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INTERNATIONAL RESPONSIBILITY AFTER LIBYA

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P R O C E E D I N G S

MS. FERRIS: Okay, everybody. Welcome to this event on international responsibility after Libya.

My name is Beth Ferris. I'm a senior fellow here at Brookings, and I'm delighted to have the opportunity to talk about such a hot political topic. Ever since the concept of responsibility to protect emerged on the international agenda, sometimes under different words or originally you may remember in the early '90s the talk was a humanitarian intervention. And then my former colleague and one of your colleagues, Francis Deng here at Brookings, came up with the idea of sovereignty is responsibility, which seemed to open the door to examining the issue from a different perspective. Certainly after the events of Libya this past year a lot of questions have been raised about R2P where, where this is going, what possibilities there are, questions about consistency and application. Why Libya and not Iran or Syria or other countries where there are oppressive governments and where civilians' fate is uncertain?

We have three speakers, at least so far. We may have a fourth a little later. Irwin Cotler, who is a member of the Canadian Parliament and former minister of justice and co-editor with Jared of an important new book on responsibility to protect, missed his flight last night in Canada. He's on his way now, and if and when he arrives he will very discreetly step into this empty chair and fill in the discussion. He was going to talk about the applicability of R2P and other situations in the post-Libya setting.

But we'll begin with Ed Luck here on my left, who is the U.N. special advisor on R2P and also a member of the Columbia faculty -- Columbia University faculty where he is director of the Center of International Organization of the School of International and Public Affairs. And he'll talk about some of the perspectives from the U.N.'s point of view about R2P and Libya and so on.

He'll be followed by Jared Genser sitting here, who is managing director of Perseus Strategies, which is a new law firm set up to deal with human rights issues. Also, the founder of Freedom Now, which is an independent, nonprofit group working on behalf of prisoners of conscience. Together with Irwin Cotler he's co-editor of the new book, *Responsibility to Protect: The Promise of Stopping Mass Atrocities in Our Times*.

Finally, we'll hear from Rich Williamson, who is one of our own. He's a nonresident senior fellow here at Brookings. He also teaches at Northwestern University and actually will be teaching a class this afternoon, and has held a number of important governmental positions, including special envoy to Sudan.

So I'll begin with you, Ed, and following their presentations there will be ample time for questions and answers. Please.

MR. LUCK: Thank you very much, Beth. I was intrigued by the title of R2P after Libya. I think many people wondered whether the responsibility to protect would survive the Libyan experience. And there have certainly been some political pushback. It's one thing to have a theory and it's another thing to actually put it into practice. I think for some people the practice was not exactly what they had envisioned and they thought implementation wasn't perfect and so some member states I think have some concerns.

But I think the good news is that not only did R2P survive Libya, I think in many ways it was strengthened by that experience. I think we've learned some lessons. I think the Security Council has learned some lessons. And we've also come to recognize that Libya was only one experience. R2P didn't begin with Libya. It didn't end with Libya. We've applied this doctrine to 10 or 12 different circumstances now. Libya was the only one associated with the use of force in a coercive manner. We assume it's not the last time the Security Council will find the need to invoke force under the charter.

It was certainly part of the agreement in 2005 at the World Summit, and I don't think you could have any sensible strategy for responsibility to protect that didn't include the proper use of force as authorized by the Council under the charter. But it's only one piece of the puzzle, and I don't think we should weigh everything on whether or not force is used.

More often than not R2P has been used in a preventive way. The member states agreed first and foremost to prevent these four crimes of genocide, war crimes, ethnic cleansing, and crimes against humanity. The idea wasn't to respond after the bodies start piling up, which is usually the case when you use military force, but rather to prevent that occurrence to begin with. So that is the first goal and I think most of the cases that we've had have been preventive of one sort or another beginning with Kenya. A very clear case, R2P was directly involved both by Kofi Annan, who was doing the mediation on the part of the African Union, and by Secretary-General Ban Ki-moon when he went to Kenya. It was used in Guinea, and it has been used in a number of other cases of that sort. Sometimes in quieter ways; sometimes it's more public persuasion. And we've used that in many cases as well.

We saw, of course, the Council this past year not only react in Libya but also, obviously, in Cote d'Ivoire. They didn't use exactly R2P language in the Resolution of 1975 but it's very close to R2P and I think it certainly fits into that general notion. That was a peacekeeping force which got a little more robust in the end in order to enforce the mandate, but we've also been implying it in Syria with mixed results to date, and we see the Council has been very slow on Syria in our view. But then again, the Human Rights Council has spoken out in both Syria and spoke out in Libya before the Security Council did. We've seen the General Assembly act on Syria, and certainly the secretary-general and those of us special advisors have been very active on the Syrian issues.

So it's not as if it's an all or nothing use of force or R2P isn't applied; it's

one of many possible tactics. And I think we should consider what was being tested in Libya. I don't think the responsibility to protect as a standard, as a doctrine, as a principle was being tested in Libya. I think everyone agreed that it applied very appropriately in the Libyan situation. The differences really were about tactics, and I think we have to separate the tactics from the principle. You mentioned humanitarian intervention. To me that was a tactic, not a principle. R2P is a principle and there's a lot of different kinds of tactics under chapter 6 on peaceful measures; under chapter 7 on coercive measures; and under chapter 8, very importantly, the use of regional and subregional mechanisms. So there's a wide range of tactics.

So I think the tactics were tested. The question of trying to protect populations from the air was clearly tested. It was tested in Bosnia-Herzegovina. It was tested in Kosovo. Obviously, people are on the ground, not in the air, and trying to protect them from the air is not necessarily the easiest way to go about it. So that was tested one more time and I think, you know, there was a reason to apply it in Libya and not apply the same thing in Syria. You can't imagine, even though people are calling for no-fly zones in Syria, that that's actually a logical response to the problems there.

And we don't expect there should be an identical response in all situations. Every situation is distinct, and I think the more you're actually dealing with individual situations trying to find a way to resolve the problems, trying to find a way to prevent these kinds of crimes and to protect populations, you see these differences, these nuances. And obviously, the application of military force has different implications in different places. In Syria, obviously, the repercussions would be very different. It's not in the same kind of geographical location as Libya.

Very importantly, the regional support was very different. In the Libya there was a lot of push from the countries of the region, including the Arab League, for a

strong enforcement action, including the use of force in the case of Libya. So it wasn't the Security Council so much taking the lead as following the demands of the Arab League and of the countries in the region.

Syria, of course, has been quite a different situation. Initially, the countries in the region were very cautious about robust action. They've gotten a bit more bullish about it over time, but still it's something that's being handled by sanctions, by diplomacy, and by this Arab League observer group at the moment and a lot of press I must say from the U.N. and from various member states politically. So it's a different situation even though the crimes in some ways look rather similar.

So I would remind people that R2P, we think, is alive and well. We have very active discussions going on at the U.N. We're having another report this year from the secretary-general, the fourth in the series, which will deal with the whole range of what we call "Pillar 3 Responses." And that's anything under chapter 6, 7, and 8 as I mentioned. And looking at the experience to date -- what has worked different cases, what has not worked. And we're finding the member states very interested in that whole area.

Some of you know Brazil. The president of Brazil in September at the general debate in the General Assembly said that there should be responsibility while protecting in direct criticism of the way some of the use of force in Libya. We've welcomed that initiative because we think those are important things to talk about, and we think there are a lot of things under that general rubric that we want to deal with in our report in the coming year.

We also note that we have what seems to be an annual battle in the fifth committee in the General Assembly, which is the Administrative and Finance Committee. They liked to go almost until Christmas every year debating the budget, and particularly

the last couple of years the R2P aspect, even though it's a tiny, tiny piece financially, a few member states want to fight that each year. The first year in 2010, our side, the R2P side, won that particular debate, that vote, by a 4-to-1 margin. This year is about a 6-1/2-to-1 margin. And so we saw fewer countries abstaining, more countries opposing the particular resolution that would have restricted funding for this, and more states coming around.

So despite Libya we see the political tide continuing to move what we think is in a positive way because people understand that the principle is really sacrosanct. The principle is invaluable. There will be different tactics, there will be different circumstances, and those will all, I'm sure, be debated each time. So we don't want people to throw the baby out with the bath water.

So maybe that's enough to get the discussion started. We do think that Libya was a very important experience in the rather young life of R2P and we're going to continue to learn from it. We feel that the Security Council was correct in deciding that it was something that required the use of force. We do think there were perhaps less than perfection in the way that it was applied but that's always going to be the case and I think we have to understand that. I think for us the important thing, it was applied under the charter legally with the backing of the Council and after a number of other measures had been tried -- diplomatic, political, economic sanctions -- and then finally in the end, the use of force. And I think in many ways if Qaddafi had given the international community more time, the resort to force might have been a bit later but he pushed the issue. And when you had his forces literally at the gates of Benghazi and facing what everyone thought and he was predicting would be rivers of blood, that it was necessary to act and act decisively.

So we think the Council was right in that and we think -- in the

application. We have to learn a little more about the military doctrine and training and other things to carry these kinds of things out. They're not easy to do. So, you know, one learns lessons as one goes forward but we certainly would not criticize the Council for taking the action that it did.

MS. FERRIS: Well, thank you very much, Ed, for getting us started with reflecting on what this all means.

We'll turn now to Jared.

MR. GENSER: Thanks so much, Beth. And thanks to Brookings for hosting this discussion this morning.

I'm going to focus my remarks more intensely on Libya and get into a little bit more of the details, which of course, as Ed has already said, is going to have a profound impact on implementing R2P in the years to come.

As you'll recall, it was actually only coming up on a year ago. It was actually February 14, 2011, when the protest demanding an end to Qaddafi's 41-year reign began in Tripoli and spread across the country, and the Libyan government immediately dispatched an army to crush the unrest. And Qaddafi a week later said that he'd rather die a martyr than step down and called on his supporters to attack and "cleanse Libya house by house until the protestors surrendered."

R2P was used to justify the intervention and pretty quickly given the nature of the violence against civilians. The Security Council adopted Resolution 1970, which was a unanimous resolution that imposed an arms embargo on Libya, targeted financial sanctions, implemented travel bans against Qaddafi, his family members, and senior regime officials, and referred the situation to the ICC, the criminal court, for investigation of possible crimes against humanity. And in the subsequent six weeks, while the international community debated how to proceed, Qaddafi and his army moved

relentlessly to quell the uprising, killing reported thousands of unarmed civilians. And despite widespread condemnation, he consolidated his power and as was just noted, prepared for a final assault on the rebel stronghold of Benghazi. In a regular address, he told the residents he would show “no mercy” to fighters who resisted them stating, “It’s over. We’re coming tonight. Prepare yourselves for tonight. We will find you in your closets.”

Despite the unanimity of international concern about the events unfolding in Libya, the P5 and the Security Council were divided about how to proceed. The U.K. and France supported a no-fly zone. The U.S. was more ambivalent given its implications for deploying American resources and China and Russia opposed a foreign military intervention. But with the urgency of the troops outside of Benghazi and a critical public statement issued by the Arab League urging the immediate imposition of a no-fly zone, the Security Council adopted Resolution 1973. And among other actions, it authorized member states to take “all necessary measures to protect civilians, created a no-fly zone, and urged enforcement of an arms embargo and asset freeze on the Libyan government and related officials and family members of Qaddafi.”

Immediately, analysts and commentators raised serious questions about how the mission was framed in Libya, and specifically, although it’s a widely used term in Security Council parlance, how one should interpret the “all necessary measures” language, which, of course, enables the use of force. Were the efforts limited to protecting civilians actively threatened by Qaddafi’s forces? Or could it be interpreted in a way to authorize regime change the only way it appeared at the time that civilians could actually never be threatened again? And a short time later, the U.S. launched a no-fly zone over Libya and transferred its command to a NATO command structure only a week later. And the NATO operation interpreted its mandate broadly, enabling it to bomb not

only convoys of Qaddafi's troops that were actually threatening civilians but also his command and control structure.

And this brought interpretation in certain respects to past R2Ps original conceptualization, which had always been narrowly focused upon protecting civilians from mass atrocities, yet in the context of implementing R2P in a situation where the architect of those crimes refused to relent even after foreign intervention, such a situation had not quite presented itself yet. And while it's not unreasonable in this situation to cut off Qaddafi's capacity to commit these crimes, his unyielding approach provided a de facto justification for supporting the national transitional council to achieve a regime change.

That said, progress in Libya was slow going and the no-fly zone itself immediately came under criticism from the Arab League. The Secretary-General Mara Musa said what is happening in Libya differs from the aim of imposing a no-fly zone and what we want is the protection of civilians and not the bombardment of more civilians. Rebel forces were seriously outmanned and outgunned and in coordination with NATO took time to become effective. And global support for the effort eroded as concern grew that the mission was bogged down and Libya's neighbors' enthusiasm for intervention also waned. For example, on July 2, the African Union urged its members to ignore an arrest warrant issued by the ICC for Qaddafi saying it would seriously complicate efforts to end the Libya conflict.

Nevertheless, the sheer volume of air support against Qaddafi's forces had a cumulative effect. And by the time Qaddafi advocated power in late 2011, NATO forces had conducted more than 20,000 sorties, including some 7,500 strike sorties against Qaddafi's troops and military infrastructure. And a short time later the NTC relocated its headquarters to Tripoli and began the work of rebuilding the country.

Still, beyond the eternal disputes that have divided the NTC, the African Union continues to express its serious displeasure with the execution of NATO's air campaign. Despite the fact that 20 of its members plus have now recognized the NTC, the African Union itself has hesitated to recognize Libya's legitimate governing authority. Instead, it has been calling for inclusive dialogue with all parties. And even when the international community has had serious warnings about potential atrocities, it has often proven incapable of developing a consensus for action. So it's a good time to ask after the end of this intervention what made Libya different.

First, building support for action against Qaddafi's regime was only possible because of accommodation of compelling factors, including fast-moving and horrific actions targeting civilians, his venomous comments demonstrating unequivocal intent, and the mass defections of his ambassadors, military, and civil servants in Libya and around the world. There are actually few examples in recent memory in which a dictator has so quickly alienated his own government, his neighbors, and the rest of the world.

Second, there was strong support, as Ed also noted, in the Arab world to intervene in Libya. Not only did the Arab League publicly urge the imposition of the no-fly zone, but the Security Council heard from Libya's permanent representative to the U.N., who later broke down in tears begging the body to save his country.

And finally, unlike in Tunisia and Egypt where people power had resulted in the overthrow of those countries' respective dictators, there was a lot of concern internationally about the precedent Qaddafi was on the cusp of setting in Benghazi, that swift and overwhelming force directed against civilian mass movements could both put down those results and be carried out fast enough to forestall international intervention. And it was critical that a dictator who chose a more violent path not be allowed to

succeed.

So if Libya can't rightly be described as a test case that could be easily replicated, the question remains what its legacy will be. And by definition, because it has been the highest profile example of R2P's implementation, the Libya intervention will, of course, cast a long shadow on the doctrine for years to come. And at this point in time it's unclear yet whether that will promote a consolidation of or a softening of R2P.

But there are a range of other perspectives regarding the Libya intervention that I think will help shape its legacy. First, there is some concern that in the name of protecting civilians R2P was used to justify a regime change agenda, which was never the purpose of the doctrine. Gareth Evans, the former foreign minister of Australia, observed that NATO's actions interpreted the "all necessary measures" language to support a regime change mission. This decision "resulted in a widespread perception, not only among the familiar cynics, skeptics, and spoilers that NATO and Libya stretched its responsibility to protect mandate to the absolute limit and maybe beyond it."

Second, there has, of course, been a global focus on the so-called sharp end of R2P, the last resort option of military intervention, yet the doctrine, as Ed has repeatedly discussed publicly and in various U.N. reports, has been described as resting on three pillars. Not only the timely and decisive response pillar, pillar 3, but also the state's obligation to protect, pillar 1, and the international assistance and capacity building pillar, pillar 2. And this broad agenda can easily be lost when an exception of military intervention at one extreme of a possible response swallows the entire doctrine, which is much more comprehensive. And these other aspects of the doctrine are especially important now in Libya as the new government seeks to rebuild the country and create the conditions for free and fair democratic elections to be held later on.

Third, and finally, there is concern that the Libyan intervention will make

future interventions more difficult, and this concern came into sharp relief on October 4th of this past year when China and Russia cast an unusual double veto of the nonbinding draft resolution that would have otherwise been adopted in the case of Syria. After the vote, the Russian permanent representative to the U.N., Vitaly Churkin noted, "The international community is alarmed by statements that compliance with Security Council resolutions in Libya and the NATO interpretation is a model for future actions of NATO in implementing the responsibility to protect." The Security Council and NATO intervention in Libya will not only have a profound effect on both the situation in that country and the evolution of R2P. But the international community cannot let criticisms of the intervention in Libya dissuade it to continue to press for the doctrine's implication.

Until recently, mass atrocities directed at civilian populations were met with silence and inaction. The mere fact that the Security Council did not question the right of the international community to intervene but rather debated the nature of the intervention size and scope is a critically important milestone in the doctrine's development. It should be reviewed as unremarkable in my view that the intersection of this inspirational doctrine and the real world will prove messy and imperfect in practice. R2P was never intended to be a rigid or formulaic approach to preventing and responding to mass atrocities. On the contrary, it was designed for flexibility and to enable its application in a variety of distinct challenges, the use of force being the absolute last resort.

There is, of course, valid reason for deep concern and even disappointment that the Security Council's attempts to intervene in Syria so far have been thwarted. China, the Russian Federation, and others, having seen how their approval of the intervention in Libya played out, may be reluctant to invoke the responsibility to protect in the Security Council in the near future. And in that sense the pendulum may

swing back towards indifference, although, of course, the full story hasn't yet played out in Syria. But a future failure to intervene as mass casualties mount will create pressure to swing the pendulum back towards action. And it's only through this kind of real world experience in my view that the international community will learn how to act to achieve the important goal of atrocity prevention and how to calibrate its responses.

While there remains a gap between the unanimous state of commitment of the U.N. World Summit and the willingness of member states to actually prevent mass atrocities that gap is definitely narrowing. And this past summer the General Assembly held its third and formal interactive dialogue on R2P. Although this debate took place in the midst of the developing situation in Libya, there remained a strong consensus among member states about the need to continue to implement R2P in its broadest sense. The global commitment to prevent mass atrocities remains not only intact but growing, and as has always been the case, the challenge will be transforming this commitment into reality.

Thank you.

MS. FERRIS: Thank you very much, Jared. Again, a very nuanced view of some of the complications, if you will, of understanding the Libyan intervention.

We turn now to Rich Williamson.

MR. WILLIAMSON: For a less nuanced view. (Laughter)

I want to thank Brookings and Beth for doing this, and my friend Ed Luck and Irwin for your presentations.

Let me first, as a chapeau, cite some of the concerns about military intervention under R2P that Benjamin Valentino outlined in Foreign Affairs in the November/December issue because I think they color any serious discussion of this topic.

He listed among the concerns that aiding defenseless civilians usually

means empowering an armed faction claiming to represent the victims that frequently commit major human rights abuses themselves. That's true in Libya as it's true elsewhere.

Two, there are unintended consequences using force to save lives usually involves taking lives, including innocent lives. It's true in most courses; it was certainly true in Libya.

Three, prospects for foreign military intervention may encourage victims to rise up, and this has been explored especially in the Kosovo case which we can discuss. There are a set of political costs. The United States has lost certain political stature and reach as a result of its activities in some of these interventions. There's a corrosive effect on the authority of the IOs, like the U.N. And the lost opportunities he suggests, opportunity costs where money could have been spent not on military but on humanitarian needs.

So I think those are some important questions to keep in mind as we look at R2P. My own view is that R2P is an important concept. It's a consequential emerging norm. Madeleine Albright and I are chairing a working group on R2P for the next steps of its implementation, which is receiving support from Brookings, from the U.S. Institute of Peace, and from the Holocaust Museum we'll have a report near the end of this year.

Also, I want to praise President Obama, irrespective of Libya, for his interest in R2P. At the White House and Security Council he has one of his special assistants to the president, Samantha Powers, who is deeply vested in this issue, both before she came and during her tenure there. Initially, David Pressman was brought on to be the point person at the National Security Council on war crimes and a key player in dealing with R2P issues. He's moved on but the position has been replaced and

continues.

In August, the president signed an executive order that dealt with some issues raised by R2P and human rights abuses through the various criminal acts outlined in R2P. He also created an interagency working group, which to build on the anti-genocide task force that was issued a report just prior to his election shared by Secretaries Albright and Cohen. In any event, I think there are specific steps going on that will have an impact. Others have touched on the history of R2P but also the importance of the practical steps. My own view is that the old African saying is correct. You create a path not by drawing a design but by actually walking back and forth and wearing down the elephant grass.

And it has been noted one of the successful R2P interventions was Kofi Anan's effort in the 2008 Kenya exhibit and also I think it's important in that to hearken back to something else Valentino has written about and was true in Kenya and that was the ethnic killing was not spontaneous. As is almost always the case it was by a powerful person using and sparking ethnic cleansing for their own political purpose. And it was successful because Kofi negotiated an unconstitutional power sharing so that the guy who had his election stolen from him that the U.S. was unwilling to admit stole it, was given all the power, the president nonetheless could stay in office and have all the privileges and prerogatives of that office. Cote d'Ivoire is also cited, as has been Libya.

I think it's important to keep in mind that in many ways Libya was unique. Every situation is particular. Not every situation is unique. And Libya was because Muammar el-Qaddafi was weird. (Laughter) And he did not quickly alienate people. He did a very steadfast and focused effort over 40 years and he had no friends. Now people were somewhat constrained in how isolated they kept him because he had oil money which he liked to spend freely to purchase allies but friends? No. The man had no

friends and that allowed him to be isolated in ways that are different than the normal situation.

A senior administration official outlined five critical elements to me for the Libya case to go forward which I like to cite and they're very interesting. One, she mentioned presidential leadership that Obama cared about the issue. And I think at least initially because of the high cost, high risk, lack of political support or appetite, presidential leadership is important. Two, she cited the highly credible threat as had been mentioned earlier of Qaddafi talking about killing the cockroaches, et cetera, and moving his troops. Three, she cited multilateral support, regional with the Arab League, which might provide operational burden sharing, especially in the early phases. Fourth, and interestingly, emerging organization of opposition within the country of the TNC. And five, the U.N. action authorizing the use of force.

I'd suggest a sixth one going forward which we are relearning in Libya. We seem intent on relearning this at the cost of other people's blood and treasury and that is, are you prepared to deal with the post-conflict issue? NATO cut and ran before the Libyans wished they would and the resources available to help them are de minimis. And this is especially troubling in a society where the supreme leader systematically trusts any civil society and did not allow normal societal organizations as a way to stay in power. So it's much more challenging than it might otherwise be.

I want to comment on the downside that the president was persuaded to do this and I think took to the television to address the nation consistent with his deep felt beliefs and the way he was briefed by his advisors. This would be days, not weeks. Certainly not months and months. So I suspect the next time there will be more follow-up questions when they suggest it can be done in days, not weeks. Not every intervention is Grenada.

Two, with more realistic sense of the military challenge you might be less inclined to follow and support your friend Sarkozy. And I would argue that Sarkozy's interest in pushing this was because he completely blew it with Tunisia by basically hanging on to Ben Ali until he was about to land in France and he was politically hurt by that. And so the next one that came nearby he was going to be more Catholic than the Pope, so he took the lead and a young, new prime minister in Great Britain who wanted to play a role in the European continent was happy to join him.

A couple of things. One, you're not going to normally find that. Secondly, we later found the limits of what that does because as soon as it became months, the French and the British began to run out of capacity and missiles, other things, and the U.S. had to again take up the degree of its support in this regard. So after six months of struggle they were pushed from power in August. On October 20th, Qaddafi died. As I said, there continued to be post-conflict challenges with building civil society, establishing the rule of law, transition.

The U.S. -- so looking forward, we have to be tough on ourselves, on the United States' unique assets. And we have to sort through this new defense budget and what it means so far, to which I'll restrain myself for now. But we certainly will have less capacity.

Let me just give you an example. In 2002, a civil war breaks out in Cote d'Ivoire. The French have a bilateral commitment to come in and provide assistance. Forty-eight hours after the violence broke out upcountry, the French ambassador goes in to Gbagbo, the president of Cote d'Ivoire, with 18 contracts to be renegotiated before they start talking about the implementation of the bilateral commitment to provide military assistance. Then they do provide the military assistance and ECOWAS -- they work with ECOWAS to get them to deploy.

The U.S. provides the transport and the U.S. continued to provide the communications. Not France. They didn't have the capacity. The U.S. provided the communications for ECOWAS and later the U.N. Now, this is to a freeing Francophile country the size of Rhode Island.

I just point this out about the military capacities of different countries. I'm not talking about the fact that the Germans had to rent Ukraine planes to get their trainers to Afghanistan. I'm talking about France dealing with a Francophile country a few hours away. We have to be realistic about what our assets are, realistic about what others' assets are, and therefore, despite the multilateral venue, despite the others helping, most of these are difficult tasks and therefore, most of these can only be done with U.S. playing a significant role.

You add to that the right now the United States has acute financial difficulties. Whether or not the new defense budget reflects that or is the best way to go forward or not, there is no question. There is incredible political and financial pressure on the U.S. government, and these are not cheap. And most Americans don't see them as vital, at least not the 25 million Americans who are unemployed, looking for work, or have given up looking. Twenty-five million, two-thirds of them have a spouse, then brothers and sisters. Already you're talking about enough votes for presidential election. So you have that fiscal restraint.

Third, you've got battle fatigue in the United States today that continues to linger from the Afghanistan and Iraqi war. You could take that by looking at the Republicans' comment in their presidential debate.

Next, the regime change issue is front and center. From the very beginning of the debate, former colonial nations feared that this was Red Riding Hood coming in under a cloak of humanitarianism for regime change. And in Libya it certainly

appeared that way because it's hard to argue you were still trying to protect humanity when you were going after Qaddafi as if he was the most wanted man in the world, and then the way in which he perished. So we have given more tools for that type of blood bath intubate for the international R2P being looked at as a force in regime change.

Having said all that as I've said earlier, elephant grass is beaten down further, which is a good thing on R2P. There appears to be a broader community of interest. There's more see and interest in being vowed with it. We have a litany of UNGA and U.N. Security Council resolutions, reforms within the U.N. that Ed's helping drive, regional groups doing things. I believe that the challenge of -- well, he did it in Libya and he didn't do it in Syria. Still, the Tony Blair response is adequate at least for me and that is just because you can't do it everywhere doesn't mean you can't do it -- you should not do it when you can. But that is something there's going to be an inherent inconsistency. You can't do it everywhere. Or at least we can't.

I know when I was ambassador to the Security Council and these other 14 folks would be talking about what we should do, I'd raise my hand. I'd say, I think you said your "we" really meant what "I" had to do. (Laughter) So why don't we say it that way so you don't feel like you're -- you're spending my resources here. The "we" is "us." And that's not going to get any better because as you see in the European crisis, they're going to be cutting their defense budgets even further, et cetera.

Nevertheless, the United States should be driven, in my opinion, by our national security interests, first and foremost. Other vital interests. But be animated by our values and R2P is certainly a value of ours as well as have a spectrum of humanitarian interests that can go out and have an impact on our economic and security interests on a secondary level. So I think it's a concept that can and should develop and strengthen. We should get smarter about and the post-Rwanda and Balkans and Libya I

think has created a political platform for serious discussion and keeping it alive. But I pointed out a number of problems because I think they're realities and we shouldn't kid ourselves by getting too enthusiastic right now.

Thanks.

MS. FERRIS: Thank you very much. And thanks to all three of you for some diverse viewpoint on this always controversial issue.

We'll open it up for discussion but first I want to pick up with the three of you this question of consistency. And one of the main criticisms of R2P is this inconsistent application, why Libya and not Syria and so forth. You mentioned your agreement with Tony Blair's comment that consistency shouldn't be a criteria for evaluating the effectiveness of R2P. But I wonder if we could hear from Ed and Jared what you think about this before opening it up.

MR. LUCK: Well, certainly, politically, consistency is important. But we have to recognize, one, that consistency on the part of the secretariat I think is mandatory. In other words, the secretary-general, those of us special advisors, others working on these kinds of issues, we need to apply this principle equally across the board. I think the secretary-general has and I think it's quite remarkable last year was a reappointment year for the secretary-general, and I've been around the U.N., mostly on the outside, for a lot of years. Most secretaries general get very cautious in that year. This secretary-general did, I think, in many ways, just the opposite. Even though he knew not all the permanent members of the Security Council were wildly enthusiastic and any one of them could have vetoed his reappointment, he was very outspoken on the Arab Spring issues across the board. In fact, he mentioned the responsibility to protect in many cases that have not even come up here today. Yemen and Bahrain and others where he's been very vocal. And I think it's important that the secretary be consistent.

On the other hand, you get to political about it, they make political decisions. And the Security Council has never accepted, and this was debated in San Francisco back in 1945 when the U.N. was first created, that it's going to go by some set of guidelines. It's going to make political decisions, precisely for the reasons that Rich is pointing out. Member states have to carry this burden. And their passages are going to vary. Their well is going to vary. What I think is important is that the Council try to apply the principle in a consistent way. And so I would criticize the Council on the case with Syria of not being as clear on principle as it might have been. And again, it's a Human Rights Council that was consistent between Libya and Syria on the principle. I think in a somewhat backward way, but I think the Arab League has come around to be consistent on the principle.

But there will be when you get to tactics, very hard political decisions. And this is why we think prevention is so important, because we recognize for the kinds of reasons that Mitch is pointing out, the application of military force is going to be relatively rare and should be relatively rare. It just shouldn't be ruled out. And we also don't believe that you should follow some rigid timetable that you go sequencing trying this and that and the other possible tactic. You have to apply what's appropriate. From the very beginning, the secretary-general said that we needed an early and flexible response tailored to the circumstances of each case. And I think that's right tactically. So in terms of principle, you apply it uniformly. And you encourage the intergovernmental bodies to do so. We don't always succeed in encouraging them but we certainly try. But in terms of the tactics, they will vary from place to place. And I think we have to recognize this.

I'd also say in terms of the Security Council, many people said that after the resolution 1973 and the application of military force in Libya, Security Council would

not touch R2P again. In fact, I remember a couple of the members at the time saying we're not going to do it again. Well, they have. Just a few months later, in July, they had Resolution 1996 on South Sudan. And it's a perfect example of our second pillar, the assistance pillar. The Security Council for the first time said that the peacekeeping mission in South Sudan should advise and assist the new government there, including its military and police, on how to fulfill the responsibility and protect their populations, et cetera, et cetera. And one of the cases we're looking at very clearly now is that in Jongway state where there is ethnic violence of some scale and they're watching that very carefully. We've done training programs and other things in South Sudan. In fact, we're talking about trying to get training programs going in Libya because R2P didn't end with the end of Gaddafi. The responsibility of the new government remains. We may have to remind them of that.

Also, the Security Council in the case of Yemen. I think it was in early October and the resolution on Yemen again repeated responsibility to protect. This time it was the first pillar reminding the government of the responsibility to protect. In September, the Council had what they call PRST, a presidential statement, coming in from their higher level meeting on prevention. Again, cited the responsibility to protect. And again, under this first pillar.

So the Council has not abandoned R2P since Libya. And they are trying to apply it in appropriate cases. And I think that's the way it ought to be. So I think, you know, look at the principle to be applied evenly. Look at the tactics to vary from place to place.

MS. FERRIS: Consistency, Jared?

MR. GENSER: The only thing I would add, and I think Rich and Ed have covered it well, is the challenge is really inherent in how the entire U.N. system itself was

designed. And oftentimes I'd see the consistency argument deployed by those who generally just don't want to apply the principle at all for that matter. And so, for example, you know, I don't think we're going to see any time soon R2P applied through the Security Council to another uprising in East Turkestan and China or with respect to the situation in Tibet if another, you know, if another situation of violence, you know, rises up. I don't think we're going to see something on Chechnya with the Russian Federation. But, of course, that's really a question about Security Council reform, the use of the veto and issues that have been around the U.N. since its founding.

And so ultimately I would also subscribe to the Tony Blair approach or the, you know, the maximum perfection can't be the enemy of the good. You know. We can only do the best we can. As a community, I think that when it comes to those situations that are most challenging politically, you need strong support of the NGO community, strong support of the media and of those governments who you can get onboard. And ideally you get to a situation where, you know, you see, for example, the Russian Federation putting forward a draft resolution on Syria now and the Security Council because it realizes that the current situation remains untenable, whereas, you know, just a number of months back in October they double vetoed a resolution, you know, that was put forward by a number of the other P5. So, you know, hopefully you can come back around to these issues, and I don't think that there's a final chapter that's ever going to be written on these questions. We're going to, of course, continue to have to deal with questions of consistency but that shouldn't keep us from continuing to try.

MS. FERRIS: Let's open it up for discussion then. We have a couple of roving mics and if you could introduce yourself. Let's just take these three at the front since they're easier to see. And maybe we'll take three or four questions and then give you all a chance to respond. We'll start here.

If you could stand up, please, it helps.

MR. DURISI: Justin Durisi (phonetic), Global Source.

A couple people touched on the post-conflict situation, and I understand that there's a number of powerful militias left over from the conflict that are refusing to give up their arms and this provides a continuing challenge to the legitimate government and also the possibility of full-on sectarian violence. What is the international community, what are, you know, what is NATO, what is Western civil society doing on the ground to prevent such a thing occurring?

MS. FERRIS: Thank you. And right in front here.

MS. PHILLIPS-BARRASSO: Hi. Kate Phillips-Barrasso with the International Rescue Committee.

One of the things that was brought up consistently throughout the discussion was the regime change aspect and that being a major criticism of the Libya intervention. But given some of the evidence that was cited and some of what we know of Qaddafi's behavior and some of the very overt statements that he made about retribution and cleansing, it's hard to imagine any other outcome from intervention not leading to regime change. And given the statement that was also made about R2P not being formulaic and just because it resulted in regime change this time does not necessarily mean it will always lead to regime change because of the different tools and mechanisms for intervention.

I'd just like to hear from the panelists what they think about that criticism and also what were the alternatives in the Libya context that were not regime change related that could have been used to deal with Qaddafi's behavior in light of those very extreme statements and behavior?

MS. FERRIS: All right. Thank you. And we'll have this gentleman over

here. Was there a hand over here? No? Okay. Yeah, there it is. I see it. Oh, sorry.

MS. POWELL: Hi. Catherine Powell (phonetic), secretary, Cleanse Policy Planning Office, and just finishing a stint in Samantha Power's office as her director for human rights.

Thank you very much to the panelists. I have a shot comment and then a question and the comment really falls on the regime change discussion and may be useful for us to remember that there was really a two-track kind of approach of NATO, the multilateral approach of really a lot of public statements were focused on protecting civilians. But bilaterally a number of countries, of course, pursued ways of isolating Qaddafi through sanctions, public statements asking him to step down. In terms of, you know, it was really the Libyans themselves who finally pushed him out of power and captured him. So in terms of regime change I think that the Security Council authorization and NATO's actions were really more focused on protection but the push to remove Qaddafi from power was really more of the bilateral policy and ultimately the Libyans themselves.

My question really is about the different pillars though. And how much of this -- there's a lot of discussion of how much of this is really old wine and new bottles. And, you know, the first pillar, the primary responsibility of being countries to protect their own people really just restates long existing international law. But then when we look at pillars two and three, the international community's obligations, I want to ask you how much of that do you think are evolving legal norms or is this really politics or policy? Thanks.

MS. FERRIS: Thanks a lot. Why don't we start with you, Rich, in terms of responding to any of these questions you'd like to answer and then you can pass the rest of them on to the others.

MR. WILLIAMSON: Sure. I think regarding the first one on the militias, I tried to touch upon that.

Prior to NATO withdrawal there had been requests by the TNC -- is that what it was? -- that NATO stay longer. But NATO, having gotten into this at a time when they misjudged how long it would take and at a time when they faced acute financial pressures back home, they never engaged the post-conflict situation. I raised it because it seems to me if one is advising the president on this in the future that has to be part of the discussion because it will be an enormous challenge. And as we have seen in post-conflict situations from those that have been successful, like Sierra Leone or Timor Leste, as well as those that have been unsuccessful, like in the Congo, evidenced by the recent election and continued killing, it's not quick, it's not easy, and it's not cheap.

On regime change, look, my own personal view is the world is a better place without Qaddafi. I was addressing it in the context of R2P and that those who opposed or have had severe reservations about this emerging norm, especially from the developing world, have largely been because of that question. So it could be bilateral policy but it could be bilateral policy polluting a norm that otherwise having some purity would have some efficacy and use long term.

Look, the first two pillars -- Ed and I have had discussions about this -- most countries have people at the U.N. for one purpose, to get money. And so the degree we're going to help countries develop the capacity, they're all in favor of this, shockingly. And they hope there will be new money in developing the capacity that they can get. Nothing wrong with that. That's not going to be a controversial issue.

I would give a little more credit to France's and the 1996 Brookings paper about honing the idea of states not just having rights but having responsibilities. I don't think there was as broad and as particularized a discussion about the responsibility

question until then and it was helped by the Canadian study, et cetera. And we won't have to till all those fields but I do think there was more that went into it and that it's important. It's an adjustment that is important, more generally I'd say. The evolution of a norm gaining credibility, acceptance, and then tilting the political process toward action is not quick, nor easy, whether it's the 1948 Human Rights Universal Declaration or whether it's R2P.

But early instances have disproportionate impact because people are -- countries are still picking sides. So I personally am glad Qaddafi's dead. It's unfortunate the way it was done. It was like Charles Bronson in one of those vengeful movies. It wasn't particularly helpful. But it does give ammunition for those who fear the U.S., France, and Britain, which ultimately was the group that forced it -- these things don't happen in the Security Council. They're not immaculately conceived. The 15 don't say, oh, my god, today I could have had a V-8; let's condemn Libya today. It's a lot of hard work and the U.S. almost always has to be the lead dog pushing that. It's going to be more difficult. And that's just an acceptance we have to make. But with Cote d'Ivoire, with other cases it helps round it out. But it's just something we have to be mindful for and I think it's legitimate.

And I don't think we can hide behind, well, we used you; you were our fig leaf for NATO. But see, actually the getting of him was us on our own. I don't think the international community gives the U.S. the freedom to be able to segregate what they do but in a campaign out of Libya between how we use, abuse, and exploit multilateral institutions which is what we reserve for ourselves to do bilaterally under the cover or because of that.

MS. FERRIS: Ed.

MR. LUCK: I'm shocked, Rich, to hear that you would ever exploit an

international institution.

MR. WILLIAMSON: Isn't that what they're for? (Laughter) I'm sorry. I thought that's what you taught me.

MR. LUCK: That was a personal comment. We're old friends.

But just a couple of quick things. On Libya and the militia, it's not really directly an R2P matter but it does seem to me this question of the standards need to apply as much to the new government as to the old government, and we have to remind them of that. The human rights standards, but also responsibility to protect the populations. And so we are very eager to do training programs and other things in Libya as we've done in Bosnia-Herzegovina, in Kazakhstan, which -- in Turkestan, sorry, which was a very clear R2P case and was applied there very thoroughly and that we've done training there. They want us to do more training. We've done them in Columbia. We've done them in Lebanon and a lot of other places. So I think that's important in Libya.

On regime change, let me say a couple of things. One, we do believe in regime change, but the R2P regime change is getting regimes to change their behavior. That's what we're trying to do is get regimes to change their behavior, not to shift the people around and the leadership. That's not our goal. Nevertheless, I think, you know, stepping outside of one's U.N. hat and putting on an academic hat, you know, you look at studies like Alex Bellamy from Griffiths University in Australia as a recent one, looking at the history about how these sorts of things end, atrocities. And a fairly large portion. And because the leadership changes. But that can't be the U.N. goal. That can't be the R2P goal. But just historically that often has been the case. But our preference, certainly what one tries to do particularly with the first two pillars is get regimes to change their way, help societies create institutions that might make recourse to atrocities less likely, that provide blockages along the way. And there's a lot of history of this in various

places.

Now, old wine in new bottles. I think there's something to that and we've done our best, and certainly the secretary-general has, to keep pointing out to the history. Francis' work and others on a sovereignty's responsibility, Article 4H in the AU Constitutive Act, which preceded the ISIS report. The early work of ECOWAS and going back to Liberia and other cases, Sierra Leone, to say, in fact, there is a real history here. And R2P is building on that history. We have said 1,000 times with the member states -- I don't know if they believe it -- but there is nothing new in international law added by R2P. It's all based on existing international law. It is a political concept and it's putting things together in a different way. But to say that it is old wine doesn't mean that it is not unimportant because it does have a political impact and we shamelessly remind the member states, particularly on the Council, do they want to be on the right side of history or not.

And there's a large public movement. There's a lot of NGOs. There's an expectation that human protection has become a centerpiece issue for the United Nations. And this is the direction things are going and I see a real reluctance on the part of member states to vote against a resolution that has R2P in it. A lot of efforts to get that wording out, but some reluctance to vote against it as a principle because I think they all recognize that this is the way things are going. And we don't really have any challenges anymore on the principle. A lot of challenges on the tactic, a lot of challenges about regime change, about people misusing R2P, which is a worry. But not so much on the principle.

Now, I want to make a comment on the first two pillars, and as Rich said, we've had some dialogue on this over time. I remind the member states that the second pillar in particular, this assistance pillar could have some uncomfortable aspects to it

regarding sovereignty. It was agreed in the World Summit in 2005 that the international community is to assist governments under stress before these sorts of things happen. Now, that requires identifying societies that are under stress, governments that are under stress, and coming up with some kind of an action plan. And the secretary-general actually is going to be giving a speech next week which is going to be talking about prevention as a very proactive dynamic kind of a force. It's not sitting around waiting for something positive to happen. If prevention is to work it means becoming engaged with some of these societies at a very early period.

When you first started talking about prevention a lot of member states said, oh, great, you're talking about prevention, not the use of force. But I reminded them that prevention, to be effective, means very early engagement. The early warning is far too late. You have to be engaged much earlier and you have to be prepared. And the line between response and prevention is a very fine line at best. And a lot of things we're doing, I'm not quite sure whether we'd call it response or call it prevention. It's a little bit of both. But if you're not engaged in societies in trouble and you're not trying to help them get out of these things at a very early stage and giving some rather candid advice to some of these governments, you're not going to have effective prevention.

And it seems to me that this is not the same old assistance kinds of policies because sometimes development assistance makes things worse in terms of preventing atrocity crimes because they appear to benefit particular groups in society. And usually this kind of violence is targeted at minorities within society that rightly or wrongly are perceived by the others as having certain benefits. In fact, we're not just worried about what's happening in Syria today; we're very worried about what might happen if there's an implosion of the government or an overthrow of that government. Then what happens? R2P still has to exist. The danger, particularly to some minorities,

which may have had a repressive role up to this point, could be very great.

And where are the institutional blockages? Where is the international community? Where are your plans? Where are you going to actually be able to go in a peaceful way to help prevent this kind of violence? That's extremely important. And that's not your old assistance kind of question. Asking development agencies to look at the sort of sociological effect of their aid on that society and the relationship among groups is not your typical way of going about it. Asking those involved in post-conflict peace building to look at trying to prevent recidivism, recurrent violence of this sort, is not your typical kind of peace building.

So for us, if you don't ask the right questions, you won't get the right answers. And R2P asks a different set of questions because it puts atrocity prevention at a much higher point in terms of your priorities. So it is a different orientation. And for that reason I'd say -- actually, those first two pillars are probably ultimately the most important ones and they could be actually a lot more revolutionary than people would like to think because it is, in fact, approaching old doctrine, old policies with a different set of concerns.

MS. FERRIS: Thank you. And Jared, I wonder if you want to take on Kate's question. Could civilians in Libya have been protected without regime change?

MR. GENSER: You know, I don't think so. I would just briefly say that, I mean, you know, you would hop so and that's what R2P is designed to achieve. Ultimately, if the actions taken by the international community don't persuade or dictate or in this case Qaddafi from stepping back from their behavior, I think you have no choice but to go after command and control mechanisms and other things that will undermine his capability to maintain control. I think had he pulled back from Benghazi before the adoption in 1973, I think NATO and the coalition that was put together would have no

choice but to back down and enable him to reassert control of his own country and you wouldn't have seen this fall through to the bitter end, at least from Qaddafi's perspective. So I think that, you know, morphing into a regime change agenda is inevitable if the dictator doesn't relent to the actions that are taken by the international community.

Just the last comment I'd make quickly on the old wine and new bottles question is it's absolutely essential to focus on what R2P was constructed out of, which was, of course, the Genocide Convention, the Geneva Conventions, the International Covenant on Civil and Political Rights and a large body of international law that underpins the prohibition against these four sets of crimes. And as Ed said, it was the World Summit that brought this together along with Francis Deng and others here at Brookings who talked about sovereignty as responsibility that brought all of these together into developing this concept that was articulated as an inspirational doctrine, as an emerging norm. That has become much more than it necessarily has in terms of any legal persuasion. There is no legal authority, as Ed said, to the responsibility to protect but it has been embraced as an important concept that builds on the shoulders of all of this existing body of international law.

MS. FERRIS: Thanks. Okay, let's take another round. We'll start in the back here, the gentleman standing up and then the one -- again, if you could introduce yourself first.

MR. FANUSIE: Thank you very much. My name is Yaya Fanusie. I'm with the United States --

MS. FERRIS: Can you hear him? Maybe we need another microphone.

MR. FANUSIE: My name is Yaya Fanusie. Can you hear? I am with the -- thank you very much. My name is Yaya Fanusie. I am the head of the Special Operations Division of the United States of Africa 2017 Project.

Thank you very much for your information that you have given out, and Mr. Williamson, thank you very much for your balanced approach. The other two are just apologists. And what I want to let you know, yes, Qaddafi has a lot of support in Africa. You will see what's going to happen because you have no idea what you did. People like me are going to be famous in a few years.

MS. FERRIS: Okay. Thank you. And we have the gentleman sitting here. Yes.

MR. ROWSON: My name is Dick Rowson. I'm with the Council for a Community of Democracies.

It seems to me that what is new about this doctrine is the infusion of the right of people to govern themselves, the right to democracy, if you will, which was implicit in the purpose of the resolution from the Security Council. The initial charter of the United Nations did not necessarily state that it was the obligation of nations to support or promote democracy. This particular resolution strongly implies that there is that obligation and it was backed up by military action, supported by international bodies across the board, which led to a strengthening of the prospect on the part of the people to undertake a revolutionary change in their own governance, in their right to rule themselves, if you will. So that element of democratic right supported by others is a new element, it seems to me, which gives added strength and enhancement, if you will, to the traditional international law that is implicit in R2P. I would appreciate your comments on that.

MS. FERRIS: Okay. Thank you. Let's take these two right here.

SPEAKER: I just have two quick comments and questions.

MS. FERRIS: And your name?

SPEAKER: The first one is that there had been in the literature a

discussion of R2P, how it should be applied in terms of being narrow but deep, as opposed to being applied more and more broadly and liberally I suppose you could say. And I'm just wondering if you'd like to -- in the post-Libya situation, where do you see those types of terms being used and applied?

The second observation or question I have for you is that another feature of the sort of international norm landscape that's kind of new is the development of peer review mechanisms such as in the Human Rights Council, the Universal Periodic Review, and the African peer review mechanism. These aren't really R2P. They are, I think, softer mechanisms but they are more permanent, if you will, and I'd suggest that they have a role in helping to enforce norms as well. And I'm just wondering if you see a connection between those two things.

MS. FERRIS: Thank you. Right here.

SPEAKER: (inaudible), Russian News and Information Agency
(inaudible).

I wanted you to comment on the situation that was going on for some reason that's not very often mentioned nowadays in Bahrain where we know that the Saudi army put professionally -- I've got to admit -- within several hours put down the uprising. Where was the United Nations Security Council then?

And another question is, of course, about Syria. This concept actually has nothing to do with protecting people. It's all about politics and what is going on right now in the United Nations is just, well, some kind of probably behind-the-stage deal is being prepared between Russia and the United States, Russia and China, China and the United States. What I want to say is that if the resolution would be accepted by Russia and China there would be a regime change within a week. That's my personal opinion. Do share it. Thank you.

MS. FERRIS: Okay. Why don't we start with you this time, Jared?

MR. GENSER: Okay. There's a lot to comment on. I'll just select a couple things briefly.

Whether there's an inherent commitment to democracy or democratization in R2P I actually question. I actually think that the idea of sovereignty as responsibility is that a sovereign, whether democratically elected or not, has at a minimum a floor threshold of responsibility to his or her own people to ensure that they are protected from these four sets of crimes, let alone that the government itself is not perpetrating them against those populations. So I'm a little more skeptical as to whether there's any commitment to democracy or democratization as a broader question.

On the narrow but deep question which I know Ed has talked about publicly, I would say that, you know, there are situations in the world where these four sets of crimes were taking place that for political reasons it's highly unlikely you're going to see an intervention in the near term. I've done a lot of work, for example, on North Korea, which I consider to be one of the worst human rights situations in the world today and there are 200,000 people and political prison camps with starvation level rations. In my view that clearly constitutes crimes against humanity but it's going to be very difficult through the U.N. system, given North Korea's strong relationship with China and a whole range of other political factors, to get much traction to do anything about North Korea, particularly when the human rights situation is substantially overshadowed by the presence of nuclear weapons on the peninsula, which is really of biggest concern to the international community.

So I'll just leave it there for now. And there are a lot of other topics to be addressed.

MS. FERRIS: All right. Ed.

MR. LUCK: Well, the narrow and the deep, I think I'm to blame for that phrase. (Laughter) But I think it's actually served us well.

When we started this work at the U.N., obviously member states were raising many, many questions. One of them was the question of scope. And if you look at the ISIS report in 2001, it was very vague about scope, what it would apply to. Then to get the acceptance at the World Summit in 2005, it had to go through the crucible of member state comments. And the decision was made to limit it to a specific set of atrocity crimes. Genocide, war crimes, ethnic cleaning and crimes against humanity and importantly, their incitement, which is, of course, for us very important operationally.

One of the first crises that came up was Cyclone Nargis. I think it was May of 2008. And the French foreign minister, Bernard Kouchner, who of course was one of the fathers of humanitarian intervention, was pushing very hard that we should declare it to be a R2P case. And he reminded people that they had some military assets to sort of forcibly to drop in humanitarian assistance. And I felt it was important to say publicly at the time that no, it doesn't qualify as one of those four crimes. Gareth Evans said in an op-ed that, well, yes, but if this keeps going on and they keep denying assistance, at some point it might become a crime against humanity. That wasn't our view. And I was fortunate, though I thought I was never going to get to travel to Paris again, the response was very strong, that within a week Kouchner turned around and said, well, no, actually, it's not an R2P case. But we knew if the first time a P5 foreign minister wanted to apply this to something else and we said, yes, sir, you know, whatever you say, that would have been the end of any credibility for this principle. So narrow for us was very important. Only those four crimes and not an inch beyond. That's partly a response to the question on Bahrain.

The deep, or all the different ways you can go about this. So narrow in

scope but lots of different tactics. Everything in chapters 6, 7, and 8 potentially are applicable. So that's the deep part of it. Now, to these two cases here of Bahrain and Syria, I must say, I mean, we followed both very carefully. The secretary-general has made statements about Bahrain. For us, quite frankly, the level of violence never quite reached that scale. To be a crime against humanity it has to be widespread and systematic and certainly there was repression and we were deeply concerned about it. But was it going to be that kind of mass violence that normally people think about? That was why R2P was created, because of the Rwandas, the Srebrenicas, and the killing fields of Cambodia and this sort of thing. We didn't think it was going there, but there was a lot of quiet comments and others made that were less quite, including by the high commissioner for human rights, the secretary-general and others, about developments in Bahrain. Why the Security Council didn't deal with it, I mean, the Council, as you know, has so many items on its agenda. I don't think it ever quite reached that point and I'm sure there would not have been a consensus in the Council about moving forward.

On your comments about Syria, if it's true, as you say, and I'm not saying it is but you said that if there is a Security Council resolution, that the regime would collapse within a week. That's not a very positive comment about the stability of that country and it seems that we ought to be looking very seriously then about possible future scenarios and how to protect populations over time there. To me, Syria is already under a lot of pressure economically. A lot of governments have invoked sanctions. The EU has invoked sanctions. The Arab League has taken action and some of its neighbors have taken action. So it's under enormous pressure already.

So to me what's important is that the Security Council be united in terms of the principle and the kinds of crimes are simply unacceptable. That is no way to treat protestors. Unfortunately, it's turning into a different kind of situation over time. But

hopefully one can still find a peaceful resolution there and one that won't have too many implications for the population.

Just quickly, the point on peer review, yes, very much. It was in a couple of the secretary-general's reports, including the one this past summer on the regional and it's certainly on the first report on implementation. We think peer review is a very good way to look at this. What we would hope, for example, in the Human Rights Council over time, that they would include among their criteria in peer review R2P kinds of considerations. We obviously encourage the AU and others to do this and other regional groups around the world as well.

MS. FERRIS: Thank you. And Rich?

MR. WILLIAMSON: Thanks. Let me just make two observations.

One, I do think the whole peer review question and how the Human Rights Council is using it is an important development that's going to inform a lot of things going forward and is a step forward. I think the question though, whether it's about democracy or how West journalists talked about Syria. It's not R2P but political. First I'd say on the democracy question, the fact that the Arab Awakening had an impulse to try to get democracy or to get more representative government was a political phenomenon and the greater acceptance of the value of that form of government probably helped that impulse. But it's how people or how government chooses to respond to those challenges of new political impulses.

I don't believe there are many, if any, cases you can point to where there have been spontaneous ethnic cleansing or spontaneous genocide where ethnic groups just have that hatred and act. In the cases I'm familiar with, certainly in the last couple hundred years, over a long period of time those ethnic groups may not be -- may see each other as adversaries but they've developed a heritage and habit and history of

working together. And it's someone or ones driven by political goals, usually of holding onto power, that exploit that vision and create those dynamics, use that ancient cleavage in society for their political purposes. And the example in Syria may be a ruling by the engaging in brutal crackdowns, principally other ethnic groups because the ruling leaders of such a small ethnic group. But if you look how it's been used in Sudan, in Rwanda, in the Eastern Congo, in the Balkans, there's a very few, small number of people that have created or unleashed those atrocities. And they do it for political reasons.

So the division between politics and the actual atrocities don't exist. It's a continuation. It's a political tool. It's an awful, horrific, unconscionable, unleashing of horrendous acts to stay in power, but it happens. So I do think the line between politics, atrocities, and R2P more often than not is a very consistent line.

MS. FERRIS: Well, thank you, Rich. And thanks to the other speakers. I'm sorry we're out of time now but thank you all for coming. Please join me in thanking our participants. (Applause)

CERTIFICATE OF NOTARY PUBLIC

I, Carleton J. Anderson, III do hereby certify that the forgoing electronic file when originally transmitted was reduced to text at my direction; that said transcript is a true record of the proceedings therein referenced; that I am neither counsel for, related to, nor employed by any of the parties to the action in which these proceedings were taken; and, furthermore, that I am neither a relative or employee of any attorney or counsel employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

Carleton J. Anderson, III

(Signature and Seal on File)

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