war was only justified you know, in self-defence, in other words, to fight aggression. So, sovereignty was the bulwark, and I think that this is an assault on sovereignty, it's justified humanitarian intervention, but it's exactly the opposite because it's the imperialist powers that are violating the sovereignty of the small countries, and as we've agreed, and not for humanity, and it's only one way going, it's only going out of style for the small countries, not for the most advanced countries like the US because their sovereignty is not a threat. You know, so I think that, you know, that the notion of sovereignty has gotten a bad "rap" because the very important protection of human rights, all those millions of Iraqis who were murdered by the Bush gang who will never stand trial for what they did, that was a violation of their sovereignty, and their sovereignty would have protected their human rights to life.

Siskind: Well, sovereignty is more than just the right of a country to govern its own affairs within its borders, and sovereignty has got to be seen as being a responsibility of the state to protect their populations. So, certainly, what Canada's position was 10 years ago and while using different words to explain it now, but essentially what our government says, and I tend to agree that human security is equally important as sovereignty, and I think that state sovereignty isn't lessened in any way by R2P, but at the same time, it can't be used as a shield the same way state of immunity cannot be used as a shield to protect violators of international human rights or international law who are putting their populations at grave risk. So, I think that sovereignty is not under attack by R2P, but I think that it needs to be looked at through the different lens, which is that of responsibility.

McMurphy: I see R2P now as being a form of an external moral governor. I'd like to think that we, as a society, are growing and becoming, how does one phrase it? Mature. And sovereignty is important. Each state has an obligation, a legal obligation, administrative obligation, but also a judiciary stance of care to responsible and to look out for its citizens, and ideally the most vulnerable. But unfortunately, it has not always happened, and in the past, for a lack of any better reason or external force, they have been allowed to get away from, with it. Now, we all need to be more cognisant. And the big issue is, will this be a form of holdback, holding back leaders from doing strong and being courageous, and infeeble them, and render strong nations less strengthful, or will it empower those nations that are weaker in becoming stronger? It's a form of duality. It's a form of split. But it all can be distilled in terms of being an active, moral responsible agent.

Yun: So, thank you very much, on behalf of the organizers and everyone here, the audience, for taking time out of your day to speak with us.

(Applause)

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Patrick Quinton-Brown: so, we have moved from behind schedule to ahead of schedule, so in fact, we did allocate fifteen minutes for coffee break, but instead, we'd like to extend to half an hour, so there is coffee and cookies outside, so you guys can chat about the panel, and please feel free to fill out the surveys that are in all your conference packages, we'd love to hear back from you.

POLICY PANEL

Michael Valpy: Hi, I'm Michael Valpy, I'm the moderator.

I've got to say this for the last panellists, the organizers of this symposium couldn't have picked three better panellists to wind up the symposium, and they were just superb, and let me introduce them.

Sitting in the middle, if you think, for those of you who think that G8 in Canada, if you *think* G8 in Canada, you think John Kirton. In his truly remarkable academic career, Professor Kirton has been and is director of the G8 Research Group, which was established at the University of Toronto in 1987, his political scientist, he researches for the Centre for international studies, and fellow of Trinity College. In 1992, '93, he served as a Special Project Officer in Canada's Department of Foreign Affairs and International Trade, devising a strategy for Canada's then G7's participation. He has conducted media analyses of the G7/G8 summits on behalf of DFAIT, he's served in foreign policy committee at the national round table on the environment and economy, which is an advisory body to the prime minister, and has participated in the preparations for the 1995 Halifax Summit, and he was a member of the Canadian government's international trade advisory committee from 1995 to 1997.

Martha Hall Findlay on the right, is a recovering politician. (*Laughter in the audience*). She is a lawyer and international businesswoman, a graduate from U of T in International Relations and from Osgoode Hall as a lawyer. Prior to becoming an active politician, she practiced corporate and commercial law. She was General Counsel for Bell Mobility and Mobility Canada. She founded her own international legal and management consultant firm, focusing on high tech and telecommunications in Canada and Europe. She was Liberal Member of Parliament for Toronto-Willowdale from 2008 until May 2, 2011, when the riding's voters disproved Jefferson's maxim that the people are always right, by electing her Conservative opponent.

In Parliament, she served as Liberal critic for international trade, transferred infrastructure for public works and government services. She was candidate for the party's leadership in 2006, she is a regular commentator on CBC's Power & Politics, she is an executive fellow of the University of Calgary's School of Public Policy.

If you Google her, her blog comes up right at the top, listing articles she's written for publications, such as Public Options, The Mark and Huffington Post, on Women and Political Leadership, the Future of the Liberal Party, the Conservative Government's Crime Legislation, and sitting down and knowing certain terms and thoughts, some are Liberal and NDP merger. She is the only person, I give you this as an aside, if I ever intervened who is standing on the deck of a navel destroyer heading into the storm off Newfoundland.

Finally, Kyle Matthews is a lead researcher at the Montreal Institute for Genocide and Human Rights Studies, at Concordia University. He joined the will to intervene project after

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

more than five years of diplomatic service with UN High commission for Refugees during which he was posted in the south, the Southern Caucasus (Tbilisi), the Democratic Republic of the Congo, Kinshasa, and Switzerland, at of course Geneva. He has previously worked for Care Canada in Albania, later at Care Canada's headquarters in Ottawa, where he managed several humanitarian response initiatives and peace building projects in Afghanistan, Sub-Saharan Africa and the Middle East.

He has a BA in history from Carleton, an MA in Development, International relations from Aalborg University in Denmark, and a certificate in Refugee Issues from York University. He is member of the Montreal Council on Foreign Relations, and a board member of the Canadian International Council of Montreal branch. He is also a member of Canadian International Councils working group on intervention and has advised members of parliament on issues related to international peace and security.

So, that is your panel. The ground rules: you each have ten to fifteen minutes, after which I will quietly stamp my foot or something; I'm not sure what I've got to make noise with.
(Laughter in the audience)

JOHN KIRTON

Professor John Kirton: Thank you very much to the organizers for inviting me. To you, for staying through the fundamentally important session on values and the law to deal with in mere practicalities of policy-- our subject at the moment. Because it's about policy, and because the Centre has an important Canadian dimension in its mandate, I am going to focus on R2P in the Canadian Foreign Policy context-- an easy thing to do because I have taught it for over three decades here. But, also because R2P looms very large in Canadian foreign policy as a whole, and has, I think for a very long time.

If you just ask, what are the greatest achievements in Canadian foreign policy since the new order set at the end of the Second World War began? I've come up with a short list of only three, and all of them were brought to you curiously enough by Paul Martin. The first, the creation of the Group of 20 in 1999, much in the news in the business pages today. The second came from Paul Martin, his dad, back in 1995, the great mediatory initiative, that transformed the United Nations, in the General Assembly, from a small winning war-time coalition, that imposed one of the most punitive peaces that the world has ever seen, and what we take for granted today, a universal United Nations, where as every sovereign state—big or small – has an equal voice, an equal place. That's a high standard. But, I think Paul Martin, his son now again, in September 2005, met it and surpassed it, although of course, the Right Hon. Paul Martin characteristically gives most of the credit to Allan Rock and Lloyd Axworthy. But, it was then, when at the summit level, all of the now are close to 200 states, approved a new revolutionary principle of the international responsibility to protect. Now, as I am sure you've discussed this morning, the right to be protected, and most certainly not the right of the international community to intervene, but the responsibility of the international community to intervene. So, that's the greatest achievement of post-World War II Canadian foreign policy.

I think we can extend it, because UN resolutions, even those passed by great UN summits are rather frequent now. But, one of the most remarkable things is how Canada has, over the past two decades, increasingly put the principle into practice. Not by doing the easy things, coming up with a slightly nastier adjective, in a diplomatic admittance, but, in engaging in acts of war. Again and again, with increasing frequency, with vast increase over the past two decades on most of the things by which we can measure this phenomena.

Canada has, once the Cold War ended, and we thought the United Nations could finally function as its founders intended, if you remember the discourse of time, to save mankind or person-kind from the scourge of war, but no. From 1990 onwards, Canada went to war, again and again, importantly but not always, in order to give practice effect when necessary to this principle of international responsibility to protect. "Why" is the question we ask as scholars of Canadian foreign policy. And I've come up with two answers. The first is that the international responsibility to protect is an international expression of one of our most enduring and deeply embedded domestic national values at home. Broadly, I label it "multiculturalism." But a core component of that is the rights of minorities, but respect for minorities. And the celebration of the sharing of minorities, as those of you who have recently written a Canadian citizenship test, would know. That's a distinctive Canadian national value, which explains why this phenomenon

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

of engaging in acts of war has been the property of Canadian governments of both major political stripes, when in office. And on the whole, has been broadly supported by the Canadian people in majority, because taking the peacekeeping, peaceable kingdom to war does involve the mobilization of consent. It's not something that the government can just do while the country is not watching, having been tricked by another country close at hand. But, it's a distinctive Canadian national value, it's not a unique one. So, we have done it, gone to war in defence of the international R2P with our closest friends. In particular, with two countries, our two mother countries: with Britain, and France. So, as you watched Libya this past year, you will have seen Canada going to war hit a new high on this vast expansion, the first time we've fought two wars at a time, because we were still doing Afghanistan, and Mr. Harper chose to go to war in Libya as well. And what you saw amidst of the diplomacy was I think an important story. It was the French, the British, the Canadians, a few of our closest middle-power friends, up in Northern Europe. They were the ones who risked lives of their citizens to put the international R2P principle into practical and successful effect.

So, those are bold generalizations, so we can return to ask the question: "Where did the Canadian doctrine of an international R2P begin?" And let me suggest that by different name, and with more gentle components. I think we can see its origins a long time ago, in a place not very far away: January 13th, 1947, Convocation Hall. It was there that Louis St. Laurent unveiled the Grey Lectures we know, setting forth five fundamental principles of Canadian foreign policy, which many of my colleagues and I think provides the essence of the building blocks to this day.

The first was national unity; you cannot take a country to war if your Francophone population centered in Quebec is strongly opposed. We learned that the hard way in 1917 and 1944, no matter how just the cause.

The next three are quite interesting because they were a few clear contradiction of the Charter of the United Nations still fresh, about a year or so ago. And it's defining principle article 27—non-interference in the internal affairs of sovereign states. The first was political liberty, the second was the rule of law in national as well as international affair, and the third seems to be a bit curious today, the values of a Christian civilization. What did Louis St. Laurent have in mind? About a year and a half after the Allies had actually seen Auschwitz, at a time when Stalinism was sweeping through Western Europe as an ideology, as a political force? It was, I think quite deliberately although the words were more diplomatic, to intervene as united polity in the internal affairs of France to keep the Communists from coming to power so we would not have any Stalinism dissent on Europe. So, when we said "never again," and here I quote my good friend Irwin Cotler, it wouldn't be "again and again."

The fifth of the principle was the acceptance of Canada's, our, international responsibility in keeping with our conception of our new role in international affairs. The sense of responsibility, and not rights, was there from the start, based on three subsequent principles, which truly did constitute intervention effectively as it turned out in the internal affairs of sovereign states.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Then, of course, came the Cold War. With them, the killing fields of Cambodia. I have heard the argument that the killing fields of Cambodia were really not the fault of Pol Pot, he had actually been brutalized by Henry Kissinger because the American bombing of Vietnam. But, I don't think that that is the dominant lesson that the people of Canada learned from that unfortunate, indeed tragic, event.

Then came the great victory in the Cold War, when we are finally as a country able to increasingly take the lead to articulate more strongly a modern version of the Grey Lecture elements. I think the first statement came from Prime Minister Mulroney in his Stanford University speech in 1990. The discourse was a bit different. It was humanitarian intervention; it was good governance, over there, not here. And, a fundamental respect for the rule of law in human rights. And, of course, we saw some application of it, the rights of minority. In the campaign against apartheid in South Africa. And even though it wasn't the dominant force when Canada after a sabbatical of forty years went to war the first time against Hussein's Iraq in August 2, 1990, it is an empirical fact that they did use Weapons of Mass Destruction (WMD), chemical weapons, against a large community of his own people, and indeed, imperil as that war unfolded, to civilians in the state of Israel, meaning the memories of the original holocaust were rather easy for Canadians to recall.

We move through of course to Kosovo, the liberation of Kosovo from a genocide that was likely to happen was the judgment of the Canadian overwhelmingly at the time, March 24th, 1999. It was, I think, an important moment in Canadian foreign policy, four times in the war drenched 20th century, the young men and women of Canada had to go fight for freedom in Europe. The first three of those times, they had to wait two long years or more before the friends in the United States came to give them a hand. And 1939 to 1941 was but one of those, but rather raises the question: had it not been for the somewhat disconnected event of an attack by the United States, or on the United States by another power, Pearl Harbor, would have the United States have sat out the Second World War and all the horrors that it brought? But they were there fighting alongside us and the British and the French from March 24th 1999. Canada did not have to bear a disproportionate share of the burden, applied by far more than its fair share of sorties. And every day, you didn't know when you'd lose your pilots and planes. But we did. And as wars go, I think Kosovo had an unbelievably happy outcome. After all, Milosevic was handed over by his own people to a war crimes tribunal. And I think that's the ideational ideal that we can hold up for other cases as well.

Libya, I think falls in the same tradition. It's a rather classic case, that the Canadians and the British and the French with the United States importantly helping, from the largely invisible rare wise diplomacy on their part. But make no mistake about it. It was of course the United States that pioneered the authorizing resolution for that war, as you've heard, at Security Council. And I do not, for a moment, believe that the representatives of the Russian Federation, of the People's Republic of China were asleep at the switch, or were tricked by some clever American wording when they deliberately decided not to veto that resolution. I think showing that the normative appeal in its legal dimension, is having ever increasing and more abrasive effect. I might also note, going back to Kosovo, that United Nations Security Council resolution 1244 is no less legal or no less legitimate than any other resolution that the United Nations Security

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Council has ever passed. In fact, because it was more recent than many of the other resolutions about Kosovo that preceded it, it probably has more moral force – that was the resolution legalizing and legitimizing the G7-inspired NATO-delivered intervention in Kosovo. And here, if you look at some of the ... *[inaudible]*... there's always mistakes in war, of people on both sides make mistakes and get killed. NATO, of course, bombed Chinese Embassy, because embassies are part of the sovereign territory under international law of the country that occupies them. NATO under international law actually committed active aggression against a sovereign territory of the People's Republic of China. There were some demonstrations back in Beijing understandably. But the reaction of the people's Republic of China was exceedingly mild—a sign I think that even then, that the principle, even though it was not yet accepted by the full UN family, was acquiring more normative force, as defining ideal for the new age.

So, what then is the next question on the list? Everyone's best guess is that it is Syria. Will Syria be tougher? Will Canada, over the next year, be at war in Syria too? It's hard to say. I think one of the things we do know, that while it's easier for Canadians to think of Syria as a Libya II, or Kosovo III, for even the most well-meaning of our friends in the United States, they think of it as another Iraq and never again. So, the British, the French, and the Canadians should they feel compelled to intervene in Syria? Might have even less of a hand from the United States than in the Libyan case. But, in Syria, we have to recall that it is they, the local people, who largely liberated themselves. As in Libya, and indeed importantly in Yugoslavia, at least in the Kosovo parts. And there's a lot that can be done beyond diplomatic words, beyond sanctions of various sorts to Support for those seeking to liberate themselves.

In the case of Syria, we must never forget that we have friends right next door: Turkey, a fellow NATO ally, a secular democracy, a pioneer in that time of the world. So, as the body count rises, we spoke about thresholds in the previous session, three thousand, how high will it go before once again the countries that you can count on will be compelled amidst all the financial distress and domestic political preoccupations in France at least to intervene again? And will the Canadian people support our government for more muscular, indeed military, intervention in Syria? My answer is that yes, they would. If it is done wisely, and if we do it with our closest friends.

Thanks.

(Applause)

Michael Valpy: *[inaudible]*

MARTHA HALL FINDLAY

Martha Hall Findlay: Thank you very much. And before anything else, congratulations Tina and Victor for getting this off the ground. Not just today, but the CCR2P, congratulations, and it's really exciting to be here on the inaugural symposium, so well done. And, also, it's just been a fabulous day already, and thank you for including me. Thank you for inviting me to participate.

Before I do anything else, I'm going to just shamelessly use this opportunity to say that I also have the good fortune of being the Chair of next summer's Kuching Institute of Public Affairs conference, the topic being Canada and the Arab Spring, and so, it would be remissive of me to not to at least make the plug for the Kuching Institute for next summer's conference. Anybody interested in getting involved, Google it. Kuching Institute on Public Affairs, we'd love to hear from you and we'd love to have you involved.

I was actually going to do something fairly simple in terms of speaking as part of the panel. I've just done a paper on R2P, the title of it is: "*Can R2P Survive Libya and Syria?*" That would have been relatively easy because I can just go from my notes, but I have heard so much today, and there have been so many interesting comments and so many interesting questions, that *advance warning*, I am going to actually wing it a little bit. The paper, as you can probably tell from the title, "*Can R2P survive Libya and Syria,*" does question whether in fact what happened in Libya and what has not happened in Syria challenge the concept and the usefulness of R2P for future reference.

You know, it's interesting now, and again, timing in terms of the Centre, these folks didn't do this just after the Libyan, the Security Council resolution. It was pretty good timing though that that happened and really brought R2P to the fore, where it had not been before. And, there's some very interesting different views. You know, Lloyd Axworthy and Allan Rock, pretty prolific on this subject, just recently came out with another piece saying-- and I'm paraphrasing--"Yes! This is great, you know R2P has been used publically, this is a really big step in the right direction!" My piece is a little less enthusiastic, because I actually worry that there will be many people who sees what happened as sounding kind of good at the Security Council, you know, protecting the no-fly zone, or ensuring using R2P as a mandate to enforce no-fly zone, but it pretty quickly became regime-change.

And it's not even just the question of well, regime change is inevitable if that is the only way to protect civilians is to get rid of the guy running the regime. There are all sorts of other questions, and I've heard even today, some interesting commentary. I mean, how do *we* reconstruct this country? That's a little condescending. How do *we* make sure that our values are there? How do we ensure democracy? R2P was never about democracy. It was about protecting innocent people. And that can happen or not happen in democratic states or non-democratic states.

So, I think we have to be very careful about our own discussions about R2P, but also about how R2P has been used in Libya, and how it has been used as an example of how R2P

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

works. I will have to say that it is a bit of a challenge for me, because I wasn't a big fan of Gaddafi's. No one was. And so, there were huge number of people all around the world who were quite happy to see the guy go. Now, totally other issue in terms of how he died, and there were some interesting comments this afternoon about that. But, I found myself personally conflicted because I felt that this was a move in the right direction for Libya, and for the people of Libya, but how you do things matters a great deal. And quite honestly, I was a little concerned about how this was done. It does beg some tremendous questions about the proponents of R2P, the advocates of R2P, and I won't say people in this room and the people who have been advocating for the last ten years and really working on it, but the people who perhaps more importantly *used* it as an excuse, but also used it as a crutch in what happened in Libya and in ousting that regime. Part of the challenge is that that part of the world, every part of the world is complex, that part of the world is incredibly complex. You know, just as an anecdote, I remember when the protests were first starting in Egypt, and obviously in Tunisia first, but then you know, things were happening in Egypt, it was really the Egyptian protest that sparked real interest. Remember, it was just people were really getting into this. And I remember still being at that point still elected and being up in Parliament Hill, and I was actually engaged in a scrum and the reporters were all this gang-mentality, and everybody was so excited. Remember those couple of weeks? Tahrir Square. And somebody asked a question, and I said, well, I think we need to be a bit careful. And the reaction of the press was, "What do you mean, Martha?! How can you not be excited about this? This is fantastic!" And I felt so bad, because I felt like I was being really depressing. And this was the personal conflict.

Yes, I thought what was happening was wonderful. But, I was very nervous about what was going to come next. I was very nervous about all these people supporting anybody but without actually knowing who the rebels were. I remember my colleague, and believe it or not friend, John Baird being in Libya. Remember he disappeared in the Libya really quickly. There he is in the front page of the *Globe and Mail*, shaking hands with the rebels, I remember thinking, "Oh man, he is going to lose the day when things transpire, given this, he has no idea who those people are." Which is true. Let's cross our fingers. But, that part of the world is so complex, and there is so much history and there have been lots of revolutions, there have been lots of these things happen over time, you know, modern technology, and the ability to communicate is method in our living rooms far more than ever before, so the rest of us are paying much more attention, but the next couple months will be very very interesting, on a number of levels.

But, back to the whole question of R2P. The other concern that I have with R2P and reinforced by what happened in Libya, and not in Syria, and I appreciate Professor Kirton's comment that this was really more a Kosovo II, and maybe Kosovo III, because it really is a larger humanitarian, I don't want to say "humanitarian intervention," obviously, but a global recognition that there needs to be some involvement. My big problem with that is that we really don't say much about North Korea. And when you have hundreds of thousands of people starving, is that different than shooting people? And, in the case of Libya as opposed to Syria, most of the protesters being killed were by that time armed. Another real issue in terms of Syria, most of the porters, if not all of the protesters in Syria who have been killed, were in fact unarmed. Once you are armed, you are engaging in civil war. Again, a concern for the whole concept of R2P. R2P was never meant to go in and help one side in a war. But, what about all of the unbelievable, anybody here sort of following the commentary and the news reports coming

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

out of the Congo? About the number of women being raped? That is absolutely awful. Just a quick show of hands, is it okay that we do what we did in Libya but stand by and do nothing for these women in the Congo? Show of hands? Let's reverse that. Is it not okay that we don't do anything? Work with me. These are people. These are people's lives. And people's deaths. You know, is it okay?

And I know there are all sorts of political challenge with these questions, but in Somalia, you know, I heard somebody say, "Well, you never had a mass starvation situation like that in any kind of a democracy, so therefore, it's a political question as opposed to whether, and...", and that may very well be true, but regardless, does that government not or the fact that there may not be a government, but is there not still a responsibility to help these people? I am not here to say that these are situations where R2P, the way it has been framed at the UN, can actually apply. And we've heard some really good commentary today about why there are limitations. But, I'm just going to go next to a little bit about the political realities of this, and then the positive about what I think Canada could do, because I might understand the political realities that given the way it's been framed and accepted at the UN, and we all know how critically important it is to anything, but to something like this to become a norm, acceptance at the United Nations was huge. And yes, I'll say, being used at the Security Council was huge. Problematic, but at least there is, the fact that we're having here, the fact that you've accomplished this Centre, there's so much more discussion about this, I think that's a good thing. It could have just disappeared, but it hasn't.

I will just talk a little bit about the political realities. Not the geopolitical international realities, but just the Canadian realities of this. You know, it's interesting; Jillian was talking a little bit about law versus the political reality. One of the things that I have noticed is, and I'm sure many of you here too, and indeed it was talked about a little bit, the current Conservative government – and I'm not a very partisan person, believe it or not, and I am interested in the fact that most of my Conservative colleagues won't even utter the words. And part of the problem is that they viewed this as having been a Liberal initiative. Well, you know what? There are awful lot of Liberals who run around saying, "Aren't we fantastic? This was a Liberal initiative!" Well, certainly, they were Liberals who were encouraged by Kofi Annan, encouraged to put together ICISS, who were encouraged to do this, but all of Canadian foreign policy – our engagement in WWI, our engagement in WWII, our engagement in all of these other things, sure there are couple Conservatives who don't say Lester Pearson's name, but there are a lot who feel that peacekeeping was really a wonderful Canadian thing. And so, what I actually take from this is that to some extent, I as a Liberal, need to reinforce to my colleagues in the current government, it's not a Liberal thing! Responsibility to Protect is something that we as *Canadians* can be tremendously proud of. I mean, this stuff was great! And you heard about how quickly it became something. That was, Bill Graham distributing the papers around, I mean good for him! Right? Regardless of whether he was Liberal or Conservative, put Canadian first. Most of us are Canadians first. So, what I want to do is to move this away from that discussion, move it away from partisan and say, "Look, this is something we can build on."

So the next step then, and I'll finish with this, is where does Canada go from here? And how can we continue to participate in this? Because we've pulled back a little bit. Yes, of course,

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

we were hugely involved militarily in Libya, but you already know I've expressed some of my concerns about that, and what it might mean for future discussions of R2P. But rather than be negative, I think we have to be realistic about what that might do, what might be more difficult to actually Professor Kirton said the fact that we had this Security Council agree and China and Russia of course they weren't ...[inaudible]... their abstention as opposed to veto was very conscious. I am not necessarily in agreement that that means that they will be likely to do the same next time. I do think that there are some real concerns about how this may have been abused for other purposes, but you can read the paper, I talk about more about that. But, as a concept, it's here to stay. And our opportunity as Canadians, we have the credibility. We were hugely involved in this. This is an opportunity for Canadians, non-partisan. But Canadians to say, "O.K., we've come this far, we've expressed clearly a real concern for humanity, this is not an inconsistent with Canadian foreign policy for so many years." ...[inaudible]... But it is: how do we acknowledge the realities, how do we acknowledge that this might have been perfect? Address the concerns that might come out of this, address the concerns raised by people that say, "Well, this was just for regime change, this was just political," and how do we then move it forward? I believe we do move it forward, by addressing the hypocrisy, by not being afraid of addressing hypocrisy, and by not being afraid of looking at the world at large, at all of the instances where people are being abused, oppressed. In all of the situations where at least some of the criteria for R2P are there, and so I do urge us to look at what's happening in North Korea and I do urge us to look at what's happening in Congo and I do urge us to look at where we all can as a global community help others. We have to be extremely realistic, we have to understand the geopolitics of this, but I will just finish by repeating: Canada is incredibly well placed to participate in that debate, as long as we do with a view to moving this forward.

Thank you very much.

(Applause)

KYLE MATTHEWS

Kyle Matthews: Thank you everyone, it's wonderful to be here. I want to thank the team of Tina Park, Victor, Brandon, Patrick and all the others, I think it's a great initiative of bringing everyone here together today, and you're actually part of I think the issue about policy, and forming policy in R2P is that you're contributing to this. You're creating a Centre where students will come, trained in many different backgrounds, to actually research these cases and learn how we can contribute and how we can inform our policies to actually make "never again" a reality.

I've prepared a presentation, but I kind of feel like I want to go off of it a little bit, after some comments by the earlier panel, particularly Professor Mandel. In this talking about R2P being this neo-colonial imperialistic approach, and I think comments like that are really off base, because anybody who has studied R2P will know two things, and the most important is: the idea behind R2P, the sovereignty is a responsibility, came from a man called Francis Deng. Francis Deng is an African, he used to be a Sudanese diplomat, he is now a South Sudanese diplomat, but he came up with this idea working in the Brookings Institution in mid-90s in how can Africa better deal with its internal conflicts? We can't forget that the reason we're talking about R2P today is that at the end of the CW, we had an implosion of this intra-state – not inter-state--conflicts, in which civilians increasingly became more and more targeted by militias or by their own governments. So, Francis Deng came up with the idea that the governments have a responsibility to protect their population. So this is an African idea. It was supported by Canada, by a Liberal government, but it's an African idea, and we can never forget that.

And second of all, Kofi Annan, the second ever only ever African UN Secretary-General, was one that pushed this, because he was scarred and you know, what do you really want to get re-elected as UN Secretary-General? Well, perhaps some of it, but he pushed this through, and he asked Canada to take the approach because he knew that if it went within the UN system, it would have got blocked by greater powers, so I think we need to keep that into perspective before we start attaching imperialism and conspiracy theories anytime R2P is mentioned.

And, you know, R2P is: how do we craft policies to implement R2P? And that's what we're here for today. I'm going to discuss mostly what Canada can do. I'd like to remind you that R2P is designated to prevent mass atrocity crimes. I'm sorry if this is repeated in the earlier panel, I only flew in here at noon, but there are basically four crimes that are outlined, that's: genocide, crimes against humanity, ethnic cleansing, and serious war crimes. And that all takes place within the boarder of a state, not between sates. I know that that sounds weird, but that's what R2P is; try to stretch it, you're going to weaken it. And we can't forget that our last century and a half has had multiple examples of these crimes, the Armenians in 1915 that were slaughtered by the Turkish government, was that an imperialist cause by the Americans or the French? Nope. It wasn't. The Ukrainians, the Holocaust, Burundi in 1972, Cambodia under Pol Pot's regime, Rwanda in 1994, Srebrenica, and Darfur now to today. The list goes on, there are cases where states abuse and kill their own people.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

One thing that I want to kind of frame the discussion on policy is that, we have approached this in a horrible way. And I'm going to use a quote from Flora Macdonald, who is our former minister of foreign affairs in Mulroney's government, I believe. Who said, she asked a question, "Is humanitarian aid a substitute for a lack of political will?" the issue that we do now, we tend to sit on our hands and knees, and after people are killed, we tend to respond with massive amounts of humanitarian aid. That is a bad business model, and that is not a protection. It's reacting after-the-fact. R2P tries to move it forward to actually prevent these crimes. So, we always focus on interventions, and some cases when a government starts to openly kill its own people, like we saw in Libya, Irwin Cotler at an event we organized at the Montreal Institute for Genocide, he writes that few weeks ago, he talked about genocide begins with words. The incitement to genocide is something we must act on quickly. That's exactly we did in Libya. As soon as Gaddafi started going on state radio broadcasting, house-to-house to kill the rats, to kill political opposition, that was the trigger for action. Assad sitting in Damascus hasn't done that yet, and he's very smart. Not to say that aloud protects you. Now, what are the problems in implementing R2P at the global stage? Well, there is a global capacity problem. Countries have done very little to build the capacity and infrastructure for action. You know, Canada signed the Genocide Convention over half a century ago, what have we done in the Canadian government to build specialized capacity to actually respond? Very little. And of course, the UNSC has a terrible track record at actually authorizing the use of force or even authorizing punitive sanctions to correct state behaviour. Think about just about a month ago, I know Naomi Kikoler the global centre for R2P has done an excellent work on this, we have a double veto in the UNSC by China and Russia, even for sanctions, not for no-fly zone, but for sanctions. It's atrocious.

Am I okay for time? Fantastic. So, some of the work that I've done in looking at Canada's response to Rwanda in the early 1990s, and US government's as well, one thing that we learned, my group in Montreal, is that very often when push comes to shove, and there's proof that there are atrocities going on, is that very little departmental and political interests trump the national interest. That's to say that politicians like Bill Clinton in 1994, there wasn't a conspiracy to back the Kagame and his groups. He didn't want to take the political risk to send in troops. He did that in Somalia, he was burned as soon as 18 Somalis were pulled through the streets. He basically said I'm never going to do that again. He lacked the political will to actually take on the opponents of these cases, and that's the reason. It wasn't because there was some larger objective. And also, sovereignty was used to justify an action in the case of Rwanda, 1 point when hate broadcast speeches were being broadcast through Rwanda on the radio, there was an option for the US government to actually send a special aircraft into the skies and block those radio transmissions. They didn't take the action, one statement was that it would be too expensive, and two, the argument was "Well, we'd be infringing on Rwanda's national sovereignty." So, you see, there is a conflict here.

And also, there has been a failure of our governments to really think clearly about how can we use soft power, and I mean that in economic and political actions, to actually prevent atrocities. One case that I remind you is that the after the electoral violence in Kenya in 2007, early 2008, when violence was spreading, well behind the scenes the American and British governments, when it became quite apparent that some of these political leaders were not going to come back from raising tensions through their radio broadcasted TV interviews, they basically threatened these leaders with actually revoking the student visas of their kids studying at Oxford

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

and Harvard. And guess what? It worked! We need to learn from those cases and try to act early on, so that we are not forced to use military.

And one very important thing I think for Canadians in this room is to understand that decision making takes place in capitals, national capitals, not necessarily at the UN in NY. And sometimes, it's a folly to be Un-centric. UN doesn't have really any strong enforcement capacity, sometimes if you want to prevent mass atrocities, if you see the danger signs, it might be better to work through the Commonwealth or the Francophonie, or the African Union, or through bilateral relations. Nothing says that you have to wait in preventive way to go to the UN and I think we have to think about that early on. States that have strong relations with others can use their economic ties or other ties early on to actually offset bad state behaviour.

Now, how can Canada craft policies to actually be more effective as a major player in the international community to protect human rights and to stop the mass atrocity crimes that I've detailed? I think we should look at the Obama administration. We had our gentleman earlier, Professor Mandel, who did make distinction between George Bush's admin and Obama's; I think that that's a shame.

If you look at Obama's administration, he surrounds himself with all sorts of human rights experts, such as Samantha Power, but what has Obama done that no other government has done to uphold the R2P principle? Obama has created a position in a national security council, of a Director of Genocide Prevention and Mass Atrocities Crimes Prevention. That's one very important point. He has established in the national Security Council an atrocities prevention board that brings together all different agencies that have a role in this, such as the State Department, the Department of Defense, and so forth. These are actions that you set in place to start acting early on.

He [Obama] has actually mentioned mass atrocities prevention as an interest to the US government as part of its national interest, in many strategic document papers. That sends a message to bureaucrats -- who tend to be, shall I say, risk-averse?-- that they should take this more seriously.

He's also announced very, just a short while ago, that he's going to help, on the request of the government of Uganda, send some troops to help train them to actually disarm the LRA. The LRA, some of you may know, has been responsible for displacing millions of people in Central Africa. They've actually probably kidnapped twenty to thirty thousand children, if not higher than that, and turned them into sex slaves and child soldiers. These are I think positive actions that we need to look at. And last time I checked, the EU was considering helping out Uganda in a similar fashion.

Earlier this year, Vice President Biden, I know Martha Hall Findlay talked about that R2P is such a dirty word right now in Conservative circles, at least in Ottawa, but we have our biggest trading partner, our biggest partner in NATO, the vice president spoke at the US Holocaust

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Memorial Museum earlier this year, in a speech to honour Tom Lantos, a human rights defender and congress who just passed away. And basically Biden said that R2P is now part of US policy.

We have to ask ourselves, if US government has taken our ideas, and other ideas are moving forward with him, why aren't we? Why are we falling behind our main partners and not doing more? And last but not least, there is also a group of leaders in the US Congress, unfortunately Senator Russ Feingold was one of them, but he was defeated in the last election in Wisconsin, but they've actually introduced a bill claiming that preventing mass atrocities is US national interest these are positive signs and we have to ask ourselves, what can Canada do?

I think it would very important if Prime Minister Harper emulated the US leadership and made a pronounced, a throne speech if you will, to inform government that preventing mass atrocities is a part of Canadian foreign policy. He mentions R2P great, if not, I can live with it, but that's the first step.

We have to support as well, the genocide prevention group. This is a group of senators and members of parliament, drawn from all parties in Ottawa, my Institute support them with a paid intern. But, there is only two of them, two parliamentary groups in the whole world that have this. Canada and the U.K. I think we need to give them more support. Also, there are multiple governments now who have now, "R2P Focal Points." Canada is not on the list, there is nobody right now, in the Canadian government anywhere, that has this as their task. You're not going to create innovative policies if there's no one there doing the work.

And last but not least, we have to actually create an office with trained staff, not pulled away from their desk jobs, working full time on this. As we mentioned the case of Libya, we had no idea what's going on there. We've actually cut our funding to our Embassies. We have fewer embassies around the world. So we're making these decisions often blind. We need to invest in our foreign affairs and have teams working on this so we can actually make decisions based on information rather than ideology.

So, I'm going to end here, I think there would be a lot of questions, but I would ask you to think about this quote from Albert Einstein, and I think it relates to the R2P quite well, and how we can go forward with crafting policies. He said, "You can't solve current problems with current thinking. Current problems are the result of current thinking. And therefore we need to think outside the box in order to be more effective on the world stage."

Thank you.

(Applause)

POLICY DISCUSSION

Michael Valpy: We have two questions. Let me ask the first one. Before I do that, ... that's how it works, and the cards have been circulating now, okay good, great...

Months ago, here in the Munk Centre, there was a symposium in honour of Allan Gotlieb, and I interviewed him for an article in the Globe, and we got to talking about a moral foreign policy and R2P. And, I apologize if this question has already been asked, because it's such an obvious one, but it came to the question of: "When do we do R2P, and when do we not? Allan Gotlieb said, "We do it when we know it's going to work." I'm wondering if we could actually take it beyond that, and say, "Alright, here is 1-2-3-4, these are the principles that triggered R2P, or really does it always have to be whether it works or not? Which is, you know, an underlying principle of just war. So, go ahead, whoever wants to start. Martha?

Martha Hall Findlay: Somebody gave me one of those saying things, and it's up on one of my shelves, and it says: "What would you do if you knew you couldn't fail?" It's interesting and I had to get my head around it a bit. It speaks to this. If you only wait until you're sure of success before you actually try something, you're not going to try a lot of things.

And I think the whole concept of R2P...Yeah, that's absolutely one of the biggest reasons why people are saying, "It's okay to do with Libya but not Syria?" I've heard that as a reason for not getting involved in Syria. That's probably the most common one. "Well, there's no point in doing Syria unless without regional support." The Arab League's action today makes it a little bit more interesting, but say, without regional support, given some of the other geopolitics of the region, knowing there's a big difference between people support -- different countries' support for their current government in Syria -- notwithstanding all these bad things, there's a lot more support for the Syrian government than there ever was for Gaddafi. That there is no point in doing it unless you can succeed. I just think...Yes, the pragmatist and realist in me says, "Yes, well of course you want to be able to succeed," but there is an element in all of this, that is...You know, as a norm, as norm entrepreneurship, whatever it is that you want to call it, yes, there is an element of responsibility to protect that is now saying, clearly, sovereignty requires responsibility to protect your own people, there's a whole element in this that is saying, "The rest of the world is holding other states to a higher standard." That in and of itself is, I think, worth something extremely important, and that will still happen even if you don't necessarily achieve success.

Professor John Kirton: I guess my quick response would be... It is a matter of judgement. And instead of "when it works," I would say make it work, and try and tip the probability in your favour. We have already done a great deal for R2P in Syria simply by winning the war in Libya, as well as we have had so far, that has to be an enormous encouragement to all of those protesting to members of the Syrian security forces that are now defecting in large number.

Clearly, can you have imagined what the government of Turkey's policy would have been, had we stood idly by in Libya and just let the killing fields rolled out, if that's what it would have been? Rats, cockroaches. You can argue what word means, what...

But, in addition to that, let me just make two points about what could be done now. IT's probably too late for Syria, but Martha made a really good point: we had no idea who these rebels in Benghazi were. Well, you can say, the probabilities that tje y would have been better than Gaddafi, what could be the murder of ... the quest for nuclear weapons? There is a long-term pattern, and I struggle to remember the open democracies that have engaged in large scale ethnic cleansing, or genocide? So, more diplomatic missions. We should have had a consulate general in Benghazi, and we should have had one for twenty or thirty years. And the moment Prime Minister Harper started calling us an "emerging energy superpower," we should have had a diplomatic establishment, and I guess there's an oil lot in or near Benghazi, right? So, we're massively underinvested in what Henry Morgenthau put in first place: "Quality of diplomacy, the ultimate factor of national power."

But, right here, right now, let me just freelance, because Bill Graham is not here. Ever quickly, we could institute immediately just a routine NATO training regime, whereby all our CFA teams would go to the great NATO airbase in Turkey. That might be ... in Damascus, because Turkey is a bit of an earthquake-prone place, so we could send in the DART with force protection units, some of the regiments back from Afghanistan and we could put 'em on our heavy heavy global lifters and our new Hercs which are now just coming online, and buy a few more of the heavy airlift We could take our JTF2 troops, who I guess have become rather fluent in Pashtun, and give them a crash course in Arabic with a particular dialect that they choose in different parts of Syria.

Valpy: And leak it..leak it, that that's what we're doing?

Kirton: If the Syrians are in any good, they'll find out, but one thing we don't know how good they are, we have enormous experience in the Royal Canadian Air Force in doing ground attack, but we never had to do it... and for Syria, one of the questions ... would have to ask is if the Syrian air force fights in the air, and should the Americans -- for whatever reason-- choose not to do that operation, are our CFA teams and pilots are good enough to do it? One way of finding out would be to engage in a training operation, combat trials, with our friends in the Russian Federation, with them flying the same kind of ...and the same kind of Soviet-trained pilots that we know the Syrians have now, just so the people on our side on the North Pole can get up to snuff just in case.

Valpy: And, yeah, Kyle?

Kyle Matthews: One quick comment. The responsibility to protect, especially the ICISS report states quite clearly that "if all soft power measures fail," so the carrot-stick approach to diplomacy, economic sanctions-- "then you might be returned to military force," but that can only be used when you have a reasonable understanding that you will succeed, or that you won't cause more harm than not intervening. And I think this is what all military planners and diplomats, people ask "Why aren't we going to North Korea? Why aren't we intervening in Chechnya?" Well, intervening into nuclear powered states sure does raise the spectrum. Heck, you're going to actually unleash... you know, it has potential to create a regional war, one in which many people die in a matter of seconds. So, I think we have to keep this in mind. It's in theory, you could apply it to everywhere, but in some cases, it's much more complex. I think that's the case with Syria. One thing that people don't realize, why action was taken, or much easier, in Libya is that it's a country that, the population is thinly put out along the Mediterranean Coast, so you don't have to fly over anyone's air space to get to it, while going to Syria, have to fly over Turkey. Can you imagine what Syria's response would be to perhaps attacking and might create a regional war and create that feeling in the Arabs... so, there are difficult decisions to make ,but you have to have a degree of certainty of what to do to not cause a wider amount of human suffering.

Hall Findlay: I just want to say how ironic it was that the Americans invaded Iraq on the basis that they had weapons of mass destruction. I mean, I think we have to really challenge some of those, I think they knew that they didn't, but I think, I know that that's a good reason, I just...But one thing that I wanted to say and I forgot, and I think this is a good place to do it. When you talk about intervention and military intervention being the only the last thing, it's... The rest of the world was holding Gaddafi's hand for the last thirty years. I mean, all of a sudden, you have an uprising, and you have a small number of people protesting in the streets, and the whole world says, "Oh! Fantastic! We're going to go in and protect! We have the obligation to follow on Libya's responsibility to protect its own." But, where the hell were the rest of the world for the last thirty years? Where the hell was the rest of the world with Mubarak? This is one of the challenges that I have with R2P-- that it was used when it became convenient or easier to use. And I understand the reality of saying, "Well, you have to be careful when you're going to use it," but I agree you also have to understand that a lot of people look at this as being rather hypocritical. And not using preventive measures when we might have been there a whole lot earlier, as opposed to not just preventing, but holding the guy's hand.

Matthews: One thing that is interesting about Libya is that, R2P could only be used and justified when there is a threat to commit mass atrocity crimes. We didn't see that in Egypt or Tunisia. Yeah, there was some police brutalities against protesters, but we didn't have mercenaries being flown in from other countries, using military force against people. The thing that is so interesting about how it occurred so fast in Libya, is that people started protests, you know, they weren't going in the streets at first with Ak-47s, saying that they were going to take off Gaddafi's head, and he was the first leader in the Arab world to use deadly force against his people, and that

happened so quickly, and immediately following the first amount of violence against civilians, is that you had massive defections from the military that then opened up arms depots and armed all the civilians, and you had almost Libyan ambassadors across the world that basically resigned en-masse, way before the Security Council resolutions. So, if you look at how that happened, in the case of Libya, how can you prevent it? He refused to step down, he you know, the African Union that has a much more interventionary charter than the UN, was basically paid off by Gaddafi, he funded and paid off half the budget of the African Union. So, on the AU side, they didn't want to upset their paymaster, but the amount of violence and then following his actual threat to go house-to-house to kill people was so fast that I don't know what preventive measures could have worked, because he was actually, civilians were being targeted.

Hall Findlay: My point was that he was killing all these people *before* all the protests started.

Matthews: He did and there was persecution but not until the point where it hit the threshold I think, and I think that threshold is harder to define. There was persecution, and we know that in Benghazi in the '80s, he put down a major rebellion, killed tens of thousands of people, but all that was fresh in the minds of people, especially in Obama's White House-- Samantha Power, Susan Rice, who basically, in '94 when the US turned their back to take leadership on the Rwandan genocide, Rice was the person in power that had that came up with the clause that there was genocide going on. So, I think there are a lot of people in the Obama administration that actually had memories of decisions taken when they were in power before, and didn't want to see that happen again.

Valpy: To go to the questions, a member of the audience asked about the third aspect of R2P -- rebuilding -- what is the international community's responsibility after the no-fly zone, and obviously, you're referring to Libya, what is the international community's responsibility post-regime change?

Kirton: Well, let me go first. At the G8 Summit in Deauville, all eight of the leaders and the European Union and their friends put in place reconstruction package, you may call it very loosely, a Marshall Plan for the democratizing North Africa. Interesting, the transitional government of the day, of Egypt, which was the big one, thought to be the ...region said, "We don't need or want your international help. One, because of the very good point that this is a home-grown rebellion, we did it ourselves, and it's going to be a home-grown political transition, and reconstruction, and they would go on to say that they probably got enough raw talent in the country that if you just unleash it, in an open democracy, with a rule of law, they may be able to make it on their own, presumably was some estimates about world oil prices.

In the case of Libya, it's much more complex. because a lot of the petro infrastructure was compromised. But here, as I've basically, uh, getting ever longer list of Government of Canada's straight instrumentalities, another thing that has occurred. I mean there was a time, under Pierre Elliot Trudeau, when this country had something called Petro Canada International, a state

institution and instrument that, boy, if we had it today, those people could be sent in to help get all of the Libyan oil and petro-chemical infrastructure back on stream, and I bet in the rebuilding, we would do it in a cleaner way than it was before. So, Mr. Harper could then put in a line about Canada as an "emerging energy clean superpower," building it in Libya as well as in, I don't know... *[inaudible]*...

Hall Findlay: ...*[inaudible]*... because Trudeau set such a good example.

Valpy: Did you want to address the same question?

Matthews: I think yeah, there is the responsibility to rebuild. Most states that go through conflicts tend to fall back into a conflict within five to ten years after. So, it's essential to actually be engaged, the fact about Libya is that, because it was run as a dictatorship, there is no civil society, there is no experience of having political parties, so there is a lot of work to be done there by civilian workers, as assistance and technical staff. Libya is blessed because it does have oil energy, so it has a lot more resources to put towards for its reconstruction. But we can't forget that Gaddafi brought in a lot of actual guest workers, so up to two to three million who are working in many of the important areas of the industry, and most of them have fled. I don't see them coming back anytime soon, so there is going to be a major shortage of skilled people and labour to actually help rebuild, so there has to be engagement by the UN and other countries.

Hall Findlay: Michael, I just want to caution. I don't think it actually is part of responsibility to protect, to engage in rebuilding. Just to throw a bit of a spanner in the works. I think we're really confusing. Again, R2P was not to build democracy, not thought about to change regimes. It was to protect people from mass atrocities-- from genocide. And, yes, of course we think we've all agreed that while intervention can be very useful in a number of cases should have happened, but given where we are now, I want to throw this caution out. R2P was never intended to change regimes, to reconstruct countries, and to create new governance, environment. So, I think we need to-- not to say that those are not in other international obligations--but they are not a part of the R2P, which I think can be watered down too broadly, and we have to be careful. Those of us who are advocates, who want to make sure...

Valpy: I am going to combine two questions, because they are largely similar, although one half of the combined questions, Kyle, is you're targeted with it. Prime Minister Harper has recently been making positive...regarding Burma and Sri Lanka. Some say it is easy for him to do vis-a-vis small countries. Nonetheless, how can we encourage more such quotes, noises, re R2P by the Harper government, and the question, Kyle, that is specifically to you, is: You're arguing that Canada is falling behind in its support of R2P, and highlighting the prevention of mass atrocities as part of national interest. What can be done to push Canadian politicians toward making this a priority, if it's a waning interest in Parliament? Do you want to start?

Matthews: Sure, I'll start on that quite easily. I've been a thorn on Harper's side for the past three years, and I intend to do it for a bit longer. This is the point. I mean, politicians that come into government tend to be focused on very short-term thinking, short-term objectives. They also for the most part except for a few, tend to be really based in local knowledge and local issues. They don't really have this big idea of the outside world and how Canada is connected to it. One example that I always, or two examples... One is recently, in 2009, in the spring of 2009, fighting broke out between the Tamil Tigers and the Government of Sri Lanka in which over 50,000 Tamils were stuck and basically became human shields, stuck in this situation. Canada didn't really react to it. IT wasn't on the government's radar, made some rhetorical statements, but that's about it. Lo and behold, we find out that Canada has the largest Tamil Diaspora in the western world, and everyone sitting here in Toronto knows that there were multiple protests of 200, 000 Tamil Canadians that did ring around downtown Toronto, blocked off the Gardener expressway, and you actually have the premier of Ontario -- Dalton McGuinty -- and the mayor of Toronto at the time -- who was not Rob Ford, I don't know how he would have reacted-- they both came out and said, "Canada, do something!" And they called on the federal government to take action. I think this is an example of where what happens in faraway countries now, we are now connected to it in a much different way than we were 20~30 years ago.

Another example: short-term thinking. Canada pulled out of Somalia in 1993, with the Americans, but we pulled out and there was a giant torture scandal, it's horrible, no one talks about that intervention, save 40~45,000 from starvation. Look back now, using historical perspective, is Somalia a better place? We now have a serious piracy problem, off the coast of Somalia, we have NATO warships Canadian ships patrolling off of there. I mean, pulling out because politically it's easy to do so, is not in our interest in the long-term. I think those are some of the arguments that we have to make to politicians-- to thinking long-term, not just two or three year election cycles, especially when we've had multiple minority governments for the past decade or so.

Valpy: John?

Kirton: Well, let me just go back to Martha's very good point on the last question. It's basically, should there be ... Do we not have a responsibility to prevent, having to do the responsibility, to protect again in Libya a few years later? So, we basically have to give the young people decent jobs, otherwise who knows what the dynamics of a lack of social cohesion might produce in a society without much of a civil society? Although, we have to recall that at its Summit in 2004 in Sea Island, the G8 did, under the label of the broader Middle East and north Africa Initiative, initiate a major program of, Forum for the Future, which was designed, much like cooperation on security and conference in Europe to do those civil society tract two instruments. The president of course was George Bush Jr., so who knows. Our friends in the United States can often have the right to instincts.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

As for the Congo, comes to mind, right? And just recalling the repertoire, the government of the Right Hon. Jean Chretien in 1996 in the wake of Rwanda, did say "never again," and took the lead in mobilizing an international intervention, to prevent very broadly speaking, a Congo-like situation today, right? From unfolding?

Valpy: Didn't we refuse to take command of the UN initiative in the Congo?

Kirton: Recently under Prime Minister Harper, that's correct; you can only do so much. And with the heavy lifting in Afghanistan, he basically felt that they were, we were no longer, didn't have the capacity to do it, and we were basically out of the "peace keeping business," we were into the war-fighting and war-winning one.

The Right Hon. Paul Martin, I will recall, this goes back to one of Martha's points, did meet Mr. Gaddafi in the tent, with the camel nearby, you remember? Then again, Mackenzie King had a famous summit meeting with Hitler in 1937, so yes, let's give diplomacy and peace a chance, right? You just never know. But the Right Hon. Paul Martin did take the initiative in la Francophonie to get international credibility for merging principle of the R2P on the road to the UN Summit, and had an extraordinary phone call with Bouteflika of Algeria, where basically Bouteflika remembered how nice Paul's dad had been to him when he was a young diplomat, so even though you know, Algeria... Remember France, 1962? Oh, sovereign, no intervention, you know, we're a big player in North Africa and Africa, but he went with Paul, he said yes to R2P. So, la Francophonie is not where most people in downtown Toronto exercising great initiatives. ...*[inaudible]*... in legacy, but there's a number of things, right, that could be brought together in a -- dare I say it? -- a more comprehensive, coordinated strategy, but you still have to pick your places, and the Congo is not a bad one.

Valpy: Let me just carry off of what you just said, and again, I'm going to combine two questions, and I hope the questioners won't mind. First one is: How can resources and political will be mobilized for consistent and unbiased implementation of R2P? What measures could be taken to reduce cases of abuse or misuse of R2P and thus enhance its credibility? And then a more specific question, which begins with a quote from Einstein, "Peace cannot be kept by force, it can only be achieved by understanding," and the questioner says there: there are a few infrastructures focused on peace building in our government. Those are marginalized and kept to the fringes of dialogue. This must change. And he or she asks, "Could there be a Canadian Department of Peace Initiative as a focal point for R2P?"

Hall Findlay: There are an awful lot of people who have been working hard for quite a few years for a department of peace, this has been an on-the-ground initiative for a long time. IT hasn't gained much traction among politicians, not completely sure why, I think part of it is that politicians are reactive, almost entirely. Nobody paid attention to what was happening in Sri Lanka until the Tamils blocked off the QE. I am not sure if that's such a good thing, there are strong issues about Tamil Tigers and terrorism, and they got turned around, and there were lots

of innocent Tamil civilians who were not helped because of the other Tamil terrorists, and how we can actually manage to deal with that. The larger piece, and I think the answer Michael is, it's one of the answers, is that in increasingly in this world, where so much is interconnected, and communication is instantaneous, virtually instantaneous, I would say in a bad way we're reduced to ten-second sound bites, but that communication, that, what I mentioned now earlier in the speech, what was happening in North Africa was in our living rooms, little bit like Vietnam, but exploded, in a much bigger way with Twitter, Facebook and everything, it only serves for me to highlight just how much Canada's foreign affairs and foreign policy has deteriorated. This is not a partisan comment. This has been happening over years, at a time when we're increasingly interconnected -- economically, politically, socially -- Canada has reduced its foreign affairs department, it has reduced our presence, we have reduced our presence in so many parts of the world, you know, a lot of my focus is on business, economics, and I would be the first one to say, we shouldn't be doing that, just from even purely from economic perspective, but the benefits of knowing far more what's happening on the ground, you have way better information, you know what's going on, you know what's going on way earlier, well before things get to a point where they are too far gone. If I were to say what one saying can Canada do to move this forward, not just R2P, but to hope for greater rule of law, greater freedom of speech, greater freedom for people, is to have a way greater involvement in the rest of the world. and unfortunately, it's been deteriorating.

Valpy: Has DFAIT lost its status as a central agency of government?

Hall Findlay: DFAIT not only is smaller and has significantly reduced its involvement, but it also has, I don't think anybody here knows anybody in DFAIT would be surprised at this, the current government, and this is a bit of a partisan comment, but the current government has way less space, way less interest, way less support for DFAIT generally. But, this was happening under past Liberal governments too. Sorry, I really want to stress: if Canada really wants to be a player internationally, whether it's for peace, whether it's for encouraging R2P, whether it's for economic interests, we really need to step up our game in international involvement, and being on the ground. That can take a number of different, I mean, we've had many discussions with the universities, and the whole bit, extraordinary increase in student exchanges, great opportunity to us. You know? That is just one example, but but, from a government perspective, we've fallen far far far behind, I think.

Kirton: Well, I guess my own quick view would be that Mr. Harper wished to be his own foreign minister when he came to power, and having a minority government, and knowing the people in his caucus and how much could cause problems for him, found it necessary to exercise considerable discipline. It's also, I think an empirical fact that the foreign ministers he's had have been individuals who have not long thought of themselves as really wanting to be the foreign ministers of Canada... at Trinity College with Bill Graham, right? Tend to think that's the norm, but it hasn't been.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

What could be done? I mentioned multiculturalism, it works at home too. Could we not gather all Canadians of Libyan origin, or experience ...gather the multi-stake holders dialogue, right? to come to consensus? And advise the rather few individuals in Ottawa. I'm sure one member of the Federal Cabinet has a good contact with Canadians of Libyan origin and Tunisian and Egyptian and so on, down the line that they could be mobilized for foreign policy.

Canada is one of the few countries which has protected its Official Development Assistance (ODA) envelope so there's money there, so it's just a matter of making wise choices. If one wanted to delve into the world of partisanship, it could be called the "Mulroney-MacDougall-Stanford University Good Governance Fund, but it would be there, so all the good ideas come from the multi-stakeholders' dialogue who have some hard power behind it.

One of the questions now is one of the new initiatives of the current Canadian government. There is a new institution instrumentality for the protection of religious rights. Most of the public discourse seems to focus on endangered Coptic Christians in Egypt, which always leads me to recall the values of Christian civilization principle that was still there when Paul Martin articulated Canadian foreign policy principles in 1967 at the University of Waterloo, but nonetheless, clearly would be principles and instrumentality that should support a multi-faith community as well. So, getting that one to work right is a challenge.

Hall Findlay: I am a bit more sceptical about that one.

Kirton: It's a challenge, I admit it.

Hall Findlay: This is where the prime minister said, "the biggest threat to the world was Islamism." Just recognize, and I want to say to the discussion earlier, when very quickly we go into, we want good governance, we want rule of law, we want protection for people, but my goodness, be careful of those fundamental religious groups. Well, has anybody been in the Bible belt in the United States? Anybody checked the huge number of Tea Party members? We have to be so careful-- those of us who want to see peace and good governance, have to be really careful about how condescending we can sound! And how quickly we can be critical and make these assumptions. So, you know, our own prime minister has made comments that I think we have to be, if we want religious freedom, absolutely all for it. Little skeptical, I want to make sure that it works.

Kirton: Prime Minister of Canada has learned a great deal about international affairs since January the 23rd, 2006 (*Laughter in the audience*) ...[inaudible]... in being hopeful?

Hall Findlay: Yes.

Kirton: Thank you.

Matthews: I don't think anyone has answered what can be done to stop the misuse of R2P, and I think as far as I know, there's only one case where R2P was misused, and that was by the

Russian Federation's intervention in Georgia in 2008. I know that quite closely because I used to work in Georgia when it took place, so I know what went down there. But I think the group here, the CCR2P, the International Coalition for R2P in New York, Naomi's group the Global Centre for R2P, there is a group of institutions, organizations that are developing, that are creating almost a permanent constituency for this cause, and R2P, if you understand it and spread what it is and what it isn't, you will be able to basically stop its misuse, because if you read R2P, you know that the intervention in Afghanistan in 2003 was not an R2P intervention. We didn't go in there to stop a genocide or mass atrocity crimes. We should have about ten years earlier, but that's not why we went in. Neither is the intervention in Iraq by the coalition of the willing, was that there was humanitarian language added as a tertiary reason for going in, but that's not the reason why it was sold to the American public, or for the intervention. So, I think R2P does, if you read it and spread it to all these groups and people so other people understand it is, that would be, that would help prepare civil society groups to take a stance when it is going to be misused.

One last point on how can peace be better utilized? I completely agree. I think that in the prevention phase of the R2P is all about achieving peace, not letting conflict break out, or let civilians, so it's thinking about how much better can we utilize our diplomats, maybe bringing people, warring parties, over here in Canada for simulation exercises or meeting or understanding how we manage multiculturalism. I know my organization is doing that with groups in Kyrgyzstan and with the UN office of Prevention of Genocide. Those are good models.

But I would like to say that sometimes, we don't live in a perfect world, you know, sometimes in Canada, we have to call the police to basically stop bad people from doing bad things, and sometimes force can be used in the service of peace, and I just want to mention a couple of groups in the world, non-state actors, such as Boko Haram in Nigeria, that's committed atrocities as of late, I'm not sure how you can reason with these people because they are on another temporal plane than the average person. And then you have Al-Shabaab in Somalia, which has kicked out the World Food Program in Somalia because they were "infidels," and now we have a massive famine, which is partly induced by this group. So in some cases, I think if we take the use of force off the table, we're going to be letting a lot of people down.

Valpy: Martha, I'd like to direct the next question to you because you've had more of an opportunity than the rest of us to see whether it's true or not firsthand. The questioner asks: Is the need to get re-elected by democratic government a hindrance in doing the right thing? And, whoever has question must have likely some specific example in mind, but if you feel that you can answer it without knowing what the specific example may or may not be. I'm confusing things.

Hall Findlay: It's very easy to answer.

Valpy: Thank you

Hall Findlay: Absolutely. It hurts me to say that, but of course, it's one of those you know, "democracy is a terrible form of government, it's just better than the rest of the options." Well it actually is a terrible form of government, it is better than anything else, but it comes with some real challenges. You do have to get re-elected. It speaks to the reactive nature of politicians. Politicians do not go out and seek challenging issues, unless they are really like, there are some. You know, Irwin Cotler is an example of somebody who was just felt so strongly about certain things and has fought for them all his life, whether before he was in politics or since he was in politics. But the examples of those people are unfortunately all too rare. ...*[inaudible]*... and this is not exactly the question, but it relates to it. This highlights the need for communication and dare I say, marketing.

Naomi and I had this conversation briefly earlier. Because politicians need to get re-elected, they are going to react to all of those things that suggest that they may get re-elected or not get re-elected. Obama just caved on the keystone pipeline. Whatever anybody in this audience thinks about the keystone pipeline or not, Obama just caved. All of the environmental assessments had been done, there are miles and miles and miles and miles of pipeline already going across Nebraska, but this was a purely political decision. It might have been a really good political decision from Obama's perspective, but guaranteed, it had everything to do with postponing a harder decision until after the election. The reason I say this is communication is because unfortunately, there are some groups that are really good at communicating, and others who aren't. As crass as it is, because in democracies, politicians do need to get re-elected, they will respond to the good communicators and to the ones who actually make a lot of noise, to the point where they think they are going to be influencing votes. It's awful, all it means is that those groups who are not communicating well enough but do need to be heard will have to step up their game, and start engaging.

Kirton: Let me just say very quickly that after twenty years of experience of this country regularly going to war, in part to support the practical expression of R2P, the striking trend is how that has commanded over those two decades the broad support of the Parliament of Canada across many different parties, and we've had many years of minority government. Now, sometimes members of particular party are divided and some members vote one way, and sometimes another, but there is no in-bred isolationism. There is no, –

Hall Findlay: There is a bit, but generally, I think, –

Kirton: well, as a party, right? Consistently? Party committed to "times are tough, if we have any money, we should spend it at home, rather than wasted on the people out there," and in some striking cases, I remember Kosovo, overwhelmingly the Poles showed the Canadian people across all regions, language, groups, all of the attributes were overwhelmingly supportive of that one. So, I think on the whole, the parliamentarians have done the right thing in the sense of being consistent with the values of the broad Canadian populace that they collectively represent.

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT
AT THE MUNK SCHOOL OF GLOBAL AFFAIRS

Matthews: Just one quick comment is that it's interesting to phrase this question and look at Libya because when Canada participated in enforcing the Security Council resolution in '93, we went into election, and I watched a major TV network, I don't remember any discussion during the election period about Libya, and what was Canada doing there, so in some ways, I think that election has become so domestic-focused on local issues, that I don't think it really matters.

Valpy: It drives us a little crazy that no election campaign every deals with foreign affairs issues. Is R2P's meaning effective of R2P's being associated with enlightened self-interest, as advocated by some R2P supporters, is this really constructive for the long-term future of R2P?

Hall Findlay: ...*[inaudible]*...

Valpy: If I understand the question correctly, there are groups of R2P supporters, who define or support R2P, under the rubric of enlightened self-interest. On our part, on whoever engaged in it. And the question is, is this really constructive for the long-term future of R2P?

John?

Kirton: The current Canadian prime minister has a doctrine of enlightened sovereignty, which he says is an expression or elaboration of enlightened self-interest. We're waiting to hear more about his conceptual evolution. In the absence of that, I must say I was impressed by the Right Honourable Paul Martin's Responsibilities Agenda, of which R2P was one, but there were other responsibilities involved, those of us who are environmentalists remember the R2P nature. For example, so once, we have increasing confidence that we can do the basics, which is stop the slaughter that the strict constructionists, Martha reminded us, is the foundation for much else? I think we can move on to do more, and here, let me just come back to Kosovo for a moment. and I would say, do R2P the Canadian way? We did not go to war in Kosovo under the guise, not guise, but under the proper motivation and principle of the international R2P to produce post-war political space in which people would be protected, because each would have their own little enclave, where they wouldn't have to speak to anybody else of a different language, or of a different language, or didn't look like them, and to affirm that, they would all become little sovereign states of their own, so I think it was unfortunate that the government of Canada, admittedly after some hesitation, recognized Kosovo as a sovereign state. Canada of course is a multi-ethnic, a multi-religious, a multi-lingual federation, right? and we've done pretty well over the past several centuries. I think it's an important part of -- dare I say it-- the Canadian model. It's entrenched politically and constitutionally, our multiculturalism. So, if it worked here at home, I don't think it's imperial, arrogant to say let's try it in the Balkans?

Valpy: Can you expand on that a bit? We think of multiculturalism as being a good domestic policy something that Heinbecker said once, our former UN Ambassador, struck me, "We've basically lost all our influence on the world stage, except for one thing: people still respect us for our multiculturalism and how good we actually are at bringing people into the main stream of

Canadian society." So, my question to you is, can we actually use multiculturalism as an instrument of diplomacy or as an instrument of international affairs?

Hall Findlay: Absolutely! I think that that's the strongest thing that we have. We're not perfect, but I think we do pluralism better than anybody else in the world. But the key is you can't go into a place and say, "Aren't we wonderful? We know better than you do on how to do this, so we're going to teach you"? I think that's a disaster waiting to happen. You have to say, "Here, come and look at us if you want, and if you like what we do, and if you see how it has worked, we're happy to work with you," but there is a fundamental difference, and I think unfortunately, our neighbours to the south has really coloured a North American thing that the rest of the world looks at the western world as being pretty condescending and arrogant, so Canada I think is incredibly well positioned, but we have to do it very carefully.

Valpy: Your interim party leader was pretty good at going around the world preaching the benefits of federalism, and how to live in a single state without slitting each other's throats.

Hall Findlay: I just don't like the word preaching. I'm more than happy to have as many people out there, talking about what we do, and that was my point earlier about, we should have Canadian people, like more consulates, more engagement, more economic engagement, in order to be able to talk about what we do, to yes, brag about our successes, but preaching...yeah.

Kirton: I would agree, but let me just offer a haunting fact. I'm not quite sure we know enough about why multiculturalism or diversity, if you will, works at home, so we then began to think more creatively as we should about how to use it abroad. So, we can take self-satisfaction, I mentioned it, to our mother countries who we do R2P with? Paris, it did burn. London, just couple of months ago, it went up on fire, we haven't had that in Toronto yet, the most multicultural city in the world. But do we really know why? On pure instinct, I think my students are collectively much more multicultural than people my age, so I think we need to get them jobs, and once we get them jobs, I think we need to get them good jobs. How many of our foreign ministers look like their multicultural folk, or Supreme Court Justices, for those of you who are lawyers in the room, so I think it's a work in progress at home. But, in the Canadian way, I think we should do a lot by trial and error. The international public opinion polls repeatedly show that Canada stands number one in having a net positive image in the world, so if that's soft power and some reason to believe that multiculturalism may be a contributing component to that, right? We can go on instinct, but self-reflection.

Findlay: We have to understand how it is so different. ...*[inaudible]*... I gave a speech at Korea University last year, and it was all about exactly this, right? But one of the things my host asked, "What was the first thing that struck you when you landed in Korea?" I thought about it for a minute and I said, "Everybody is Korean!" And they laughed, because they realized it is an unbelievably homogenous society. Like, 99% of the people living in South Korea are Korean, and they all look Korean, and they all speak Korean, and here I was, talking about our success

and our multiculturalism success in Canada, but our situations are completely different, so we have to understand that.

Valpy: We are right on the button ...*[inaudible]*...

Matthews: Francis Deng, when he came to Canada about a year and a half ago, the father of R2P, and he is now the Secretary-General special advisor in the Prevention of Genocide. When he came to Ottawa and briefed the parliamentary group on the prevention of genocide, he then went to meetings with different branches of the government, such as Citizenship and Immigration, to learn about these models of how do we manage diversity, and what is unique about Canada, so that's one point.

But two, I would also just let everyone know that multiculturalism, at least in the province where I lived -- Quebec -- is not seen the same way as it is in Toronto, and in the actual government, most people don't support it. They believe in interculturalism, in which you integrate into the dominant culture which is French. So, in Toronto we have one view, but in other parts of Canada, it's not quite the same, so just keep that in mind.

Valpy: But Toronto is the centre of universe (*Laughter in the audience*).

Matthews: Then Montreal.

Valpy: You have been absolutely wonderful panel, engaging. There has been dead silence of people in the audience, just drinking in every word that you said, so thank you very very much.

CLOSING REMARKS

Conference Staffperson: Hi, on behalf of CCR2P and the International Relations Society, I would like to thank all the delegates for joining us today in our exploration of normative, legal and policy dimensions of the R2P doctrine. Also, a very special thanks to our fantastic panellists today, at large and this panel specifically, for doing such a great job in lending us their expertise on such a complex concept.

Just a couple final points: Anyone interested in research opportunities with the CCR2P, look for Brandon. There is also information in the delegate package about that. We'd also really appreciate if you could fill out the feedback pages, which should be the last page in your programs. You can leave them at the registration desk on your way out. And, lastly, we'll now be heading to Massey College for a cocktail reception, so hopefully you can all join us. It's in the Junior Common Room and Massey College is just across the street, and there will be people directing you there if you aren't sure where it is.

So, to conclude, hopefully everyone can leave today with some new perspectives, thoughts, and additional insight into the R2P. I know I will. So, thank you very much once again.

(Applause)

CANADIAN CENTRE FOR THE RESPONSIBILITY TO PROTECT

The Canadian Centre for the Responsibility to Protect (CCR2P) is a non-profit research organization which aims to promote scholarly engagement and political implementation of the principle. The Responsibility to Protect, also referred to as RtoP or R2P, is a newly emerging norm coined in 2001 and later adopted by 150 states at the 2005 World Summit, which maintains that when sovereign states are unable or unwilling to fulfill their responsibility to protect their own populations from genocide and other mass atrocities, the international community has the responsibility to do so. Based at the University of Toronto, the CCR2P has five core mandates:

- 1) To conduct research on the normative, conceptual and political dimensions of the R2P principle
- 2) To trace the evolution of the Canadian government's policies with regards to the R2P principle
- 3) To serve as a hub for information, research and analyses on R2P
- 4) To communicate its R2P-related findings with the academic community, political actors, civil society groups and the general public on a regular basis (print and online media)
- 5) To provide a forum for discussion on controversies related to R2P

By working closely with the Munk School for Global Affairs and the Faculty of Law at the University of Toronto, the CCR2P will seek to develop networks with various academic institutes both within and outside of Canada. While R2P today still remains “a concept, not yet a policy” the founders of the CCR2P hope that rigorous research and policy recommendations from the Institute would be a step closer to the actual implementation of the R2P in the near future.

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