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INTRODUCTION

Cecilia Jacob

On 28–29 October 2016, the Department of International Relations at The Australian National University, along with the Asia Pacific Centre for the Responsibility to Protect at the University of Queensland, and with support from the Australian Department of Foreign Affairs and Trade, hosted the conference Implementing the Responsibility to Protect: Domestic Processes and Foreign Assistance. The conference was attended by academics, including leading experts in the field, and members and representatives of a wide range of government agencies, the diplomatic community, international organisations, and civil society organisations. Two distinguished keynotes were delivered by the Honorable Gareth Evans, ANU Chancellor and co-chair of the International Commission on Intervention and State Sovereignty (ICISS), and Ivan Šimonović, Special Adviser on the Responsibility to Protect to the UN Secretary-General (SASG).

The purpose of the conference was to bring together policymakers, practitioners, and scholars working on areas related to the implementation of the Responsibility to Protect (R2P), primarily in the areas of state-level responsibility to prevent mass atrocities and protect civilian populations (what we call Pillar One of the R2P), and international assistance to states to fulfil this responsibility (Pillar Two). Recognising that the principle of R2P has gained significant traction within the international community since it was first introduced in the 2001 report The Responsibility to Protect,1 the conference sought to transcend longstanding debates over acceptance and legitimacy of R2P as a norm. Rather, it sought to clarify what the implementation of R2P entails for the policy and practitioner community, and to push forward new lines of academic inquiry and research that could support the implementation agenda.

At its heart, R2P implementation is about strengthening the capacity of states to prevent atrocities from occurring in the first place. Prevention requires enhancing the resilience of societies that face the risk of atrocities through improved access to security, justice, and the rule of law. Effective mass atrocity prevention requires going local – understanding the dynamics of mass atrocities in their specific historical and social contexts; and going international – ensuring that international actors effectively align their priorities, strategies, and resourcing on atrocity prevention in ways that support local and national needs. This is an ambitious agenda, and experts from a range of fields were invited to address the practical implications of implementing R2P across numerous sites. The central themes included atrocity prevention, international accountability, human rights, international humanitarian law, justice for legacies of violence, foreign policy, development cooperation, peacekeeping, and civil–military assistance. The conference brought together different communities working on aspects that support the goals of R2P in order to enhance knowledge across thematic divides, and contributed to clarifying the practical implications that commitment to R2P implementation entails for these communities across the spectrum.

This report contains the text of the keynote speeches, and condensed summaries of the panel discussions. These can be read together to provide a comprehensive synthesis of the debates occurring across the spectrum, or can be read as stand-alone sections for those with specific interest in a particular aspect of the R2P implementation.

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DAY ONE

Keynote Address

The Honourable Gareth Evans

Well, thanks very much, Cecilia, for that very kind welcoming remark, to Michael Wesley, to Aunty Violet, to our special guest Ivan Šimonović, special adviser on R2P, Excellencies, colleagues, and friends.

Thanks very much to the sponsors of this conference, the Coral Bell School, the Asia Pacific Centre in Queensland, and of course the Department of Foreign Affairs and Trade for bringing us all together, and thank you for the privilege of being able to talk to you to open this conference this morning.

So let me jump straight into it: what's Responsibility to Protect? What's R2P actually achieved? How far have we got, more than ten years after the unanimous embrace of the concept by the UN General Assembly at the World Summit – in the context of the World Summit – in 2005? It's a fair question to ask because, looking at the catastrophe in Syria since 2011, looking at where R2P has obviously gained no traction at all, looking at the horrible aftermath of the initially successful R2P-based military intervention in Libya in 2011, it would be very easy to be cynical, as many critics are, and say that the whole enterprise has been a complete waste of time, or worse.

But while, of course, we can't be complacent, my own stocktake is rather more positive than that, and I want to take as my benchmark for that conclusion the four big things that we wanted from the outset R2P to be: a normative force, a catalyst for institutional change, a framework for preventive action, and a framework for effective reactive action when prevention has failed.

Most of what I’m going to say this morning rather replicates the chapter that I wrote in the Oxford Handbook,1 which is going to be the subject of a session this afternoon. But I console myself with the thought that since it was chapter 49 in a 1,200-page book, I can be reasonably confident that no one but the editors here have probably actually read it, maybe not even them, so on that basis let me proceed.

So first of all, R2P as a normative force. It might be a stretch, but I’m happy to take it, to say as the British historian the late Martin Gilbert did, two years after the 2005 World Summit, that acceptance of the Responsibility to Protect is, as he put it, the most significant adjustment to sovereignty in 360 years. Well, that’s a stretch, but it is certainly true to say that R2P has gained over the last decade much more worldwide normative traction than most observers had thought possible, and certainly, has done so in a way that is almost unimaginable for the concept of humanitarian intervention, which it effectively displaced. The best evidence of this normative success is I think, still in the annual interactive dialogue debates on R2P that take place now every year in the UN General Assembly, and have been going on since 2009, where year after year, it’s really been demonstrated – amply demonstrated – that, none of the three pillars of R2P, which I’ll come to in a second, are under threat, although there is understandably, rather less comfort with the third pillar, which implies the possibility of intervention, as well as just engagement, than the first two, and there will always be argument about which particular form of action should be taken in a particular case. And that support is actually consolidated every year since 2009, notwithstanding the serious disagreements which erupted over the Libyan intervention in 2011, which I’ll come back to. So as to the first pillar, so called, of R2P, no state – no state – is now heard to disagree at all with the proposition that every sovereign state has the responsibility, to the best of its ability, to protect its own people from genocide, ethnic cleansing, other crimes against humanity and war crimes; to not perpetrate those crimes itself, and as far as possible, to stop others from doing so within its own territory. Pillar One.

Pillar Two, no state now disagrees that other states have the responsibility, others in the national community have the responsibility themselves to the best of their own ability, to assist the sovereign state with its primary task of protecting its own people.

And no state, as to the third pillar, really seriously continues to challenge the principle that the wider international community should respond with timely, decisive, collective action of some appropriate kind, when a state is manifestly failing to meet its responsibilities to protect its own people.

As I say, less enthusiasm for the last of those propositions, but no fundamental disagreement. Further evidence of the acceptance of R2P, the normative acceptance, lies in the record of the Security Council itself, notwithstanding, again, the obvious continuing neuralgia of the Libyan intervention, and the paralysing impact of that on its subsequent deliberations on Syria; this hasn’t stopped the Security Council continuing to refer to and continuing to apply the R2P principles – doctrine. Between 2005 and 2011, the Security Council had in fact passed only four resolutions mentioning R2P. But in fact, after the March 2011 decision on Libya, and the accompanying ones round about exactly the same time on Côte d’Ivoire, since then, the Council had, last time I checked, by the middle of this year, endorsed over 40 – 40 – other resolutions directly referencing the Responsibility to Protect, including measures to confront the threat of mass atrocities in Yemen, in Libya, in Mali, in Sudan, in South Sudan, and the Central African Republic.

While it’s perfectly true that none of these particular resolutions have authorised a Libyan style military intervention and it’s also true that a great many of these references, a great majority of them in fact, are just in Pillar One terms, referring to states themselves bearing the primary responsibility to protect their own populations, they do make clear, I think, these resolutions, that the Council is really quite comfortable with both the language and the substance of the doctrine, really, in all its dimensions.

Let me just make one further normative point: with the weight behind it, of a unanimous General Assembly resolution at Head of State, government level, back in 2005, and with all the other UN member state acceptance that it has acquired since, I certainly believe that R2P can now be described in moral and

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political terms as an international norm, and moreover, not just an emerging norm. I think it’s out there as a norm. Not a legal norm, because it doesn’t create more legal obligations than already exist under international law in relation to genocide, other crimes against humanity, war crimes, and there’s certainly a long way to go before we could even begin to describe the whole package as somehow constituting new customary law, creating new obligations on other states other than the states where things are happening, but it does amount – does amount – to a new standard of behaviour, a new guide to behaviour, generally accepted as such, for everyone.

So what about the second benchmark: R2P as a catalyst for institutional change? And I think the story in this respect has been reasonably encouraging, although much more does need to be done, and we’ll be talking about some of this obviously, in the course of the next two days.

Particular effort is going into the creation of the so-called focal points within key national governments and intergovernmental organisations, of which the US – the United States – Atrocities Prevention Board, administered out of the National Security Council, is actually a key example. The idea here is simply that there should be in every government and in every government – intergovernmental organisation a high-level official, or a group of officials whose designated day job it is to analyse mass atrocity risk situations and to energise an appropriately swift and early response within their own systems, and then to network with others in the international community to, if possible, get a collective response. The global network of these focal points, which is organised by this Global Centre for the Responsibility to Protect, which, as was mentioned by Cecilia, I chair in New York, the network now has over 50 states and organisations signed up from every region of the world. Although I have to say that Asian countries have been manifestly slower than in other regions to sign on, and that remains a big challenge for Alex [Bellamy] and Tim [Dunne] and their team at the Asia Pacific Centre.

That said, in the civilian sphere more institutional response capacity is manifestly needed in the form of the organisation and resourcing of civilian capability, able to be utilised as the occasion arises for diplomatic mediation, for civilian policing, and other critical administrative support for countries that risk atrocity crimes occurring or recurring. Commitments to develop that capability have been made, but to date frankly they’ve been more often rhetorical than real. So that continues to be a challenge.

In the military sphere, when we’re talking about institutional capacity and preparedness, the main need is to have in place properly trained and capable military resources available both for rapid-fire brigade type deployment in Rwanda sorts of situations, and also for the long haul stabilisation operations like those in Congo and Sudan. Not only in no-consent situations, which is the normal context in which we reflexively think about the military role, but also of course, in a consent situation, where vulnerable governments actually reach out for and request this kind of assistance. Although the establishment of effective military rapid reaction forces on even a standby basis remains more an aspiration than reality, something that’s constantly talked about by regional organisations and others but nothing ever much happens, it is the case nonetheless that key militaries are now diverting a lot of serious time and attention to not only debating but to putting in place new force configuration arrangements, new doctrine, new rules of engagement, and new training to run what are now described in the trade as mass atrocity response operations, MARO.

Here, as elsewhere, I think it is the case that regional organisations have to play – can be expected to play – an even more important role exercising the full range of responsibilities that was envisaged for them under Chapter VIII of the UN Charter. So far, although both the European Union and the African Union have shown occasional willingness to act collectively, it’s really only, when you think about it, ECOWAS [Economic Community of West African States] in West Africa that’s so far shown any kind of consistent readiness to respond with a full range of diplomatic, political, economic, and ultimately military strategies in response to civilian protection or crises. Regional and subregional organisations in Latin America, and above all, again I have to say, in Asia, have lagged a long way behind in this respect.

One more point about institutional response: probably the crucial institutional need for the future is to create a culture of effective support for the International Criminal Court [ICC] and the evolving machinery of international criminal justice, which is designed to enable not only the trial and punishment of some of the worst mass atrocity crimes of the past, but also of course to potentially provide an important new deterrent for the future. In this context, I have to say that it is deeply regrettable that the ICC has come under so much recent fire from African states in particular, including South Africa. Implementation of its mandate may not always have been perfect, and it’s certainly arguable, as most of Africa believes, that the prosecution of the Kenyan leaders was rather mishandled in this respect, but the Court is trying very hard to fill what’s been for far too long a major institutional vacuum, and of course its processes should be respected, and of course it’s the responsibility of all of us who advocate for R2P to also advocate for a crucial bit of institutional machinery that supports that norm.

Third benchmark: R2P as an effective preventive framework. This is absolutely crucial to its global credibility and, as Michael said in opening, this is the focus, primarily, of this conference, to improve that capacity, and so it should be. The good news is that the toolbox of relevant measures at all preventive stages, whether it’s long-term, whether it’s short-term, whether it’s before or whether it’s after crises, and across the whole spectrum, of political and diplomatic, economic and social, constitutional and legal, and security-focused responses, that toolbox is now very well known, very well understood. As experience accumulates, and as lessons learned literature proliferates, there’s an ever more detailed and sophisticated understanding by professionals of the detailed strategies that are likely to be most effective and most cost effective.

The less good news in this respect is that while there’s a long tradition of regular lip-service being paid to the need for effective prevention, in both national and international debates, the record of practical delivery is not stellar. Part of the problem, as always, with getting sufficient resources to engage in successful atrocity prevention – and it’s exactly the same problem with conflict prevention more generally – is the age old one that successful
prevention means that nothing actually happens. So nobody gets the credit, nobody gets the kind of credit that’s always on offer for effective firefighting, and trying to get any politician – as I well know, after 21 years in the trade – trying to get any politician excited about supporting something for which he or she is unlikely ever to get any recognition, is not a happy enterprise; like trying to bath a very skittish dog.

All that said, there are some very well documented cases of successful, and since 2005, explicitly R2P-driven preventive strategies being implemented, particularly in post-crisis prevention of recurrence contexts. I’m thinking particularly of Kenya after the blow up in 2008, I’m thinking of West African cases, Sierra Leone after 2002, Liberia after 2003, Guinea after 2010, more recently in Côte d’Ivoire since 2011, probably Kyrgyzstan after 2010.

I think it needs to be recognised that nearly all the more than 120,000 UN peacekeepers now on active duty are operating with very explicit civilian protection mandates; those mandates built on R2P’s sister concept of protection of civilians in armed conflict, PoC. And most of the time, these operations in Africa and elsewhere have been succeeding in keeping the lids on some often very simmering pots.

Benchmark four: R2P as an effective reactive framework. This, as much as we might like to hope otherwise, as much as we might like to hope that effective prevention would never make this necessary, the question of reaction is where the rubber really hits the road.

What do we do if a state, through incapacity or ill-will, has manifestly failed to meet its Pillar One responsibilities? What do we do if prevention has failed, and mass atrocity crimes are actually occurring or imminently about to occur? If we’re not, as an international community, doing much better than we did in the 1990s, in responding to these hardest of cases, then frankly, we haven’t come very far. It’s important of course, to remember, in evaluating R2P’s reactive effectiveness that we recognise that the issue is not only about coercive military intervention alone, notwithstanding that military intervention has taken over so much of the debate about reaction.

Because of the degree of sensitivity and difficulty that’s always involved in any decision to use coercive military force wholly against, that is, the will of the government of the state concerned, it’s really been assumed from the outset by most R2P advocates, certainly me, that it would only be in the most extreme and exceptional circumstances that military intervention would be authorised by the Security Council. And so that has proved to be, with only the Côte d’Ivoire and the Libya cases in 2011 so far giving rise to such a mandate. The truth of the matter is, right from the outset it was understood to be the case and it is the case that unlike humanitarian intervention, R2P has involved a whole continuum of both non-coercive and coercive reactive responses when prevention fails. And those reactive responses include diplomatic peacemaking, of the kind that was so successful in Kenya in early 2008, led by Kofi Annan; political incentives, as well as political sanctions, naming and shaming, and exclusion from international bodies; economic incentives as well as economic sanctions; offers of amnesty as well as threats of criminal prosecution; the jamming of radio frequencies by non-forceful means; arms embargoes as well as the use of arms; and various kinds of peacekeeping falling short of full-scale peace enforcement. All of those options are there as part of the reaction continuum.

And again, I think it’s just worth emphasising that when we’re talking about even the use of coercive military force, the application of such force can of course take the form of Pillar Two assistance, rather than the invariably more controversial Pillar Three intervention. When it’s done, when that intervention’s done at the invitation of a government unable to deal alone with a mass atrocity situation not of its own making. And a place close to home, although it pre-dated R2P, was of course Indonesia’s acceptance, albeit not very enthusiastically, of an external military role led by Australia to stabilise the situation in East Timor in 1999.

Again, it’s worth remembering that the Congo Force Intervention Brigade, which was established by the Security Council in 2013 as part of the MONUSCO [United Nations Organization Stabilization Mission in the Democratic Republic of the Congo] peacekeeping operation, both, which had a strongly proactive mandate to neutralise armed groups, that’s to say, both the advancing M23 forces and the retreating DRC [Democratic Republic of the Congo] military, that’s been I think a very innovative example of international coercive force being accepted even though it hasn’t necessarily been initiated by a sovereign government in the state where the people are being put at risk.

So taking into account all these different available response mechanisms, if one is to make an honest checklist here of R2P’s successes and failures in reaction since 2005, reacting to actual outbreaks of mass atrocity crime, it has to be acknowledged that the record has been, at best, mixed. The clear success stories of reaction have been perhaps the terrible, terrible failure in Syria since 2011. But there have been clear failures. Sri Lanka in 2009, where the government succeeded in defending what was almost indefensible in behaviour then, by claiming and getting international acceptance for the position that it was a legitimate response to domestic terrorism, such that they could do what they like. And of course, there’s been the terrible, terrible failure in Syria since 2011. Ah, there’s been… I was going to say, a failure in curbing in the Syrian context the depredations of Daesh or ISIL [Islamic State of Iraq and the Levant] in Iraq, but maybe we can be a little bit more optimistic that that’s moving from a failure, tentatively at least towards the success column at the moment, at least in Iraq. In addition to the obvious Syrian case, there’s the continuing slow burning ugliness of North Korea, which I think is now recognised as an R2P case, not just a case of extreme human rights violation. Ah, there’s the continuing intractable situation in Sudan, and of course there’s also the very troubling plight of the Rohingya people in north Myanmar. But let’s get back to Syria, because the most troubling and the most costly case of the failure of R2P to mobilise an effective response has undoubtedly been there.

The crucial lapse in Syria was back in mid-2011, when the violence being perpetrated by the [Basher al-] Assad regime was largely one-sided against essentially unarmed domestic political dissidents in the context of the Arab Spring excitments. But
when the Security Council failed to even condemn the regime, let alone apply sanctions, let alone apply an arms embargo, the threat of ICC prosecution, let alone even think about the possibility of military intervention; there was a failure even to condemn what Assad was doing, perpetrating terrible one-sided violence in 2011. The Security Council had reacted very quickly to that kind of situation in Libya, with the passage of that first resolution 1970 in February 2011. The comparison of the action in Libya with the failure to say anything at all in Syria meant that Assad undoubtedly felt off the leash as the situation then deteriorated as it did very quickly into full-scale civil war.

Although the policy issues have subsequently become much more complex and difficult now than they were in 2011 with a multi-faceted civil war now being much further complicated by the emergence of Daesh, I think the blame for that inaction, and for much of the paralysis that has continued since, cannot simply be attributable – certainly cannot wholly be attributed – to Russian intransigence, as frustrating as that has been. The basic problem, as I think those of us who have been wrestling with R2P issues for a long time know very well, is the reaction, whether it was a rational reaction or not, of the majority of the Security Council to what went wrong in Libya later in 2011.

When the P3, the three Western members: the US, the UK, and France, three permanent members, were perceived by the other members of the Council as having arrogantly exceeded the mandate that they were given by resolution 1973 in March 2011, which was a coercive military mandate for civilian protection, protection of civilians in civilian populated areas. The resolution to give that mandate was passed without dissent, it was almost universally held, there were almost universally held fears of an imminent massacre by Gaddafi’s forces marching on Benghazi. The resolution wasn’t opposed, by anyone; it was immediately successfully implemented and it was widely hailed at the time, including by me, as the coming of age of R2P, demonstrating that with quick and robust collective action, the horrors of Rwanda and Srebrenica could indeed be a thing of the past.

I know it’s the case there’s a lingering view around the place that maybe the scale of the rescue of Benghazi has been exaggerated, that was certainly one of the conclusions of the UK report that has just come out recently on the whole unfolding Libya saga; but my view is that it was a perfectly reasonable UK report that has just come out recently on the whole unfolding exaggerated, that was certainly one of the conclusions of the広品 that maybe the scale of the rescue of Benghazi has been substantially understated, as it was at the time, as at the time, and it was widely hailed at the time, including by me, as the coming of age of R2P, demonstrating that with quick and robust collective action, the horrors of Rwanda and Srebrenica could indeed be a thing of the past.

So the problem wasn’t with the resolution, the problem wasn’t with the mandate as it was originally given; the problem was rather what happened next. The de facto transformation of that mandate, a limited civilian protection mandate into an open-ended regime change mandate, without the P3 being willing on the Council to explore alternative approaches, and without allowing any further serious debate. I was around New York, in and out of New York at the time, and I can remember with total clarity the arrogance with which the P3 ambassadors were walking around, dismissing the concerns of those countries who were saying ‘let’s at least explore the possibility of a political settlement, some kind of negotiation to curb the situation developing further, maybe finding some soft way out for Gaddafi’. There was really deep resentment by the BRICS states in particular – Brazil, Russia, India, China, and South Africa – all of whom happened to be on the Council at the time. Not least was South Africa upset, South Africa very much wanted to explore with Gaddafi – you might say cynically that there were other agenda issues at stake with the South Africans and the Libyans; sure, there probably were – but they wanted to explore with Gaddafi the possibility of a ceasefire and a peaceful political transition. And I believe very strongly they should have been given an opportunity to do so. Whatever one may have thought then, or thinks now about the likely prospects of success. I don’t think the prospects of success of a political negotiation were at all high, but I certainly think that possibility should have been explored, and visibly explored, because there was no doubt in my mind that the failure to do so, and the arrogance with which those others on the Council were slapped down when they started to complain about the way the mandate was being de facto transformed into full-scale war fighting civilian, a regime change one, unquestionably was the major factor in the Council’s failure to agree on any response at all, even just a condemnatory resolution, when the Syrian situation began to explode as it did in mid-2011. One may well regard the BRICS’ response as obdurate, they well may regard it as basically irrational, but they were simply not going to concede an inch in any resolution in relation to Syria if there was a chance that the P3 would take that inch to run a mile.

It was around about that time that I heard France, the UK and the US being widely referred to around the UN corridors not as the P3, but the F-U-K-U-S, the ‘fuck us group’, such were and remain the passions on this subject. So look, a solution simply has to be found, a solution has to be found to this post-Libyan standoff if R2P is to have a future in all the ways that it needs to. Not just preventively, not just in lesser forms of reaction, but to ensure that if in the face of extreme atrocity situations we’re not to go back to the bad old days of indefensible inaction as was the case in Cambodia in the mid-70s, Rwanda, Bosnia. Or if we’re not to go back to the days of otherwise perfectly defensible action but nonetheless action taken in defiance of the UN Charter as in Kosovo in 1999.

The good news, I continue to believe, is that a solution is in sight if agreement can be reached on some variant of the proposal that was floated, was originally proposed by Brazil in late 2011. The proposal, which they labelled ‘Responsibility While Protecting’ would you believe, RWP, which has attracted quite considerable interest, as I know personally, from Russia, China and India, among others. The RWP proposal has two key

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Implementing the Responsibility to Protect is now evident in the UN Security Council is really only about to emphasise again as I conclude, that the disagreement which over the next decade and beyond. I think it really is important R2P, I think there are many grounds for optimism about its future. So, attention being paid to those criteria, in order, the idea is that there’s be a greater degree of buy-in, a greater degree of consensus, if people have a serious debate and are satisfied that each of those key criteria are satisfied.

But also, secondly, the second crucial element in the RWP proposal is that there should be some kind of close monitoring and regular review by the Security Council of the implementation of any such mandate during its lifetime. It doesn’t need to be very formal, it could be a sunset clause of the kind that is familiar with most mandates the Security Council gives, so it’s formally reviewed, the mandate, when the sunset clause’s timing runs out. It could be agreement on some formal monitoring machinery, it could be just a gentleman’s agreement, on some kind of informal bringing back of the issue on a regular basis to the Council agenda paper. But the trouble is, the P3 – the permanent three – are continuing to drag their feet on this. Always reluctant, particularly I have to say in the case of the United States, to acknowledge any constraint at all on a completely ad hoc approach to peace and security issues. They never want to be pinned down, they hate the idea of criteria. That said, the P3 does seem to be, in my judgement – I’d be interested in Ivan’s on this, he’s been in the job a bit longer – P3 seem to be gradually coming to the realisation that unless some concessions are made on these fronts of the kind that Brazil has been proposing, it really will be impossible in the future, not only to avoid a veto on these mandates, but even to command a base majority of nine votes on the Council. None of this RWP stuff is likely to help much now in Syria, we’re faced with a full-scale war situation that’s going to have to be ended either by negotiation or by military victory, not by UN resolution. But it does offer some hope for the longer term, if we can get some basic consensus on the way in which these hardest of cases can be addressed.

So overall, while there are certainly plenty of challenges ahead for R2P, I think there are many grounds for optimism about its future over the next decade and beyond. I think it really is important to emphasise again as I conclude, that the disagreement which is now evident in the UN Security Council is really only about how the norm is to be applied in the hardest of sharp end cases, those where prevention has manifestly failed, where the harm to civilians being experienced or feared is so great that the issue of military force simply has to be given at least some prima facie consideration. There is – it can never be said too often – much more to the R2P project than just these extreme late-stage situations. And much to indicate that the other preventive, reactive, and rebuilding dimensions all do have deep and widespread international support. Any decision-making in any real world crisis almost invariably involves hard judgement calls, weighing and balancing considerations that almost never conveniently point the same way. R2P in this context is a framework for pragmatists, not for purists and I think this is very well understood by those who have to apply it, not just write about it. In the more than a decade now since R2P was formally embraced by the international community, I have continued to be personally quite active on this issue, and no doubt in the eyes of some people, irritatingly active, writing scores of articles and book chapters, and speaking at scores of conferences, nagging scores of policymakers around the world to apply the new norm more consistently and effectively. And as I continue to move around, as I do, my judgement – for what it’s worth – is that almost everywhere policymakers do now understand the stakes, do now understand the imperative for cooperative action on these issues much better than used to be the case, certainly when I was involved originally as foreign minister. That doesn’t mean for a moment that the problem of effective implementation of R2P has been solved. A great deal remains to be done and this conference is of course about identifying the scale of that task. But things have changed. Let’s at least start with that more optimistic perspective. I don’t think anyone anywhere really wants to see a return to the bad old days when appalling crimes against humanity committed behind sovereign state walls were seen by almost everyone as nobody else’s business.

My touchstone in this respect is a famous remark of US Secretary of State, as he then was, Henry Kissinger, November 1975. A few months after the Khmer Rouge had commenced their genocidal range of terror in Cambodia. When Kissinger reportedly said to the Thai foreign minister Chatichai: ‘Tell the Cambodians that we will be friends with them. They’re murderous thugs, but we won’t let that stand in our way’. As cynical as so many of our political leaders continue to be, so often still are, I think the time really has now gone, when any political leader anywhere would feel free to talk like that. So that at least is a measure of our achievement. Have a great conference. Thank you.
Implementation of R2P: The State of the Field

This roundtable considered the progress on the Responsibility to Protect (R2P) implementation to date. It considered the following questions: where is the debate on R2P implementation now located? To where does it need to move? This included a discussion of the conceptual and practical differences that exist in this debate at the national, regional, and the United Nations (UN) level.

Ivan Šimonović opened the discussion with a stocktake of progress and an assessment of current challenges in the R2P implementation agenda. He pointed to the significant progress within the UN Security Council (UNSC) and Human Rights Council in raising R2P concerns in numerous resolutions that are evidence that R2P is now an established norm within the UN. The international community has fallen short in a number of areas however, the number of armed conflicts is increasing, and the number of civilians deliberately targeted and killed in armed conflict has not been reduced. The routine violation of international humanitarian law (IHL) has become a pattern of modern warfare among state and non-state actors alike, and the customary nature of IHL is under threat.

In looking forward, Šimonović emphasised the importance of linking the human rights system with the R2P mandate. Certain patterns of human rights violations are early warnings of mass atrocities, and effort is needed now to translate early warnings generated through the existing human rights system into early action to prevent atrocities. The “Human Rights Up Front” initiative is one key area of progress cited to mainstream this effort, however, Šimonović argued that much more cultural and institutional change is needed from the perspective of the UN. Finally, in order to move forward, current crises in Libya and Syria need to be addressed first. Šimonović defended Pillar Three of R2P, arguing that without it, R2P would lose its teeth, and therefore the imperative to rectify the situation in Libya (for which R2P was used to justify forceful intervention) is integral to advancing R2P implementation more broadly.

Alex Bellamy echoed the balanced assessment of Šimonović, citing the agreement on R2P by all states over the past 15 years, and the incorporation of R2P into the workings of the UNSC and peacekeeping mandates as evidence of progress. He argued that expectations need to be modest because we are benchmarking against the most difficult crises. Nonetheless, R2P is now front and centre of UNSC work; R2P has changed the way that the UNSC responds to setbacks in protection crises by increasing its efforts. Likewise, Bellamy argued that evidence of R2P can be found in the workings of peacekeeping missions on the ground, citing the role of UK peacekeepers in South Sudan where militia have been kept at bay and civilians protected. The UN has demonstrated that it is no longer willing to stand to one side.

Unfinished business that remains to be addressed in the next phase of implementation relates to conceptual issues and prevention. The primary conceptual issues that need to be resolved are first the relationship between R2P and non-state armed groups. Clarity is needed to understand how to apply R2P in territories that are controlled by non-state armed groups, given the nature of contemporary violent conflict, and that clarity has been achieved in regard to state responsibilities. The second area where conceptual clarity is required is how to move away from the strict pillar framework of R2P. Whilst Pillar Two rests on the consensus of states, the international culture is not conducive to states requesting assistance. Bellamy argued that the international culture needs to change so that states are more willing to seek out international assistance. The Regional Assistance Mission to Solomon Islands was a prime example of effective Pillar Two responsibilities. Pillar One is the “bedrock” of R2P, but there is not yet any developed considerations of how to measure compliance with ‘Pillar One’ responsibilities, and what precisely this pillar entails in practical terms. Bellamy called for a reconceptualisation that would allow us to think across the pillars in a more creative way.

Finally there is a need to prioritise prevention to move the R2P implementation agenda forward. The UNSC needs to articulate a system-wide strategy for prevention that includes UN partners. This would not only require support of the focal point system as the driving force for peer-to-peer capacity building and prevention within states, but it would also require continued delivery on UN mandates in the areas of peacekeeping, protection of civilians, human rights protection, and humanitarian action. Each of these areas correspond with R2P, and the system is already under strain. In making prevention a greater priority, the question of the use of force needs to be addressed. Of particular concern is the question of accountability, and whether a ‘grand bargain’ with the UNSC based on the ‘Responsibility While Protecting’ concept and ‘responsibility not to veto’ (any credible draft resolution to prevent or halt mass atrocity crimes) could be the best way to move forward.

Martin Mennecke contributed to the roundtable by arguing that there are currently three separate dialogues taking place on R2P that are autonomous of one another, and that the real challenge for R2P implementation is found at the domestic level where intellectual debates need to be translated into practical direction for local actors. The first dialogue is found in New York, where the focus is on clarifying the normative framework of R2P in the UN General Assembly and UNSC agendas. The second dialogue is taking place in Geneva, where a focus on atrocity prevention and Pillars One and Two form a natural agenda on R2P implementation. The dynamics in Geneva are very different as there is no veto power and no Pillar Three capacity, but there
are important instruments that could be employed in interesting ways to support implementation of the prevention element of R2P. Member states in Geneva have created their own Group of Friends of R2P that mirrors the New York grouping, and the current Special Adviser on R2P was the Under-Secretary General for Human Rights (Šimonović), so it is likely that he will access these channels in his current role.

Mennecke turned the focus of the discussion to the domestic level where he argued that the third dialogue is taking place and most difficult challenges are found. The most notable effort to implement R2P within states is through the focal point network of some 55 states. Focal points are represented by government-appointed officials who implement R2P at home. The difficulty at this level is that R2P is still seen as a ‘normative niche’ by many governments whereby the focus on R2P is inconsistent and not associated with broader domestic agendas. The lack of conceptual clarity and focus hinders efforts as state-level officials have yet to determine what value is added through an R2P lens. He argued that if R2P is not defined more clearly, there is the risk that too many agendas may be incorporated into R2P and it could lose its meaning. Resource constraints are problematic for focal points that are often tasked with many other responsibilities besides R2P and so it is a low priority. Finally, weak institutional setup is a problem for implementing R2P at all levels from civil society through to the UN.

Two areas identified by Mennecke as necessary to advance implementation were first, the development of more practitioner-oriented policy guidance. The link between academics and practitioners is still too wide. The second was the need for political buy-in from governments that would have a strong impact with domestic audiences compared to UN-level discussions. The work of US President Barack Obama in establishing an institutional home for atrocity prevention, and in releasing presidential statements and orders on atrocity prevention, was one example that sends a message to domestic audiences on the priority of the R2P agenda at home.

The main theme running through the plenary discussion was the necessity of dealing with the high profile crises such as Syria and Libya. Gareth Evans, Bellamy, and Šimonović concurred that dealing with these crises was crucial to be able to establish the normative framework on R2P that underpins implementation, given the divisions within the UNSC over questions of intervention related to R2P. These consistencies need to follow through. As Evans emphasised, activists on the ground in Syria have managed to negotiate small channels through which civilians can escape battle zones and have therefore protected thousands of civilians. This, Evans argued, is ‘hard-core’ R2P on the ground. Ultimately, he argued, the core of R2P is to get public focus on issues which otherwise would not be taken care of.

Another central theme was the need for states to reconsider definitions of national interest; all panelists acknowledged the priority given to issues of terrorism and refugees that have caused states to protect domestic interests. But as Evans emphasised, understandings of national interest have to widen and incorporate an element of compassion. Ultimately it is in the interest of states to be good global citizens, as this then generates good reputations and reciprocal responses which will pay off in the long run.
Resilience as a Framework for Atrocity Prevention – Illustrations from the Region

This panel presented a series of case studies from the Asia-Pacific region to gain insight into the factors that contribute to resilience, prevention, and protection within the domestic and regional context. Panelists spoke about experiences of resolving violent conflicts and protecting vulnerable populations, and identified existing capacity within the state, and non-state institutions, where support to enhance resilience to atrocities could be directed.

Imelda Deinla presented an in-depth case study of the current situation in the Philippines. Deinla conceptualised the current war on drugs under Filipino President Rodrigo Duterte and insurgesies in the south of the country in the wider context of atrocities taking place in the Philippines. She argued that the sharp increase in the number of extra-judicial killings under Duterte was the result of poor political leadership, a climate of impunity, a weakness in the rule of law, and a failure of democratic institutions. Duterte’s government has rolled back previous governments’ progress in addressing impunity, and has thus undermined the population’s trust in the rule of law. The immediate political situation however is situated in the context of broader structural issues that have enabled widespread human rights violations to persist; this provides insight into where national resilience lies, and where it needs to be strengthened.

Institutionally, the Philippines lacks an effective legal system, and the involvement of both state and non-state armed groups has consolidated a culture of impunity in the country. Compounding this problem is the continuing historical legacy of private armies that service political elites, leading to the proliferation of firearms and creating further legal ambiguity and injustice for the civilian population subjected to arbitrary, state-sanctioned violence. There have been no transitional justice mechanisms in the Philippines to account for atrocities committed during the Ferdinand Marcos and Gloria Arroyo regimes and there is therefore a lack of formal and informal accountability. Nonetheless, Deinla argued that the situation in the Philippines has not reached the level of mass atrocities, and resilience to atrocities lies with the people. Instrumental groups that have combatted impunity include civil society organisations that undertake domestic and international advocacy, the Catholic Church, and international advocacy (citing here former UN Special Rapporteur Philip Alston’s 2010 report1). These groups have played important advocacy and protection roles, yet divisions are emerging between those who had together fought against the dictatorship in the ‘People Power’ movement but who are now split between support of and opposition to the current government.

Finally, Deinla pointed to the importance of local innovations for conflict management and prevention that contribute to understanding local sources of resilience that could be supported. An example of this is found in the Autonomous Region in Muslim Mindanao where a hybrid state and a non-state justice mechanism have emerged to address local justice concerns. Deinla highlighted the importance of a justice system to provide security and peace.

Whereas Deinla provided a rule of law lens for evaluating resilience in the Philippines, Noel Morada considered the provisions in the Association of Southeast Asian Nations (ASEAN) Charter for the protection of minorities and the primary responsibility of the state to protect human rights as a lens through which to evaluate national resilience in Myanmar and Cambodia. While ASEAN has not used the language of R2P in its official documentation, it does use the language of national and regional resilience. Southeast Asia includes many states that are still in the process of nation-building and is host to a number of insurgencies and minority issues where atrocity prevention is a salient concern. Morada argued that the experience of Myanmar illustrates not only the significance of R2P, but also shows the delicacy of the issue with 17 ongoing conflicts inside the country’s borders. The 2016 Panglong peace dialogue was a limited achievement, and there is no consensus as to whether non-signatories of the ceasefire agreements should be included in dialogues or only those armed groups that are willing to deal with the National League for Democracy or the military. Tensions exist between the military and the political leadership due to the military operations in the north and northeast of the country that are prolonging the humanitarian crisis. Finally, there is the situation in Rakhine State where efforts to address the root causes of conflict have made little progress. Employing the language of R2P is a delicate issue in Myanmar as there is a perception that raising R2P implies that the government is already guilty; therefore, in this context, it is better to ‘do’ R2P without the R2P language.

Cambodia is another example where more progress has been made to strengthen resilience to atrocities, including the Extraordinary Chambers in the Courts of Cambodia, the Genocide museum, ratification of the Rome Statue, the first national dialogue on R2P in August 2016, and the decision by the government to appoint an R2P focal point. Ongoing risk factors in Cambodia remain, however, including land disputes, access to justice, and extra-judicial killings.

Morada concluded that priority areas for implementing R2P in Southeast Asia include capacity building in the promotion

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of human rights, comprising the creation of national human rights institutions and human rights education. There is also a need for external actors to engage with the security sector in order to promote dialogue on conflict prevention and a need to strengthen institutions to promote good governance, the rule of law, and human rights. Further practical ideas to move implementation forward could be the development of a sustainable network of R2P champions on the ground at the domestic level. For example, the ‘Friends of R2P Cambodia’ was launched in 2016 along with the country focal point. An R2P focal point alone does not effect change; national champions who believe in the importance of atrocity prevention and who are able to support the focal point are also needed to implement R2P on the ground. Channels for implementation include advocacy, monitoring atrocity risk factors, and translating UN documents into local language so they can provide practical guidance. Morada argued that the implementation of R2P must be based on home-grown initiatives and on local values so that there is ‘fire above and below’.

The final panelist in this session was John Braithwaite, who argued that R2P needs to be defended. Given the mixed success of R2P-related cases in the region, he argued that a case could be made to move away from the three-pillar discourse and consider the framework of primary, secondary, and tertiary prevention – such as that used in the health sector – as an approach with a potentially greater pay-off. One example of the success of this approach is in Indonesia. Indonesia is ranked first in the world for terrorism events and has the largest Muslim population in the world. By moving away from a crime approach to countering terrorism and shifting resources into primary prevention since the Bali bombings, Indonesia has experienced a notable decline in terrorism incidences.

Braithwaite argued that there is also a need to integrate local, national, and international prevention given that local actors are the primary players in most prevention work. One example cited here was the reduction in violent outcomes/actions that came about as a result of the removal of the private military company Sandline from Bougainville. Unfortunately, the current situation in Bougainville does not allow for primary prevention as the government of Papua New Guinea is unwilling to permit Bougainville to hold a referendum on independence, creating a situation that could unfold into large-scale violence and atrocities. At the same time there are no regional diplomacy efforts being mobilised to anticipate the crisis (secondary prevention), and so opportunities are being missed at each of these levels.

In advocating for the prioritisation of primary prevention, Braithwaite argued that a way needs to be found to move the dominant discourse away from measuring compliance towards measuring continual progress as a more constructive lens. In changing this discourse, Braithwaite argued that the West needs to acknowledge and apologise for its failed diplomacy (eg, in Libya) and thus show a willingness to learn.
Linking International Law Accountability and Compliance to R2P Protection

This panel looked at a series of questions related to international legal accountability and compliance for advancing the implementation of R2P. The panel considered which institutions and mechanisms could provide the best entry points for addressing accountability and asked whether states should be made accountable for R2P implementation in sectors such as human rights and the rule of law. The panel also examined the significance for the R2P implementation agenda of justice for past mass atrocities.

Ekkehard Strauss assessed the relationship between R2P and human rights as a potentially fruitful basis for a clear criteria for the application of R2P, gave an overview of current progress within the UN Human Rights Council, and provided guidance as to how existing human rights instruments could be mobilised to strengthen the atrocity prevention elements of R2P. Strauss expressed concern at the selective and subjective application of R2P that creates legitimate reservations among actors to support the principle. He argued that while the UN Secretary-General’s 2009 report on R2P provides greater clarity about the basis on which collective action should be taken, there is no universally accepted criteria for the application of R2P, thus leaving it open to interpretation.1 Although human rights are also open to interpretation to a certain degree, states are required to offer explanations about human rights situations at home that then provide evidence and warnings of possible atrocities.

The association of human rights with R2P was first made in the United Nations Secretary-General’s (UNSG) 2009 report on R2P that introduced the ‘three pillar’ framework of R2P in which all pillars are equal, not sequential.2 According to this approach, progress in areas such as good governance, the rule of law, security sector reform, human rights, and the work of civil society could all serve the objectives of R2P. The challenge with this agenda, however, is to link mitigating measures to a specific R2P strategy through indicators that could be linked to human rights obligations. Strauss cited the erga omnes nature of human rights obligations as a legal basis for such an approach, whereby human rights violations are deemed to be the concern of all states, and all states can claim an interest in their protection. Related to this argument are debates within the human rights community about whether human rights create a general obligation to prevent mass atrocities, given the prevalence of prevention in human rights language and treaty bodies. The general agreement in recent interpretations is that states are obliged, through the scope of powers, to take appropriate measures to prevent violations; therefore these obligations are identical to R2P from a legal point of view.

Developing a human rights-based approach to R2P prevention could strengthen accountability and compliance. Strauss argued that R2P applies not just when culpability under international criminal law is determined, but also when evidence of the three crimes, genocide, war crimes, and crimes against humanity, are identified and when facts can be established. Human rights treaties, customary law, and the Universal Periodic Review could be used to create a list of mitigating measures and corresponding obligations to monitor states based on atrocity risks identified. In this context, the third pillar of R2P is integral to human rights strategy for R2P implementation due to its deterrent effect. In terms of possible implementation mechanisms, Strauss argued that there is a disconnect between legal accountability and the mandate of human rights mechanisms to move this approach forward. There needs to be an assessment of information by credible and impartial bodies, such as special commissions and inquiries, and the transmission of reports by fact-finding missions to the UNSG and the UNSC that would be able to link early warnings to action. The Office of the United Nations High Commissioner for Human Rights could create something similar to the Security Council Aide Memoire for the Consideration of Issues Pertaining to the Protection of Civilians in Armed Conflict to provide guidance to the Human Rights Commissioner on how to include R2P obligations in its mechanisms. For example, there is no explicit requirement for states to report on mass atrocities risks, nor any standard by which adherence could be measured. A discussion also needs to begin about the concrete nature of recommendations to mitigate risks that could be reported on by states as evidence of their efforts to prevent mass atrocities worldwide.

In a 2016 report entitled ‘Preventing Mass Atrocities’, recommendations were made that the UN Special Adviser on the Prevention of Genocide could play a coordinating role in bringing the different information streams together.3 Further, the UNSC needs to develop the practice of showing concern

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over situations where serious violations are occurring and suggest measures to be taken. The application of human rights accountability to R2P implementation would increase the likelihood that relevant stakeholders would have better discussions about what should be done and would have a stronger basis upon which to determine where failure has occurred. A human rights approach could increase accountability, transparency, consistency, and predictability of behaviour, and possibly help to identify a lowest common denominator for defining mass atrocities in the Charter to help bridge deep divides within the UNSC.

Jeremy Farrall turned the discussion on international legal accountability to diplomacy, examining three instruments available to the UNSG to facilitate R2P implementation: preventive diplomacy (mediation), coercive diplomacy (sanctions), and peacebuilding diplomacy (rule of law). First, preventive diplomacy encapsulates the diplomatic and decision-making processes that aim to prevent conflict from occurring or escalating. Mediation is a prominent peaceful settlement tool promoted in Chapter VI of the UN Charter. Article 33 places an obligation on UN member states to pursue mediation to resolve disputes and Article 34 clarifies the UN Security Council’s role in encouraging states to resolve their disputes by peaceful means. A relatively new addition to the mediation landscape is the UN Standby Team (SBT) of mediation experts that was created in 2007. It was designed to be a specialised resource that could be rapidly deployed to the field on a temporary basis in order to provide technical advice to UN officials and others leading mediation and conflict prevention efforts. SBT members have considerable experience in mediation processes and they are experts in one or more of the key themes that are common features of peace processes and peace agreements. These include mediation process design, political transitions, power-sharing, constitutional issues, security arrangements, transitional justice, gender and inclusion, reconciliation, natural resources, and property issues. SBT members are located in their home institutions, but are on standby to be deployed anywhere in the world at 72-hours’ notice. The SBT has been deployed all over the globe with a total of 503 SBT deployments between 2009 and 2015. UN Under-Secretary-General for Political Affairs, Jeffrey Feltman, recently described the SBT as one of the UN’s ‘most innovative and effective preventive diplomacy tools’. Yet despite its promise, the SBT faces an uncertain future, as it does not have a sustainable funding base. Farrall encouraged member states to contribute funding and support capacity to the SBTs.

The second instrument, UN sanctions, are a coercive tool available to the UNSC under Article 41 of the UN Charter to respond to threats to international peace and security. The perpetration of mass atrocity crimes is an example of such a threat to peace, and the UNSC can therefore apply targeted sanctions against perpetrators of atrocity crimes. Farrall cautioned on the potential negative harm of sanctions, and argued that sanctions would be most effective in the prevention and rebuilding phases of R2P, rather than in the response phase. The UNSC has already used the language of mass atrocities in the preamble of its resolutions applying targeted sanctions to the Central African Republic, Côte d’Ivoire, Darfur, the Democratic Republic of the Congo, Libya, North Korea, and Somalia, and Farrall argued that sanctions can contribute to accountability as well as prevention if applied with appropriate caution. Where mediation seeks to prevent or resolve conflict more generally, and sanctions can be used as a tool to deter and hold accountable individual perpetrators, the third instrument, rule of law promotion, seeks to foster a broader culture of accountability. Rule of law promotion can be used to promote both prevention of and accountability for mass atrocities. But this is problematic; the export of sophisticated models of the rule of law to post-conflict situations has been critiqued as a potentially dangerous and counterproductive exercise. UN peace operations have tended to boil the rule of law down to operational, bite-size proportions. The focus tends to be on police, prisons, and courts. While these are extremely important rule of law institutions, the ability of these institutions to promote the rule of law and improve accountability depends on them being embedded in a broader political, legal, economic, and social culture that values and prioritises the rule of law. If a government ignores constitutional constraints, if a defence force is power hungry, if financial institutions are driven by personal gain rather than the public interest, then it does not matter how hard one tries to improve police, prisons, and courts. Indeed, in a situation where there is no rule of law, these very rule of law institutions can be used for oppressive ends – the more efficient they are, the more oppressive the outcome. Efforts to set up elaborate rule of law institutions in post-conflict or conflict-vulnerable locations can be doomed to failure if they do not connect with local interests, needs, and values, and if they require substantial financial revenues to be sustainable. Farrall outlined a recent Australian Research Council project that he had conducted with Hilary Charlesworth in which they developed a responsive model of the rule of law to guide the UN Security Council’s decision-making in the areas of peacebuilding, sanctions, and force. This responsive model is dynamic, and encourages the development of rule of law promotion strategies that engage with and build upon local conceptions of the rule of law. The model consists of four basic elements: transparency, consistency, accountability, and engagement.

Susanne Karstedt presented a talk entitled ‘Linking the Past and the Present – What Can Transitional Justice (TJ) Contribute to R2P?’ in which she argued that transitional justice serves a number of key functions that support R2P implementation. These functions include providing justice, confirming norms of non-violence, deterring future crimes, establishing the rule of law, and establishing and strengthening institutions that contribute to a more secure environment overall. There are, however, views to the contrary – transitional justice can create reduced security and new conflict due to a lack of legitimacy between parties, and there can be dissatisfaction with the outcomes of trials and amnesties. Criminologists are now seeking to provide an evidence-based understanding of the role of justice in these contexts. Questions asked include does TJ work in the context of contemporary complex conflicts and horizontal violence? Does it reduce violence and build institutions to help implement the R2P agenda?

Karstedt presented an empirical study that examined 124 conflicts in 63 countries between 1976 and 2007. The types of TJ included were trials, truth and reconciliation commissions,
amnesties, and disarmament, demobilisation and reintegration programmes. The conclusions drawn were that TJ can contribute to security by supporting the reduction of the overall level of violence, curbing state violence, and increasing overall institutional quality. It is not, however, an advantage to start TJ processes too early, and amnesties only have a positive effect on the overall improvement in the security context if they are part of a broader package of TJ processes, not an independent process.

In the final presentation of the panel, Leonard Blazeby spoke about the relationship between international humanitarian law (IHL) and the R2P implementation agenda. The IHL regime creates state obligations to prevent IHL violations that are essential to the R2P objective of preventing war crimes, and generating the prevention capacity of states. Article 1 of the Geneva Conventions calls on states to respect the Geneva Conventions in all circumstances; therefore states need to live up to their own obligations under IHL. This includes the negative obligation to refrain from violations and a positive obligation to bring an end to ongoing violence and urge violating parties to comply. Blazeby outlined the ways that IHL should be used by states to generate the respect for law, and the tools available to states to encourage the end to violence and urge compliance with IHL such as diplomatic pressure, public denunciations, referral to international fact-finding missions, and coercive measures. Blazeby also emphasised the role that the International Committee of the Red Cross (ICRC) plays to help states prevent IHL violations.

Blazeby stressed the high level of disregard for IHL in recent conflicts and reiterated the need for states to take firm measures to promote it. The former might include the non-authorisation of arms trade with the potential that such weapons will be used to commit war crimes or violate IHL, and the latter could focus on a stronger education of IHL, particularly for non-state actors, that is consistent with common Article 3 of the Geneva Conventions. There is a need to integrate IHL into military training which should internalise the law in the behaviour of soldiers and all aspects of military decision-making. Training should be repeated throughout a soldier’s career and should be present throughout the communication culture in the military. Furthermore, command responsibility needs strong checks and balances and IHL must be present throughout all military action. In terms of law enforcement at the domestic level, officials also play a decisive role in implementing IHL – the police need to know the limits of the rule of force, and have a clear understanding of the distinct roles of the military and the police, and the state must be in a position to enforce the law. Finally, international courts and tribunals play an important role in strengthening IHL compliance, as do the media, the academic community, and the ICRC.
Implementing the Responsibility to Protect

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KEYNOTE ADDRESS

Ivan Šimonović

Thank you very much for your kind words Cecilia, I was almost feeling like at a funeral, you know, where they list all those good and nice things.

But, Madam moderator, dear organisers, ladies and gentlemen, it is a great honour to be the keynote speaker today. But taking into account that I already had an opportunity to address you yesterday, I won’t take that long. I would like to leave a good impression and be re-invited again to the seminar.

Yesterday’s session addressed many of the dimensions connected to the implementation of the Responsibility to Protect. In my keynote address I will focus on the theme of the conference, the second pillar of the Responsibility to Protect and the specific angle of foreign assistance that plays in this respect. Let me say that I share the view of my predecessors but also colleagues that participated in the discussion yesterday, that there is somehow, sometimes an artificial division between the pillars. And I would like to point out that international assistance is more effective when targeting domestic efforts that already exist, which would be considered as a Pillar One and for which there is full ownership of the recipient state. Of course, to prevent war crimes, crimes against humanity, and genocide and ethnic cleansing, we need full understanding of the dynamics that can lead to them. The next roundtable discussion will address those issues. Let me therefore just briefly reflect on the point that I find relevant for the connection between human rights violations and potential commission of mass atrocities.

It is beyond any doubt, and comparative research has clearly shown, a strong correlation between human rights violations, especially specific types of human rights violations and the atrocity crimes. In other words, serious human rights violations, if not timely and adequately addressed, may be followed by the commission of atrocity crimes. At the United Nations, this link has been not only recognised but also acknowledged, and to a certain extent, addressed through the Secretary-General’s ‘Human Rights Up Front’ action plan. As you know, this initiative was launched by the Secretary-General after the failure of the United Nations to prevent atrocity crimes in Sri Lanka in 2009. At the time, the United Nations failed to make the connection between escalation of serious human rights violations and the risk of atrocity crimes. The lessons learned from that exercise is that we are all responsible for monitoring human rights violations and for responding to them in a timely and effective manner. As some of you may know, the ‘Human Rights Up Front’ initiative is being implemented through risk assessment during quarterly reviews, and each and every country is submitted to such a quarterly review. And then if a risk is identified that requires special attention, then there is preparation of so-called Senior Action Group meetings that are meetings on the level of a couple of relevant UN principles and those are, from my experience, the most action-oriented meetings of the Secretariat of the United Nations. So, it’s not only continued analysis, those are very much hands-on, looking for actions, and not only actions that the United Nations can undertake, but also looking for who of potential actors is best positioned to help to prevent a situation from deteriorating. It can be regional organisations, it can be neighbouring states, it can be individual leaders or former leaders, or it can be donor states. Anyhow, the idea is to identify these deteriorating situations at an early stage, but not only to identify them, but also to address them, and to take action. At the level of member states, of course, Responsibility to Protect embodies the collective responsibility to respond to human rights violations which could lead to commission of atrocity crimes. This relates to what states can do individually, and to what they can do collectively in either framework of the United Nations or any other setting.

Just at the most recent General Assembly interactive debate on the Responsibility to Protect on 6th of September [2016] which I moderated at the time as an incoming mandate holder, member states stressed that prevention remains the primary tool for implementation of the Responsibility to Protect. They noted that effective prevention requires great investment in the human rights and in human and material resources dedicated to information gathering and analysis. It also requires strengthening the links between early warning and response mechanisms. The delegations highlighted the importance of providing international support for these efforts in a manner that strengthens national ownership. They also emphasised the importance of partnering with regional organisations and with civil society, both in assessing the risk, as well as building effective strategies to counter them.

Very much connected to our discussion today, a significant number of member states’ interventions called for efforts to address root causes of atrocity crimes, and link the atrocity prevention agenda with the agenda for the prevention of violent extremism. It is my view that indeed, we need to encourage states to address those root causes, through identification and implementation of domestic resilience measures. Likewise, we need to encourage potential providers of international assistance to pay special attention to them, and to prioritise them when deciding on investing their assistance. At the same time, states under stress may not have the luxury of waiting for the long-term solutions in the face of short-term imminent risks. Defusing detonators, and anticipating and responding to potential triggers constitute a critical element in the Responsibility to Protect. Let me emphasise that this is not about the third pillar and certainly not only about the use of force. It is about the effective use of a combination of tools that may sit across different pillars. For instance, we can provide targeted support by deploying monitors and monitoring forces, help coordinating messages by influential leaders in a strategic way. Whether we consider these measures under Pillar One, Two or Three from an academic perspective, it is irrelevant for the practical use of them.

Ladies and gentlemen, today we will have a discussion on foreign policy and development cooperation, and on civil–military operations and peacekeeping. They will illustrate some of the options connected to international assistance for the prevention of atrocity crimes. On this note, let me mention that the 6th of September General Assembly dialogue on the Responsibility to Protect also provided an opportunity for member states to further stress the links between the Responsibility to Protect
and other thematic policy agendas. For instance, we know that preventing reoccurrence constitutes a priority for the prevention of atrocity crimes. Likewise, the links between R2P and the protection of civilians are made stronger through efforts to ensure implementation of the Kigali Principles on the Protection of Civilians. Other connected policy areas include addressing the crisis of forced displacement, implementing security, or Resolution 1325, ensuring the compliance with the arms trade treaty, and implementing the 2030 agenda for sustainable development.

What we are lacking, in my view, is a strong operationalisation of international assistance into domestic atrocity prevention efforts. While states have collectively and repeatedly emphasised the importance of prevention of genocide, war crimes, ethnic cleansing and crimes against humanity, they have failed to articulate a truly global and coordinated international assistance agenda in this field. Without aiming to compare two concepts, let me give the example of counter-terrorism as a field in which such coordination at the specific point in time worked well. As you know, after the September 11 terrorist attacks in Washington, New York and Pennsylvania, the international community reacted in a wave of solidarity that reflected a number of all-inclusive initiatives at the intergovernmental level. At the United Nations, this effort led to Security Council Resolution 1373, on counter-terrorism, and the establishment of a Counter-Terrorism Committee [CTC] as the subsidiary body of the Security Council. This CTC was assisted by the Counter-Terrorism Committee Executive Directorate – the CTED – with a mandate to monitor the implementation of that counter-terrorism resolution. Building upon this global support, the CTC and CTED became a venue to connect states that required assistance in the implementation of this resolution on the one hand, and states that were in a position to provide such an assistance on the other. In those early months after September 11, counter-terrorism cooperation took place internationally, regionally and bilaterally. However, military interventions in Afghanistan, and particularly in Iraq negatively reflected on this dynamic. Nowadays we are, unfortunately, far from the level of global commitment and inclusivity in our fight against terrorism that we saw and that we have witnessed at the time.

Now, today, we are expecting a similar level of rhetorical commitment to prevention of atrocity crimes. It may be an opportunity to seize this momentum and create the global and inclusive push towards the operationalisation of international assistance for the prevention of crimes connected to the Responsibility to Protect and strengthen prevention under Pillars One and Two in the coordinated, inclusive and strategic way. This is an agenda that goes beyond any particular actor, and that needs to bring many of them together. This requires coordination across international, regional and subregional organisations, and obviously among member states. In the implementation of such a very ambitious agenda, we need to start by asking the right questions. Firstly, is that feasible? We have had and taken note of the commitment to prevention expressed almost without exception by all member states in successive General Assembly dialogues on the Responsibility to Protect. However, a limited number of states still express scepticism of some aspects connected to the implementation of the principle. Virtually none, however, express any reluctance about the importance of prevention and about the importance of assistance to such a prevention. Therefore, questions about feasibility have to do with practical operationalisations rather than with conceptual disagreement. What such an operationalisation would entail, under which framework this could happen, in which timeframe, and under whose lead.

Secondly, again, I won't provide answers but I hope that I will raise some interesting questions; within the current international climate, is there appetite for such an agenda? The issue really is more about prioritisation of this agenda vis-à-vis other international global agenda issues. As I mentioned before, there is a high level of agreement that the prevention of mass atrocities is important, but it does overlap with a number of other connected global efforts.

And thirdly, what obstacles can we be facing? When it comes to prevention, my belief is that there are no strong, unsurmountable obstacles. Quite to the contrary, the commitment to prevention is, I believe, strong. The obstacles therefore might have to do with the technical implications of such operationalisation. To put it in other terms, this may be connected to a decision on which areas should be prioritised. We already have some guidance in this point: the 2014 Secretary-General report on the Responsibility to Protect underlined a number of inhibitors of atrocity crimes which in his view, should focus efforts for international assistance. I'm also glad that here in the audience we have a number of colleagues who have academically worked in their identification. They include: the professional and accountable security sector; impartial institutions for overseeing political transitions; independent judicial and human rights institutions; the capacity to assess risk and mobilise response; a local capacity to resolve conflicts; a media capacity to counteract prejudice and hate speech; and a capacity for effective and legitimate transitional justice. The questions we may ask ourselves are: among these inhibitors, are there some which are more geared toward short-term prevention and others toward long-term prevention? Do we have empirical evidence that some of them have proved, in certain circumstances, to be more effective than others? Whose assistance – from neighbours, from regional organisations, from international organisations – can be more perfected?

Ladies and gentlemen, dear colleagues, I hope that our discussion today will contribute in moving forward our R2P agenda. Thank you very much.

Implementing the Responsibility to Protect
Understanding the Dynamics of Atrocities and Prevention

The purpose of this panel was to investigate the specific nature and dynamics of mass atrocities, assess existing frameworks and toolkits for atrocity prevention, and propose strategies for responding to atrocities that would correspond with their specific dynamics. Panelists considered how mass atrocities should be conceptualised and debated whether there was a real difference between conflict prevention, human rights work, and R2P. The panelists also considered how strategies for atrocity prevention should be formulated to strengthen the prevention responsibilities of actors entailed in the preventative pillars of R2P.

In his presentation, Stephen McLoughlin argued that although successive UNSG reports on R2P have routinely emphasised the primary responsibility of the state for atrocity prevention, there has been very little discussion of what state responsibility actually entails, with a longstanding focus on clarifying international responsibilities. McLoughlin stressed that we know least about the mitigating factors through which states have successfully avoided the path of violence. The 2013 UNSG report on R2P was the first UN attempt to investigate national sources of resilience that mitigate atrocity risk, including both conceptual work and the role of various domestic actors. The timing of the report coincided with an emerging interest in academic literature that investigates why genocide and mass atrocities did not occur in cases where high levels of atrocity risk were present, what are called ‘negative cases’. Understanding these negative cases is important to comprehend what is already going on inside countries so that states in similar positions can benefit from their experiences. McLoughlin shared the findings of his research along this vein that shows that leaders with inclusive ideologies (especially in post-colonial African states), an independent judiciary, language, proscription of parties based on ethnicity/religion, facilitation of inter-religious cooperation, and diversity in public sector employment were successful in preventing atrocity.

McLoughlin identified four steps needed to incorporate resilience in the R2P implementation process – identify existing practices that promote resilience to atrocity crimes, apply an atrocity prevention lens, disseminate knowledge both from the academic to the policy communities but also between states that may benefit from the experiences of other states, and influence domestic practices to support social resilience where atrocity risk factors are identified.

Scott Straus reiterated the need to study negative cases more closely to understand the factors that are inhibiting the escalation of violence into mass atrocity events, and to understand variations in the severity of violence between different cases. Straus directed his comments towards the need to develop country-based diagnostic analyses and action plans, with an eye to anticipation and the prevention of mass atrocity. Accordingly, we need to try to understand the domestic sources of restraint and then develop an international approach that builds on the domestic sources of resilience that moderate the use of violence. Restraint is needed at the micro-level (individuals), meso-level (inter-group relationships, civil society), and national level, although greater traction can usually be gained in the latter two.

Straus discussed the need to balance analyses of sources of restraint with sources of escalation. In practice, prevention can be very vague and there is a need to better understand the triggers or escalators of violence. The primary escalator of violence is change in the strategic environment, and the reaction to military threats that escalate the violence, such as coups and assassinations. Analyses needs to incorporate longer term sources of violence, disaggregate analyses of actors within situations, and recognise that situations are very dynamic. Atrocity situations involve chains of escalation and de-escalation. Typically these are gradual so there is a lot of room for international actors to shape these processes in the early stages.

Straus concluded by advocating for the development of country-specific diagnostic action plans to inform the approaches needed to persuade actors not to escalate violence. We need to be humble about success expectations, as atrocity prevention work often takes place in extremely difficult situations. Finally, there is a need for more empirics on what actually works in restraining violence from the atrocity prevention toolkit we already possess.

Cecilia Jacob turned the focus of the discussion towards clarifying the relationship between R2P and atrocity prevention to consider incorporating atrocity prevention into R2P debates and operationalisation. Jacob argued that atrocity prevention is necessary for R2P to ground conceptualisation of mass atrocity events that R2P seeks to prevent. Whereas atrocity prevention provides an operational framework for prevention, R2P serves as a regulatory principle that situates the political, legal, and normative basis for prevention at the international level. Controversy is generated over ‘R2P’ actions in international politics when only one of these elements are mobilised, and the legality, morality, or political viability of preventive interventions is challenged. She argued that employing R2P as a regulatory
framework could assist us in mobilising R2P more holistically and in transcending the rigid structure of the three pillars which all contain non-coercive and coercive elements within them.

Jacob argued that the way in which R2P is mobilised for atrocity prevention rests on how we conceptualise mass atrocities in the first place. The dynamics of mass atrocities are relational and rooted in long historical trajectories where reiterated patterns of violence often peak and trough over time. Regulation is the aspect of governance that seeks to steer the flow of events and one can think about atrocity prevention as a form of governance intervention to steer events toward non-violent trajectories.

Responsive regulation is a dynamic framework applied to crime prevention that accounts for historical and relational social contexts. Building on a pyramid whereby restorative and dialogic processes are prioritised for resolving conflict, and peaking with a coercive last resort deterrent capacity at the top, responsive regulation is conceptually consistent with the dynamics of mass atrocities that have developed in research, prioritises restorative justice values of reconciliation, healing and forgiveness over retributive justice as a particularly salient approach for societies with atrocity risk, and emphasises the role of accountability.

Severine Autesserre presented an analysis of the failure of international peacekeeping efforts to prevent mass violence in the Congo in order to emphasise the importance of understanding the local context for prevention strategies. Her three arguments were that first, violence prevention plays a key role for protection; second, addressing grassroots tension is of great importance; and third, change must occur in the international peacebuilding and peacekeeping cultures. While prevention has been emphasised in R2P documents, including the 2001 ICISS report, country case-studies are needed to show how violence can be prevented on the ground. In order to prevent violence, the international community has to address tensions at the national, regional, and local levels. In the case of the Congo, intervenors addressed national and regional tensions, yet most international actors neglected to address local level tensions.

Longstanding, bottom-up economic, political, and social agendas are a principle cause of violence in Congo and many other conflict zones. In such contexts, local competition escalates into mass violence, rather than being centrally coordinated. Autesserre's research shows that, first, international actors failed to prevent mass violence due to the dominant international peacebuilding culture that precludes preventative action at the local level. Second, there was political indifference to the plight of Congo. Although the political will was present for national and regional conflict prevention, it was absent for local conflict prevention – local peacebuilding organisations did not view it as a legitimate task. Third, early warnings were present for national and regional conflicts, but again, were absent for local conflicts as these were viewed as unimportant – a message reiterated by peacekeeping and diplomacy training that dismisses local conflict impact. Finally, the preventative toolbox was only available for national and regional problems, not for local conflict prevention. No major peacebuilding or peacekeeping bureaucracies have developed any institutional capacity for local conflict prevention, and there is no staff training for work at the local level (despite clear findings from the link between local violence and mass atrocity).

Based on these findings, Autesserre recommended the following responses: local peacebuilding is a priority; financial and human resources for grassroots conflict resolution must be increased; and in situations like the Congo, supporting programs on land conflict and inter-community reconciliation must be emphasised.

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Foreign Policy and Development Cooperation

This panel considered avenues for leveraging states’ foreign policy and development cooperation abroad to promote R2P Pillar Two, and for strengthening partner states’ Pillar One capacity, within the context of bilateral and multilateral assistance. It described how the implementation of R2P has taken shape in different contexts of foreign policy and development cooperation, and considered current areas of cooperation and assistance that have been or could be mobilised to strengthen the domestic institutionalisation of R2P objectives. The panel considered whether alternative institutional mechanisms/sites would need to be created to facilitate this agenda, commented on challenges or setbacks to engaging R2P in foreign policy and development assistance, and how these may be mitigated.

Martin Mennecke spoke about the Danish government’s efforts to implement R2P in its overseas development cooperation. Denmark’s development cooperation agency, Danida, conducted a review into the role of development cooperation in the context of the Rwandan genocide, and concluded that there was a direct relationship between R2P, prevention, and development cooperation. Development practitioners played an important role in early warning, and the findings concurred with USAID’s position articulated in its ‘Field Guide: Helping Prevent Mass Atrocities’ and with Pillar Two (‘the international community should, as appropriate, encourage and help States to exercise this responsibility’). The advantage of engaging R2P in development work is that development practitioners based in the field have a better understanding of local situations.

The challenge for implementing R2P in Denmark’s case is that, first, its R2P focal point is a lawyer based in the international law section of the Ministry of Foreign Affairs, and this position does not have funding for projects abroad. This reflects a common situation whereby many R2P focal points are distanced from local contexts. The second setback is that field practitioners do not understand the value that R2P adds to their work, including differentiating R2P from atrocity prevention, and the perception that R2P may even be counter-productive given certain negative political associations and setbacks using atrocity language.

Mennecke provided a detailed discussion of Danida’s R2P work in Ghana, including a research study that examined the readiness of Ghana in implementing R2P, and on R2P training courses for practitioners. He emphasised the importance of working with countries which are not on the top five watch list for early prevention, and in continued and more regular networking of R2P focal points to ensure that experiences are shared. Ghana serves as an interesting case due to the role of the Ghana National Peace Council that works at both the national and local levels. Ghana recently experienced a close election without violence. Mennecke assessed the cooperation between Denmark and Ghana as a positive experience, yet questions still remain around the sustainability of resourcing, and the broader influence on the region.

The lessons learnt from Denmark’s experience include ensuring that development practitioners are placed in the field to support implementation, rather than relying on desk officers working in their home countries. Programming should integrate R2P across sectors, maintain a clear parameter of R2P as both specific and narrow, and be applied to short-term and long-term country-specific risk factors. In a joint USAID–Danida workshop held in Kampala, it was concluded that development agencies should use country-specific risk factors as benchmarks in program evaluations, support local resilience and R2P monitoring, and ensure program flexibility. In terms of partner engagement, the need for local R2P champions was emphasised, as was the need to let the participants talk and share their experiences and allow them to apply the concept to their own contexts.

Christoph Sperfeldt drew on his experience working in the development sector in Southeast Asia to consider the implications of R2P atrocity prevention for development practitioners in the field. The main issues for practitioners that he identified were the ever-growing list of new concepts which are supposed to be implemented in practice. From a programming perspective, moving a concept from the desk to the ground is a long process. Given that R2P is in a very early phase, key questions remain about determining how to implement it. Is there a need to create an R2P field, or should R2P be mainstreamed? The starting point should be to consider the purpose of the concept. First, is R2P designed to energise and mobilise political action, or is the discussion turning in the direction of creating a technical concept? If the concept is technical and not political, technical practitioners would need to be informed – currently, they are not being educated about R2P at conferences. Second, what is the spectrum of prevention? Sperfeldt argued that

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current relevant program areas could be mapped to consider potential overlaps and to identify existing tools. Relevant program areas that are already advanced in the field include conflict prevention, human rights, humanitarian assistance, and international and regional justice. Similarly, there are development tools such as ‘do no harm’, peace and conflict impact assessments, conflict sensitive program management, and the resilience for peace framework. Existing tools, however, do not employ R2P language.

Sperfeldt recommended that strategies for implementation need to strike a balance between not reinventing the wheel but also not building an R2P façade. Actors should use rather than deny the political nature of the R2P concept as it serves as an entry point for escalating concerns around atrocities up the political ladder. Cross-program dialogue at the country/regional level that is sensitive to R2P would further enhance context-responsive programming with the broad involvement of relevant actors across agencies and institutions, to build on existing strengths and develop targeted measures for high risk situations.

Patrick Lawless, Australia’s R2P focal point, spoke about the need to raise the profile of R2P in multilateral organisations and provided examples of Australia’s experiences promoting R2P and civilian protection issues during its time in the non-permanent seat on the UN Security Council, 2013–2014. These included addressing Syria and North Korea. The Australian Department of Foreign Affairs and Trade briefs diplomats about R2P and informs them about early warning signs. To this end the UN framework on mass atrocity crimes seems to be useful. Australia also funds organisations that support the concept of R2P, including the Global Centre for the Responsibility to Protect, the UN Joint Office for the Prevention of Genocide and the Responsibility to Protect, the Asia Pacific Centre for R2P, and the International Crisis Group.

In assessing the progress of R2P implementation at the international level, Lawless argued that it is now much harder to ignore R2P and protection of civilian issues. R2P is receiving more attention in the Asia-Pacific. There have been genuine successes in preventive diplomacy, such as in Kenya and the Côte d’Ivoire, although these are not necessarily framed as R2P efforts per se. However Lawless cautioned about the need to be realistic in assessing progress. The intervention in Libya led to increased weariness about the concept, which has impacted on the international response to events in Syria. Although most of the UNSC resolutions addressing R2P came after Libya, unity about R2P among the UNSC permanent five members is low. This overarching context narrows the situations under which three pillar actions could be agreed.
Civil–Military Operations and Peacekeeping

Civil–military assistance and peacekeeping operations work to directly strengthen the state security sector and the rule of law capacity that are both crucial for the prevention of atrocities and effective protection of populations from them. This panel considered the specific relevance of civil–military operations and peacekeeping for R2P objectives, and looked at strategies for best implementing an atrocity prevention lens through these forms of assistance. The panel considered the extent to which Pillars One and Two are already promoted in practice in civil–military assistance/peacekeeping operations and whether there is scope to develop new strategies that would more effectively operationalise R2P objectives in the field. In operational terms, the panel also considered the extent to which Protection of Civilians (PoC) should be analytically separated from R2P given their complementarity for putting human protection concerns to the fore.

Lisa Sharland reflected on the core challenges of contemporary peacekeeping missions for R2P, namely politics, policy, and practice. First, in terms of politics, the likelihood that peacekeepers will use force against elements of the host government has been highly controversial. The UN mission to South Sudan, for example, faced deep divisions between states that supported a broad capacity-building mandate, as opposed to those that sought a narrow PoC mandate for the mission. These divisions have weakened the overall mandate of the mission. The issue of consensus has been a central focus in the discussion on peacebuilding as consensus is both crucial to ensure that the field mandate is effective, yet difficult to obtain in the current international environment. Second, Sharland addressed policy; UN peacekeeping serves as a useful tool to analyse for R2P implementation strategies as it provides many examples of the challenges of implementation. The UN operational approach to peacekeeping has three tiers of action that are compatible with the R2P framework.

Third, Sharland addressed the lessons from peacekeeping missions that could inform the practice of R2P implementation. She argued that while there has been a degree of progress in the field, much still needs to be done to improve the effectiveness of peacekeeping missions. Areas that need to be strengthened include the need for improved civil–military cooperation, the inclusion of gender perspectives, and more clarity around the issue of youth, peace and security. Finally, the conditions that need to be in place so that peacekeeping missions do not have to keep returning to the same countries must be identified. Sharland concluded by calling for more analysis on how to prioritise PoC in terms of R2P, how to balance the idea that political solutions should take primacy versus practical operational needs on the ground, and how to capture the value of prevention activities. This final question is particularly important in light of the concept of sustained peace coming out of the UNSC and General Assembly whereby greater attention and resourcing is being directed towards prevention.

Bradley Orchard spoke about the intersections between R2P and the Women, Peace and Security (WPS) agenda, and the Australian government’s progress in moving the WPS agenda forward. Orchard argued that the WPS agenda has enabled the Australian Defence Forces to prioritise the issue of gender in the context of security. A gender perspective allows for increased attention in identifying if and when people are being treated differently because of their gender, acknowledging that women’s participation will lead to longer peace, and enhancing the effectiveness of human rights and physical protection of populations.

In terms of progress, 64 states have implemented national action plans on WPS to date and have developed architecture to support its implementation. There are now gender advisers in UN missions (including Afghanistan and Kosovo), and in 2016 Australia deployed its first gender military adviser to South Sudan. Orchard addressed some of the setbacks of WPS, primarily the ways that WPS has tended to be trivialised rather than transformational as intended when first introduced. The Australian government incorporates WPS into its defence national engagement activities, and indeed expanded on these activities in its most recent Defence White Paper. The rationale of integrating WPS into peacetime operations is to help build capabilities within fragile states in the region with the overall goal of reducing state fragility. Viewed through this lens, there are clear intersections between WPS and R2P in operational practice.

William Maley turned the attention to the range of issues relating to the interaction between militaries and civilian actors, focusing on the experiences of Afghanistan. Afghanistan is an area familiar with ‘mass casualties’. With a death toll from armed violence averaging 240 persons per day for ten years, it is not easy to determine if this level of violence falls into the category of mass atrocity crimes per se. Some episodes of violence do fall into this category easily, such as the Mazar-E-Sharif massacre where 2,000 people were killed in a three-day period. Nonetheless,
political violence in Afghanistan is relevant to the wider world because of mass refugee movements that have flowed as a result. Maley pointed out that Operation Enduring Freedom was not an operation to protect civilians. Strategic narratives forwarded by countries that were part of the mission focused on the need to prevent Afghanistan from becoming a crucible for terrorism, or to shape solidarity with the US as a strategic partner. Likewise, the UN mission in Afghanistan is political, not a peacekeeping one. This has resulted in an operational ‘lacuna’ for protecting Afghanistan’s civilians.

The peculiar model that has flowed from this situation was the deployment of Provincial Reconstruction Teams (PRTs), challenged by the fact that violent conflict was still ongoing. The lessons that came out of the experience were that there is no such thing as a single PRT model or civil–military relations model in Afghanistan. The PRTs had idiosyncratic models that varied from team to team depending on location, and they reflected the diverse military cultures of the countries leading them. As a result of this variation, it has been difficult to draw general lessons; some PRTs did very well, others played a ‘picking winners approach’ – although Western actors did not prove very apt at this. The experience showed, however, the significance of relationships as ‘important lubricants for cooperation’. The PRTs are seen as a ‘force multiplier’ for those involved in more kinetic activities. However, a PRT model in Afghanistan was unable to stabilise the state through a province-by-province approach, nor did it address the overarching problem related to Pakistan’s involvement. A number of moral hazard issues did emerge, including the lower level of resourcing directed to some parts of Afghanistan that were relatively quiet and had more success in building peace, and the paradoxical activities that undermined the role of the external teams, such as subcontractors bribing Taliban fighters. The current situation in Afghanistan is relapsing to a state where mass atrocities are again taking place, and has the potential to generate more flows of refugees. Given this context, Afghanistan provides many concrete lessons for advancing the implementation of R2P through civil–military operations in difficult security environments.

Charles Hunt presented on the specific relationship between peace operations and R2P, arguing that peacekeeping is a frontline resource for the United Nations to implement R2P. Within the UN, the Department of Peacekeeping Operations has been extremely reluctant to embrace R2P due to concern over issues of consent, political toxicity, and the possibility of generating unrealistic expectations as to what peacekeeping operations can achieve due to capacity constraints. Despite these concerns, Hunt argued that it is possible to think strategically about peacekeeping operations as Pillar Two international assistance to states. Notably, the civilian dynamic of peacekeeping missions incorporates a range of activities that can be considered as contributing to goals of R2P. Examples of these include monitoring for human rights, the role of the civil affairs department in supporting local conflict resolution, the rule of law and police reform, and forced displacement issues given that missions are often involved in population returns.

Peacekeeping operations engage in the direct protection of populations. Hunt cited the escalation of the use of force in the Ivory Coast for the purpose of civilian protection as an unprecedented move under the auspices of protection that is a clear case of R2P Pillar Two assistance. However, he argued that the use of force to protect civilians is a new development, and it is difficult to implement forceful mandates. A potentially fruitful area for strengthening R2P implementation is the rise of the role of police in peacekeeping. This is also new ground, yet experiences in South Sudan and the Central African Republic point to an urgent need to better evaluate the lessons from these experiences.
Closing Comments

Alex Bellamy and Cecilia Jacob

In his closing comments, Alex Bellamy stated that the discussions and evidence presented during the conference showed that we are now on the cusp of a new turn in R2P from norm consolidation to implementation. He supported the SASG’s vision for moving the R2P implementation agenda forward and highlighted five main conclusions that could be drawn from the conference. First, he emphasised that there is a sense of energy associated with a new era of R2P. Second, this new era is moving from general to specific discussions. Analysis is focusing more on what is occurring inside specific countries, identifying the tools and actors that can be used, and seeking a clearer understanding of what works and does not work in different situations. Third, there is a move from the theoretical to the practical, whereby academics have a new role to play in the practical areas of implementation – such as detailed country studies that practitioners do not have time to undertake. Fourth, R2P discussions are moving beyond UN headquarters in New York and Geneva into regions affected by violence to identify the sources of resilience. Finally, the conference has identified a variety of ways that the R2P agenda can be put to work and taken to the ‘next level’ over the next ten years.

Cecilia Jacob reiterated that the debates and discussions held during the conference were substantially different to what they would have been five years ago, and were illustrative of the fact that R2P is entering a more mature phase. The breadth of the implementation challenge is evident. There has been a consolidation of the three pillar debates, whereby political divisions can now be transcended through a practical focus on implementation. Jacob addressed four main themes that surfaced throughout the conference:

1. the need to focus on the local to build on nuanced insights for the implementation phase;
2. better strategies and understanding to link international efforts with prevention and protection efforts at the local level;
3. the need to address institutional reform at the UN in order to mobilise and strengthen the organisation’s existing resources (a view that was outlined in the SASG’s keynote address); and
4. the capacity to translate early warnings into early action.

We now have very rich sources of data to draw upon for early warnings, and developing the institutional mechanisms that can synthesise and translate these sources of information into early action needs to be a key priority for the next generation of R2P implementation.
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## APPENDIX: CONFERENCE PROGRAM

### DAY ONE – THURSDAY 27 OCTOBER

Implementing the Responsibility to Protect: Domestic Processes and Foreign Assistance Conference

Join the conversation: #ANU_R2P
Conference W-Fi - User Name: R2P Password: Bell2016

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<td>09:00 – 09:05</td>
<td>Welcoming remarks – Professor Michael Wesley, Dean, ANU College of Asia and the Pacific</td>
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<td>09:15 – 09:55</td>
<td>Keynote Address – Professor the Hon Gareth Evans AC QC, Chancellor, The Australian National University</td>
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<td>Roundtable Discussion Implementation of R2P: the state of the field</td>
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<td><strong>Moderator:</strong> Cecilia Jacob</td>
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<td>This roundtable considers the progress on R2P implementation to date.</td>
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<td>Questions:</td>
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<td>• Where is the debate on implementation at now, and where does it need to move?</td>
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<td>• What conceptual or practical differences exist in this debate at the national, regional and the UN level?</td>
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<td>• What are the key challenges of the R2P implementation agenda as it relates to Pillars One and Two? Are there disagreements in this area?</td>
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<td>• How feasible is the idea of mainstreaming R2P within institutional practices of states and regional organisations and IOs responsible for Pillars One and Two? What kind of architecture or other measures would be needed to achieve this?</td>
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<tr>
<td>11:00 – 11:20</td>
<td>Morning Tea</td>
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<tr>
<td>11:20 – 12:30</td>
<td>Session Two Panel: Resilience as a framework for atrocity prevention – Illustrations from the region: <strong>Moderator:</strong> Sarah Tett</td>
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<td>This panel presents a series of case studies that can be understood as successful Pillar One prevention and protection efforts within the Asia region. Questions:</td>
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<td>• What can be learnt about Pillar One capacity of states within the region from experiences of resolving violent conflicts and protecting vulnerable populations?</td>
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<td></td>
<td>• Was/is there a particular focus on preventing atrocity crimes?</td>
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<td>• What are the areas of resilience and existing capacity within the states, and non-state institutions, and where might support be needed to enhance resilience to atrocities?</td>
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<td>• What are the implications of these success stories for considering the nature of Pillar Two assistance?</td>
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<td>Time</td>
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<tr>
<td>12:30–13:30</td>
<td>Lunch Break</td>
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<tr>
<td>13:30–15:00</td>
<td>Session Three Panel: The Oxford Handbook of the Responsibility to Protect</td>
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<td><em>Chair: Tim Dunne</em></td>
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<td>Speakers</td>
<td>Alex Bellamy</td>
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<td>Edelvina Staunton</td>
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<td>Sarah Teft</td>
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<td>Ekkehard Strauss</td>
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<td>15:00–15:30</td>
<td>Afternoon tea</td>
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<tr>
<td>15:30–17:00</td>
<td>Session Four Panel: Linking International Law Accountability and</td>
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<td>Compliance to R2P Prevention: <em>Moderator: Mathew Davies</em></td>
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<td>• What are the implications of human rights accountability and compliance</td>
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<td>for advancing Pillars One and Two? Which fora and institutions offer the</td>
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<td>best entry points for addressing this?</td>
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<td>• Should states be made accountable for R2P implementation in the human</td>
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<td>rights and rule of law sectors, what should accountability mechanisms</td>
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<td>look like, and how far broad and deep should human rights accountability</td>
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<td>go to advance Pillars One and Two?</td>
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<td>• What are the intersection between international rule of law and domestic</td>
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<td>compliance with human rights, and what are the implications for moving</td>
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<td>R2P implementation forward?</td>
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<td>• What is the significance of justice for past mass atrocities for the R2P</td>
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<td>implementation agenda? What modes of justice should be considered in</td>
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<td>particular</td>
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<td>17:00–18:00</td>
<td>Drinks and Networking – Hedley Bull Atrium</td>
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## DAY TWO — FRIDAY 28 OCTOBER

### Implementing the Responsibility to Protect: Domestic Processes and Foreign Assistance Conference

<table>
<thead>
<tr>
<th>Time</th>
<th>Activity</th>
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<tbody>
<tr>
<td>08:15 – 09:00</td>
<td>Tea and coffee</td>
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<tr>
<td>09:00 – 10:10</td>
<td>Keynote Address and Q&amp;A - Mr Ivan Šimonovský, Special Representative to the UN Secretary General on the Responsibility to Protect</td>
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<tr>
<td>10:10 – 10:30</td>
<td>Morning Tea</td>
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<tr>
<td>10:30 – 12:00</td>
<td>Session Five Panel: Understanding the dynamics of atrocities and Prevention - <strong>Moderator: Susanne Karstedt</strong></td>
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<td>This panel investigates the specific nature and dynamics of mass atrocities, assessing existing frameworks and toolkits for atrocity prevention, and conceptualises alternative strategies for responding to atrocities that correspond with their specific dynamics.</td>
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<td>Questions:</td>
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<td>• How are mass atrocities best conceptualised?</td>
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<td>• Is there a real difference between conflict prevention, human rights work and R2P?</td>
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<td>• How effective are existing atrocity prevention tools and frameworks in resonating to the dynamics of atrocities?</td>
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<td>• How can strategies for atrocity prevention be formulated to strengthen the prevention responsibilities of actors entailed in Pillars One and Two? What concrete steps need to be taken?</td>
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<td>12:00 – 13:00</td>
<td>Lunch Break</td>
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<tr>
<td>13:00 – 14:30</td>
<td>Session Six Panel: One Foreign Policy and Development Cooperation - <strong>Moderator: Jeremy Youde</strong></td>
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<td>This panel considers avenues for leverage states’ foreign policy and development cooperation abroad to promote R2P Pillar 2, and strengthening of partner states’ Pillar One capacity, within the context of bilateral and multilateral assistance.</td>
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<td>Questions:</td>
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<td>• What does the implementation of R2P look like in the area foreign policy and development cooperation in your country – what are the current areas of cooperation and assistance which have been/could be mobilised to strengthen the domestic institutionalisation of R2P objectives?</td>
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<td>• Can you envisage alternative institutional mechanisms/sites that would need to be created to facilitate this agenda?</td>
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<td>• Are there any challenges/set-backs to enacting R2P in your foreign policy and development assistance, and how may these be mitigated/circumvented?</td>
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<tr>
<td>Time</td>
<td>Session</td>
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<tr>
<td>14:30 – 15:00</td>
<td>Afternoon tea</td>
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| 15:00 – 16:30| **Session Seven Panel: Civil Military Operations and Peacekeeping**  
**Moderator:** Jochen Prantl  
Civil military assistance and peacekeeping operations both work to directly strengthen state security sector, and rule of law capacity to prevent atrocities and protect populations from them. This panel considers the specific relevance of R2P to these areas of assistance, and strategies for best implementing an atrocity prevention lens within these areas.  
- To what extent are Pillars One and Two already promoted in practice in civil military assistance/peacekeeping operations?  
- Is there scope to develop new strategies that would more effectively operationalise R2P objectives in the field? Specifically, how can current missions promote atrocity prevention through their assistance?  
- In operational terms, to what extent should PoC be analytically separated from R2P given their complementarity for putting human protection concerns to the fore? |
| 16:30 – 17:00| **Closing Comments and Plenary Discussion**   |

**Speakers:**  
Lisa Sharland  
Col Bradley Orchard  
William Maley  
Charlie Hunt  
Alex Bellamy  
Cecilia Jacob
C O N T A C T  U S

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