

Making Multilateralism Effective  
Implementing the Responsibility to Protect

Text of the speech?

Event Summary

Speaker: Mark Malloch Brown, Former Deputy Secretary General of the United Nations; Visiting Fellow, Yale Center for the Study of Globalization

Moderator: David Birenbaum, Senior Policy Scholar, Woodrow Wilson Center; Former United States Ambassador to the United Nations for UN Management and Reform

Opening Remarks: A. Edward Elmendorf, President, United Nations Association of the National Capital Area

On May 7, 2007, the Project on Leadership and Building State Capacity of the Woodrow Wilson International Center for Scholars (WWICS) partnered with the United Nations Association of the National Capital Area (UNA-NCA) to discuss the Responsibility to Protect (R2P) doctrine in a panel discussion entitled Making Multilateralism Effective: Implementing the Responsibility to Protect. The event, which marked the final in a three-meeting series on United Nations (UN) reform, examined the challenges faced by the United Nations and its institutions in their efforts to implement R2P, as well as the importance of effective multilateralism and a mobilized civil society to support the R2P doctrine.

Mark Malloch Brown introduced the topic of multilateralism and its relevance to the R2P doctrine. Recognizing that the world is now more integrated than ever, he emphasized the growing need for international governance. He noted that the ability of nation states to deal with global issues is proving insufficient, and as a result, efforts to impose an outside order on nation states have increased. In fact, the international community has witnessed a dramatic shift towards a new consensus on the establishment of a global regime capable of addressing transnational issues such as environmental sustainability, among others.

The R2P doctrine emerged out of the growing recognition that the international community has a responsibility to intervene in the face of egregious human rights abuses such as the devastation that took place in Rwanda and Yugoslavia. However, the international community is often hesitant to interfere in the sovereignty of individual nations, and consequently, effective implementation of R2P has become the primary challenge. While the situation in Darfur has given vision and momentum to the R2P doctrine, Malloch Brown noted that the lack of action has proved to be a huge embarrassment for the champions of the doctrine and has highlighted the difficulties of effectively implementing R2P.

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When asked about the responsibility to implement R2P, Malloch Brown noted that individual member states tend to shuffle this responsibility onto the Secretariat, despite the fact that member states have troops and the United Nations does not. He attributed this fact to the steady decline in the acceptance of peacekeeping as a global priority and the general hesitancy of Western states to contribute troops. Looking specifically at Sudan, Malloch Brown explained that the responsibility to contribute troops must be globally shared. In addition, he emphasized the importance of professionalizing the UN forces. He advocated for the establishment of a standing arrangement supported by a stand-by logistical capability. He recommended establishing a stand-by police force, which he believed would be more palatable and less threatening than a stand-by peacekeeping force. In conclusion, Malloch Brown reiterated that any military force in Darfur must first be backed by financial sanctions and criminal indictments.

A lively question and answer session between members of the audience and panelists followed.

On the topics of disarmament and nuclear proliferation, audience members were skeptical that progress could be made under the current US administration. In response, Malloch Brown agreed that the controversy over disarmament versus non-proliferation has stalled the process, but explained that the international community does not need to wait for a change in US leadership before it can act. Rather, he emphasized the importance of engaging the powers that have chosen not to join the nuclear club.

In addition, audience members asked Malloch Brown to comment on the topic of public health, in particular whether it should be included within the parameters of R2P. Malloch Brown agreed with the audience that public health is conceptually the same as R2P, noting however, that public health initiatives within an R2P framework would be met with significantly more resistance.

Audience members inquired about the response of Muslim nations towards Darfur. Malloch Brown responded that he was very disappointed with the lack of action on their part. He concluded that very few of these nations have the open civil society or freedom of action that is expected in the United States and other Western nations, and as a result, they were not able to mobilize public opinion around Darfur.

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## The Responsibility to Protect: From an Idea to an International Norm, Gareth Evans

Keynote Opening Address by Gareth Evans, President of International Crisis Group and Co-Chair of International Commission on Intervention and State Sovereignty, to the Chicago Council on Global Affairs et al Conference on The Responsibility to Protect: Engaging America, Chicago, 15 November 2006

The last six years have been rather comprehensively desolate ones for U.S. foreign policy, as the rest of the world has been saying for some time, and a majority of the American people seem at last now to agree. But every now and again a little candle flickers in the darkness, as someone somewhere in high places says something that does squarely hit the mark.

X Condoleezza Rice had such a moment on 23 September this year, in a statement she made in the margins of the UN General Assembly. After noting, accurately, that "the violence in Darfur is not subsiding, it is getting worse", the Secretary of State said this: "If the notion of our responsibility to protect the weakest and most powerless among us is ever to be more than an empty promise, then we must action to save lives."

This statement is worth close attention for two reasons. First, because it squarely recognizes and embraces the new international norm of the 'responsibility to protect' - or 'R2P' as we are all now calling it in this age of acronymphomania - and does so precisely in the context where its application is most immediately called for, the situation in Darfur. The dream of Richard Cooper - the Convenor of the R2P Coalition and the force of nature behind this conference - of an America restoring its moral authority in the world, leading the way in recognizing that when it comes to atrocity crimes we are all our brothers' keepers, seems not so far from realization after all.

But Secretary Rice's statement also demands attention for a more depressing reason: like most of the high-sounding calls to action that have preceded it, the long trail of 'never agains' that have stretched from the Holocaust to Cambodia to Rwanda to Srebrenica, it has not been followed by any meaningful action at all, from the U.S. or anyone else, in the UN Security Council or anywhere else.

Not only has the most extreme form of coercive response in the R2P repertoire - non-consensual military force in the form of a full-fledged ground invasion - been ruled out as unthinkable (which may be a defensible position right now, but the option has to be kept on the table), but so too, it seems, have been much less extreme but potentially very effective lesser coercive measures like an enforced no-fly zone, and a series of targeted sanctions measures directed against key members and supporters of the Khartoum regime which would, if past behaviour is any guide, concentrate minds wonderfully on the advantages of allowing into Darfur a full-size and fully-capable international peacekeeping force and embarking on meaningful political settlement negotiations.

X And so it is that, in the absence of any such effective action, the talk continues, and so far just as unproductively as all the talk that has preceded it - in a region where over the last three years at least 200,000 people have died, over 2 million have been displaced, 5,000 more are dying each month from war-related disease and malnutrition as well as continuing outright violence, international peacekeeping efforts have been manifestly inadequate, humanitarian relief is faltering and the overall situation is again deteriorating. If the responsibility to protect is a new international norm, setting new standards to guide international behaviour, it is one that has a long way to go before it is effectively operationalised in practice.



✓✓ All that said, however, my purpose in this opening address is not to depress but to encourage you: not to emphasize how far we have yet to go with R2P, but to lay a positive foundation for our discussions over the next two days by describing how far we have actually come. The concept of the 'responsibility to protect' has now been formally and unanimously embraced by the whole international community in the UN 60th Anniversary World Summit in September 2005, and reaffirmed subsequently by the Security Council in April this year, and that really is something to celebrate. 2006

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now: nearly seven  
In just five years - a remarkably short time when set against other movements in the history of ideas - we have seen the emergence of what can reasonably be described as a brand new international norm of really quite fundamental ethical importance and novelty in the international system. On any view that is unquestionably a major breakthrough, and one that, for all the grinding and wearying task of implementation that lies ahead, should regenerate our optimism about the art of the possible in international relations.

identity  
To see how far we have come, we have to remember where we were. For centuries, going all the way back to the emergence of the modern system of sovereign states in the 1648 Treaty of Westphalia, the view has prevailed that, to put it bluntly, sovereignty is a license to kill: what happens within state borders, however grotesque and morally indefensible, is nobody else's business. Although the language of the 1945 UN Charter is more delicate, it essentially reflects this traditional view, with Article 2(7) providing: "Nothing should authorise intervention in matters essentially within the domestic jurisdiction of any State". The UN founders were overwhelmingly preoccupied with the problem of states waging war against each other, and took unprecedented steps to limit their freedom of action in that respect. But, notwithstanding all the genocidal horrors inflicted during the Second World War, they showed no particular interest in the question of what constraints might be imposed on how states dealt with their own subjects.

The slate in this respect was not entirely blank. Individual and group human rights were recognized in the UN Charter and, more grandly and explicitly, in the Universal Declaration. With the drafting of the Charter of the Nuremberg Tribunal in 1945 came the recognition in international law of the concept of 'crimes against humanity', which could be committed by a government against its own people, and not necessarily just during wartime. And then came the Genocide Convention of 1948, with its apparently explicit override of the non-intervention principle for the most extreme of all crimes against humanity.

But it was almost as if, with the signing of the Genocide Convention, the task of addressing man-made atrocities was seen as complete: it was rarely invoked, and never effectively applied. And it is only in very recent years - with the establishment of the international criminal tribunals on the former Yugoslavia and Rwanda, and now the creation (over U.S. objections) of the International Criminal Court - that anything remotely systematic measures have been taken by the international community against individuals committing crimes against humanity.

The state of mind that even massive atrocity crimes like those of the Cambodian killing fields were not the rest of the world's business, prevailed throughout the UN's first half-century of existence: Vietnam's invasion, which stopped the Khmer Rouge in its tracks, was universally attacked, not applauded. The traditional view of sovereignty, as enabling absolute control of everything internal and demanding immunity from external intervention, was much reinforced by the large increase in UN membership during decolonisation era - the states who





joined were all newly proud of their identity, conscious in many cases of their fragility, and generally saw the non-intervention norm as one of their few defences against threats and pressures from more powerful international actors seeking to promote their own economic and political interests.

With the arrival of the 1990s, and the end of the Cold War, however, the prevailing complacent assumptions about non-intervention came under challenge as never before. The quintessential peace and security problem became not interstate war, but civil war and internal violence perpetrated on a massive scale. With the break-up of various Cold War state structures, most obviously in Yugoslavia, and the removal of some superpower constraints, conscience-shocking situations repeatedly arose. But old habits of non-intervention died very hard. Even when situations cried out for some kind of response, and the international community did react through the UN, it was too often erratically, incompletely or counter-productively, as in Somalia in 1993, Rwanda in 1994 and Srebrenica, in 1995. Then came Kosovo in 1999, when the international community did in fact intervene as it probably should have, but did so without the authority of the Security Council in the face of a threatened veto by Russia.

All this generated very fierce debate about came to be called the issue of "the right of humanitarian intervention". On the one hand there were those - mostly in the north - who argued strongly for the 'the right to intervene'; on the other hand, claims were equally vehemently made - mostly in the south - about the primacy and continued resonance of the concept of national sovereignty. Battle lines were drawn, trenches were dug, and verbal missiles flew: the debate was intense and very bitter, and the 90s finished with it utterly unresolved in the UN or anywhere else. This led Secretary-General Kofi Annan to make his agitated plead to the General Assembly in 2000, which brought the issue to a very public head, and which resonates to this day:

If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violations of human rights?

The task of meeting this challenge fell, in the event, to International Commission on Intervention and State Sovereignty (ICISS), sponsored by the Canadian Government - and more particularly its wonderfully principled and far-sighted and principled then foreign minister Lloyd Axworthy - and also supported by Chicago's ever-innovative and generous MacArthur Foundation. I had the privilege of co-chairing the Commission with the Algerian diplomat and veteran UN Africa adviser Mohamed Sahnoun, and we presented our report, entitled The Responsibility to Protect, at the end of 2001.

*December*

The objectives of the Commission, as we defined them to ourselves from the outset, were essentially threefold: to produce a guide to action on responses by the international community to internal, man-made, human-rights violating catastrophe, which would be intellectually credible and satisfying, not profoundly offending either the lawyers or philosophers; politically credible enough not to be rejected out of hand, as a framework for action, by either North or South, the permanent five members of the Security Council or any other major international constituency; and compelling enough in its basic message to be able in practice to actually motivate action and mobilise support when a situation demanding such a response arose.

There were several reasons for thinking that we might not be totally deluding ourselves. The Commission's membership was strong - with its U.S. member, for example, being Lee



Hamilton - and well balanced regionally; we engaged in consultations just about all round the world; the report was succinct but comprehensive in scope, addressing not just the legal and moral dilemmas which have been at the heart of most of the academic and policy debate about coercive intervention so far, but political and operational issues as well; its recommendations had a sharply practical political focus; and, above all, its approach was innovative, bringing to the table some genuinely new ways of thinking about the issue, encapsulated in the title of our report. We made, I think it is fair to say, four main contributions to the international policy debate which have been resonating ever since.

① The first, and perhaps ultimately the politically most useful, was to invent a new way of talking about 'humanitarian intervention'. We sought to turn the whole weary debate about the 'right to intervene' on its head, and to re-characterise it not as an argument about the 'right' of states to anything, but rather about their 'responsibility' - one to protect people at grave risk: the relevant perspective, we argued, was not that of prospective interveners but those needing support. The searchlight was swung back where it should always be: on the need to protect communities from mass killing and ethnic cleansing, women from systematic rape and children from starvation. The Commission's hope - and so far, broadly, our experience - was that using 'responsibility to protect' rather than 'right to intervene' language would enable entrenched opponents to find new ground on which to more constructively engage, just as proved to be the case, after the Brundtland Commission years earlier introduced the concept of 'sustainable development', between developers and environmentalists. With a new script, the actors have to change their lines, and think afresh about what the real issues in the play actually are.

② The second contribution of the Commission, perhaps most conceptually significant, was to insist upon a new way of talking about sovereignty: we argued that its essence should now be seen not as 'control', as in the centuries old Westphalian tradition, but, again, as 'responsibility'. The starting point is that any state has the primary responsibility to protect the individuals within it. But that is not the finishing point: where the state fails in that responsibility, through either incapacity or ill-will, a secondary responsibility to protect falls on the wider international community.

③ The third contribution of the Commission was to make it clear that the 'responsibility to protect' was about much more than intervention, and in particular military intervention. It extends to a whole continuum of obligations: the responsibility, most important of all, to prevent these situations arising; the responsibility to react to them when they did, with a whole graduated menu of responses, from the persuasive to the coercive; and the responsibility to rebuild after any intrusive intervention - of which the most important is the responsibility to prevent.

④ The remaining contribution of the Commission was to come up with guidelines for when the most extreme form of coercive reaction, military action, would be appropriate. The first criterion was obviously legality, and here we saw our task as not to try and find alternatives to the clear legal authority of the Security Council, but rather to make it work better, so there was less chance of it being bypassed. That was followed by five criteria of legitimacy, designed as a set of benchmarks which, while they might not guarantee consensus in any particular case, would hopefully make its achievement much more likely. These criteria were, a) in short, the seriousness of the harm being threatened (which would need to involve large scale loss of life or ethnic cleansing to prima facie justify something as extreme as military b) action); the motivation or primary purpose of the proposed military action; whether there were

