"Responsibility to Protect: An Emerging Principle"

When:
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Where:
Trygve Lie Center for Peace, Security & Development
International Peace Institute
777 United Nations Plaza, 12th Floor
(Corner of 1st Avenue and 44th Street)

TRANSCRIPTION

Chair:
Warren Hoge, *Vice President for External Relations, International Peace Institute*

Speakers:
Herman Schaper, *Permanent Representative of the Kingdom of the Netherlands to the UN*

Hardeep Singh Puri, *Permanent Representative of India to the UN*

Colin Keating, *Executive Director of the Security Council Report*

Hoge:	Good afternoon, and welcome. I'm Warren Hoge, IPI's Vice President for External Relations. And I'm happy to welcome you to this policy forum, co-sponsored by IPI and the Permanent Mission of the Kingdom of the Netherlands to the United Nations on the subject "Responsibility to Protect: An Emerging Principle." Let me just ask a question, I see a few of you putting your hands over your eyes, is this too bright? Can we just lower the sun shades a little bit? Thank you.
	It's been nearly ten years since the responsibility-to-protect principle was first articulated by the International Commission on Intervention and State Sovereignty, and almost six since it was refined and adopted by the 2005 World Summit. Along the way, it achieved the ultimate emblem of UN acceptance, its own acronym, RTOP.
	The heads of state and government at the 2005 Summit pledged unanimously to protect their populations by preventing genocide, war crimes, ethnic cleansing and crimes against humanity, as well as by preventing the incitement of such acts. And they said the international community should assist states in that regard and promise to help the United Nations establish an early -warning

capability. In what has become the most controversial part of the principle, they said that when peaceful means to assure protection proved inadequate, they were, "Prepared to take collective action in a timely and decisive manner, through the Security Council."

In January 2009, Secretary-General Ban Ki-moon introduced and integrated set of ideas for implementing RTOP standards based on three pillars: one, the prevention and protection responsibility of the state; two, the responsibility of the international community to help states meet these core responsibilities; and three, the use of the full range of tools under the UN Charter to respond to situations of manifest failure.

There have been continuing questions about selectivity in RTOP's application by the Security Council and fears of possible misuse by powerful members-states. And those concerns have become particularly pointed because of recent Council decisions on the Côte d'Ivoire and on Libya.

To encourage an exchange of views on these recent developments and on the role of RTOP as an emerging principle for action under international law, we have assembled a notable panel.

They are, in the order in which they will speak, Herman Schaper, the Permanent Representative of the Netherlands to the United Nations since September 2009. His full biography and that of the other speakers are in your program. But just to mention a few highlights, Ambassador Schaper was, prior to taking his present position, his country's permanent representative to NATO's governing body, the North Atlantic Council, and before that, the Deputy Director General for Political Affairs at the Ministry of Foreign Affairs in the Hague.

Hardeep Singh Puri took up his present post as the Permanent Representative of India to the UN in May 2009. And before that, he held ambassador-level positions in London, Brazil, and at the UN in Geneva. I first met Ambassador Puri at a moment that is anathema to a moderator. We had just finished some presentations at a retreat for UN diplomats and other officials and I had gone to the floor for questions and comment, and there was dead silence. It was then that happily Ambassador Puri came into my life with an intervention that was so compelling and provocative that everyone else then jumped in. So I proceed more assuredly as your chairman today knowing that Ambassador Puri is by my side.

And, finally, an old friend of IPI, Colin Keating is the Founding Executive Director of *Security Council Report*, which even I will acknowledge is read in this community with as much attentiveness as is *The New York Times*. He was the Permanent Representative of New Zealand to the UN between 1993 and 1996, and spent two of those years sitting on the Security Council. So Ambassador Schaper, will you please start us off?

Herman Schaper: Yes, with pleasure. Thank you for that introduction. The Netherlands were, as you mentioned, Warren, is together, with the IPI, the co-organizer of this luncheon discussion. So I would like to begin by expressing my appreciation that so many of you have accepted the invitation to participate in this discussion.

Two years ago, the Secretary-General described operationalizing responsibility to protect as one of the cardinal challenges of our time. And in his recent statements after his reelection, he reemphasized the importance of responsibility to protect. Particularly now that RTOP has become a hot issue on the

international agenda with the crisis in Libya, but also in Ivory Coast, we thought it important to promote an open discussion on these issues within the member-states of the UN and with the general public. And the Netherlands, as one of the co-chairs of the Group of Friends on Responsibility to Protect in the General Assembly is therefore very interested in hearing your views in this discussion. I'll try to keep it short and stay within the ten minutes. And I think I'll best do that by limiting myself to two specific elements of a much broader picture one can sketch.

The two elements I would like to focus on is, what RTOP means for the UN itself? And, secondly, the decision of the Security Council to authorize a military air campaign in Libya to protect the civilian population.

As far as the first subject is concerned, let me begin by saying that RTOP is based on two principles that were already firmly established when the World Summit of 2005 embraced RTOP. First of all, that it is the responsibility of governments to protect their populations against gross violations of human rights; and, secondly, that a promotion and protection of human rights are a legitimate concern of the international community.

Now what the World Summit did was that it narrowed this responsibility to the four cases, as Warren already mentioned, of genocide, war crimes, ethnic cleansing and crimes against humanity, and at the same time, deepened it by agreeing that the international community should assist states in exercising this responsibility and in building their protection capacities. And it also confirmed that the international community was prepared to take collective action, as again, Warren quoted, when a state was nevertheless manifestly failing in its protecting its populations from these four mass atrocities.

Since 2005, the discussion on RTOP has progressed somewhat hesitantly and slowly. But over the last two years, with increasing momentum with a focus on the implementation of the 2005 decisions, last year's debate focused on early warning and this year's with the run of regional organizations. An appropriate subject for a third GA debate would be the mainstreaming of RTOP within the UN system here in New York, in Geneva, and in the field.

The UN is already involved in many activities which have a direct effect on the prevention of mass atrocities. These activities are often not labeled as "RTOP". For example, support to conflict prevention has also contributed to the prevention of the four crimes. And, similarly, many development activities focused on governance have a positive impact on RTOP. These activities could, however, take RTOP more explicitly into account, we think.

The joint office in the UN Secretariat, headed by Francis Deng and Ed Luck, has a special responsibility in this regard, to mainstream RTOP, to advise UN entities on ways to address RTOP in their regular work. But many UN actors also have their own responsibility to develop and implement their support to RTOP. An early warning, the cooperation between the office of Ed Luck and Francis Deng, UN missions and their SRSGs, even country teams, DPKO and OCHA could be enhanced.

Improvement of collecting and sharing information is also necessary to facilitate assessment of possible RTOP crimes in an earlier stage. And this could include sending fact-finding missions to specific countries. DPA could also extend its engagement with countries during critical political events such as elections to support the prevention of mass atrocities. Addressing hate speech is crucial in

these stages. It is not always seen as a priority as it is considered to be only talk. But we know what that kind of talk can lead to.

DPA could also extend the training on mediation for regional organizations by including specific modules in RTOP. And a deepening of the cooperation in a broader sense with these regional organizations would also be a step forward. DPKO and DPA could integrate RTOP in their respective missions on the ground from political dialogue with governments, the SRSGs have to stress the responsibility of the state and non-state actors to protect populations. SRGs also have an important role to play in local conflict mediation and resolution. A special attention should be given, we think, to capacity building for the rule of law which needs more support also from donors. UNDP plays an essential role in these areas as it does in a more general sense through their country programs. They could, for instance, integrate training for state actors in civil society on prevention of mass atrocities in their programming.

So this is rather a substantial and broad agenda, which I haven't completely filled in. But just to make the point that with all the focus on Libya and the military element of Libya, there is a much wider agenda we need to implement and which involves the whole of the UN. It is, at the moment, overshadowed by the debate of Libya, but it remains as important as it was from the beginning of the discussion about the implementation of RTOP.

Now then on my second subject: Implementation of RTOP in the case of Libya. The basis, so to speak, of the action of the international community was given by Resolutions 1970 and 1973 of the Security Council. Both resolutions were based on the grave concern of the Council that the violence and use of force employed by the Libyan Government against civilians and recalled the Libyan authority's responsibility to protect its population. And this particular quote came forward very strongly, particularly when it was connected in Resolution 1973 with the use of all necessary means, meaning military measures. In Resolution 1970, the Security Council first tried to deal with the developing crisis in Libya by putting pressure on Qaddafi and his regime by taking a series of non-military measures-- referral to the ICC, an arms embargo, a travel ban for 16 individuals and an asset freeze.

Now when the situation quickly worsened, however, and these steps did not have the desired effect, the Council decided three weeks later on Resolution 1973, which authorized member-states to take all necessary measures to enforce a no-fly zone and to protect civilians and civilian-populated areas in Libya while excluding, however, a foreign occupation force of any form. This last element is generally interpreted as no troops on the ground, at least no fighting units.

After these decisions were taken and the air campaign, with its bombardments of targets on the ground had started, the question was raised, whether RTOP should be invoked when authorizing the use of military force? The answer to that question is simple I think: the eventual use of military force as a last resort has always been included in RTOP.

The concluding document of the 2005 document speaks about collective action should peaceful means be inadequate; clearly implying that then non-peaceful means should be taken through collective action.

A second, more difficult question is whether NATO, which took on the task of executing the mandate provided in Resolution 1973 overstepped its mandate to enforce a no-fly zone and to protect civilians and civilian-populated areas. One

hears different stories about the degree which the Security Council discussed what the military implementation of Resolution 1973 would entail. And Ambassador Puri knows more about that, but I'm not sure the degree to which he is allowed to speak about it openly today. But, anyhow, perhaps he can shed some light on the discussions in the Security Council. Anyhow, there was of course very little time as Qaddafi's troops were racing towards Benghazi. One thing is clear, however, in my view, that there was nothing like a careful and detailed process of preparation for decision-making on the military operations which takes place in, for instance, NATO -- and as Warren mentioned, I was posted there for a couple of years – whether it's a process of a concept of operations, further stages of planning, including operational planning, and the rules of engagement. Now there are several reasons for this, a very, basically, the absence of some kind of military adviser, military preparation when the Security Council decides on a military actions.

A strange disconnect there, I would think. Several reasons for that, beginning with the simple lack of capacity in DPKO to do this kind of work. The point I want to make now is that this lack of detail and careful preparation, together with the different political positions on Resolution 1973 as came out in the vote in the Security Council, made it nearly inevitable that the debate would start on what exactly the resolution authorized. At the same time, limiting the military campaign to air operations didn't make it easier for the military. Sometimes an aerial bombardment can make all the difference as would have been the case at Srebrenica. But take the case of Rwanda where it clearly would have been inadequate if the Security Council had taken a decision to limit the operation to an air campaign. In that case, ground troops were called for, but the UN troops on the ground were withdrawn instead of reinforced.

In Libya, it became rapidly clear that the mandate to enforce a no-fly zone and to protect civilians through an air campaign for which there were, of course, strong political and practical reasons, would not bring the Qaddafi regime to resolve the crisis through peaceful means and serious dialogue as Resolution 1973 calls for.

Therefore I think it's fair to conclude that the intervention of the international community was certainly timely, but not decisive; timely and decisive are the two criteria which are mentioned in a 2005 document of the World Summit. It was too limited to be decisive.

At the same time, Resolution 1973 allowed all necessary measures in the air campaign. And as Secretary of Defense Gates, for instance, has already made clear, before the vote was taken in the Security Council, this meant taking out Qaddafi's air defenses on the ground. It also means taking out command and control centers of the Libyan military and attacking Qaddafi's troops, threatening rebel-held cities and territory, thereby preventing Qaddafi from regaining control of rebel-held territory. In practice this meant assisting the rebels.

But it's difficult to see how this could have been otherwise. And I'm interested to hear comments and debate on that. There is a criticism that basically the UN and NATO are taking sides in the conflict. But how to do it otherwise when implementing the resolution? At the same time, the debate on the military campaign in Libya could have, as a consequence, that the Security Council will in the future be more hesitant to invoke RTOP in future crises. The notion of RTOP was already politically-sensitive and it has become more so, and more contested, perhaps, in a certain way, certainly in a military way than in the past. I think it would therefore – and now I'd like to finish with that – it could therefore perhaps

be useful to start the discussion, which hopefully will then lead to, contribute to informed decision-making on the principles for military intervention on RTOP.

The International Commission on Intervention of State Sovereignty were mentioned, that was the commission that originally popularized the concept of RTOP in 2001. That commission has included in its report a series of such principles, such as right intention, last resort, proportional means, incrementalism and the application of force, clear objectives, reasonable prospects of success to name just a few of them. I'm not saying that these principles should then be enshrined in some kind of formal framework for decision-making.

Again, the 2005 World Summit clearly stated that decisions on RTOP would be on a case-by-case basis, not a kind of established road map where one conclusion would have to follow from a certain situation by definition. And also members of the Security Council would not want to have their hands bound by a formal framework. But still I think it could be useful to have such a discussion to deepen our understanding on the possibilities and impossibilities of the use of military force in the protection of civilians, and thereby hopefully also contributing to the political support for RTOP. Thank you.

Hoge: Thank you, Ambassador Schaper. Ambassador Puri, I'm glad you're here for the reason I stated before, but also since India abstained on the resolution that basically was the basis for the second half of Ambassador Schaper's comments, your presence is timely and welcome. And the floor is yours.

Hardeep Singh Puri: Thank you very much. Let me start with a confession: I was conned into participation in this meeting today. I was having a discussion with my very dear friend Herman. And we were discussing something intellectually-stimulating, food security and how international food prices were shooting up. And that was a closed-door meeting. It had a few cerebral but aging permanent representatives like him and me. And we had an intellectually stimulating discussion.

And, suddenly, he says, "You know, I want to organize a discussion on RTOP." And my ears tried to come out of the turban, and I said, "Wonderful." And then he said that, "You know we want an informed discussion." I said, "Fine." And I said, "Yes." This morning when I found out what the audience was going to be, I discovered that 140 people with strong views on RTOP were going to be sitting here. So I said, "This gets better and better." And then when I was pouring myself a coffee, I asked him, "Listen, friend, is this off the record, on the record, Chatham House rules?" And then I discovered that this was on the record because there's no possibility of getting 140 people, very learned, very robust and keeping this quiet. So I think I'm at a disadvantage, but I'm going to have some fun, okay? Because I didn't know what I was in for. But let me give this to you straight away as I see it: first of all, I don't have a prepared text. So anything that I'm quoted on later, I will say that it's your word against mine, okay?

But let me start by what Herman had said and then I will construct on it. He says he's the core organizer of this event, which means he's paid for the lunch, okay? Then he says the discussions on RTOP have progressed during the last two years. I agree, but I would have added that in the last six months that I've been on the Security Council, the discussion on RTOP have not progressed. They have regressed. And I think he mentioned the case of Libya, I'll give you a characterization of what I think Libya has done to the responsibility to protect provision, I'll come back to them in a minute.

Protection of civilians, I will talk about that along with the responsibility to protect. No-fly zones, no troops on the ground, collective action. Frankly, if the 192 member-states of the United Nations had focused on the reference to collective action in Paragraph 139 of the World Summit Outcome document, and they realized that it makes the possibility for intervention of military campaign of the Libyan type open, I don't think you could have gotten that document adopted in 2005. That's my take. I was not here, but I'm 100 percent sure.

After the document was adopted, there's always been a lurking suspicion about what exactly the responsibility to protect means. Those of us who come from countries like India and others who have a similar traditional mindset, historical appreciation, we always believed – and I believe that is still to be the case – that this concept is in the context of state sovereignty. In other words, we are dealing with situations where the fulfillment of these responsibilities has to be undertaken by the state. And therefore, if you read Paragraph 138, everybody could agree to this. And I could argue at one level that there is nothing to discuss on responsibility to protect, which is agreed.

Let us find out what we agree. Each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing, and crimes against humanity. This responsibility entails a prevention of such crimes, including the incitement to appropriate the necessary means. We accept, we member-states that responsibility and will act in accordance with it. In other words, we're assuming this obligation.

The international community should, as appropriate, encourage and help states to exercise this responsibility and support the United Nations in establishing early-warning capability; 138 is absolutely clear. So let's come down to the drawing board. The United Nations itself is, in terms of political theory, based on the Westphalian construct. You have nation states, nation states have sovereignty within their jurisdiction. Nation-states interact with each other on the basis of non-interference. This is reflected in Articles of the charter, crystal clear. So you are no longer dealing here with just any violence.

You are no longer dealing with crimes. You are dealing with principle categories: genocide, war crimes, ethnic cleansing and crimes against humanity. Why did this sudden fervor come to get RTOP on the ground? My analysis is you'll never get a real answer. The international community and some prominent people who were in decision-making positions found that when the situation in Rwanda began, there was enough information available in the international community for a call to be taken. And, yet, the international community did not act.

I did some research in the context of somewhere else where I was appearing, and I found that the United Nations finally conceded that acts of genocide may have been committed on May 17th, 1994. By that time, the Red Cross had estimated that 500,000 Rwandans had been killed already. There was information around much earlier. There were very important people, very important countries said, "This is not on our watch. This does not concern us." So they did not take action.

Therefore, when I intervened in an interactive debate in the General Assembly, I asked Bertie Rancherow who was around since that time, I said, "Bertie, tell me, if you had this early-warning mechanism which is being established now," this is some months ago, "could Rwanda and Srebrenica been avoided?" Srebrenica similarly, information was available, you couldn't find the under-Secretary-General, somebody else was on leave. Well, you decided to look the other way.

Disgraceful and scandalous. But that is what weighed with the international community for them to move on RTOP. Up to there, it's laudable, perfect. There's no problem. I don't think anyone of us, whether we are members of civil society, members of the [PH]four to state, the press, all we are member-states of the United Nations. Anyone wants anything to do with the situation in which there is a likelihood of genocide or war crimes or ethnic cleansing, crimes against humanity, we would want to stop it, clear. No problem.

But what happens with the concept and how do you implement it? That's my real worry. And I make a few introductory comments and I will then come to Libya. Clearly, in my mind, there are a number of conceptual flaws in the concept as it stands today. Paragraph 38 of the World Outcome Summit document, you can read in one way, Paragraph 39, which is invariably the kind of balancing act that we always do in the United Nations. And if you say "collective action," it means something totally different, and the two contradict each other. There is no unanimity about the concepts and the operation of universal morality and universal jurisdiction on which RTOP legislation and enforcement are based.

There might be a fuzzy agreement about what constitutes a just cause, but much more clarity is needed and many doubts have to be raised before RTOP can be accepted as international law. And we were progressing in that direction. We may have been able to get there, but I think the developments in Libya and the whole issue of implementation of RTOP has brought up a huge question mark. Let me put this to the side. This whole political philosophy and political theory construct is based on each state being responsible for whatever happens within its jurisdiction. But you are clearly dealing with a state which is either a failed state or a state which does not have institutions, or more serious, as in the context of recent developments, where the state, in turn, becomes oppressor.

That is the real problem. It is not that the state has failed. Here are questions that the state is facing protest. It starts sequentially, there is an Arab Spring, first there's Tunisia, Arab Spring, Egypt, Bahrain, Yemen, there are protests. At some stage, that protest which is a fundamental right in any democracy becomes something more than a protest. It transforms itself into an armed protest, maybe because the state authorities use repressive means against the demonstrators

And then it acquires a new character. Why is Libya such a problem? Because 1970, 1973 to me are clear; we voted along with 1970 even though the Indian position always was, "Hey guys, slow down. Let's have a gradual and calibrated approach." A referral to the ICC is not something that is likely to resonate with the ruler or the person in political power in Libya. I do not think those kinds of messages carry very much resonance there. That was our view. But, no, the international community, many of my colleagues on the Security Council said, "This is an absolute must. We must send a strong message." Being new on the Council, after having come on the Council after 19 years, we demurred, said, "All right, you want to go ahead? Go ahead and do it." And 1970 came through; but 1970 and then 1973. But the provisions are very clear. There's an arms embargo, which means the existing regime cannot be supplied arms. But it does not mean that the opposition group can be supplied arms. I mean, you can interpret 1973 with me in many ways or 1970. Please, I have not heard one cogent explanation which says that you can put military advisers on the ground.

So I don't want to get into the details whether this is mission creep or whatever it is, we are dealing with a situation here where the international community took certain actions because of the facts which were available. Why was 1973 passed? I'm very clear in my mind. There was no appetite for the kind of

provisions that there were in 1973, but the representative of one of the member-states on the Security Council said exactly what our moderator said earlier today, that the troops were marching towards Benghazi, there would be rivers of blood, and unless the international community moved, and you needed to take decisive action, all in the name of protection of civilians.

So some of us who have some military background, in the sense I've had the privilege of serving on deputation to the Ministry of Defense, I said, "Please explain to me how you can possibly enforce a no-fly zone without undertaking basic military operations?" You have to neutralize ground installations. So that was answered, it was very clear as to where we were going.

We also inquired, where will the assets come from? Because if there is going to be a sustained, comprehensive military operation on the behalf of a number of participants, there aren't, frankly, too many countries in the world which have those kinds of assets. And there is nothing I heard or saw in my work as a member of the Security Council which gave me the confidence that those assets were forthcoming from one particular source where they could come from. And that we were dealing, in the end, with a number of countries who had a broadly-converging objective without clarity as to how you were going to get there. And that is precisely what happened.

Therefore, we kept raising questions, and we abstained. We abstained without any hesitation, and if you read the Indian explanation of vote, it is a fairly cogent statement of why India abstained. Brazil abstained, a few other countries abstained. I don't want to go into that at the moment. But what was this Libyan experience based on? It was based on a very simple construct that the political dispensation in Libya is facing massive unrest from its civilian population. That the regime there is tottering, that all that it required was a little bit of a push from the outside and democracy would assert itself. That is the kind of thinking-- I'm not saying anybody said this to me, but this is the kind of thing I used to hear everyday in the Council. And I'm not taking names because I'm not going to go into Council discussions. That all it requires is a little bit of a push. We kept saying, "This is a tribal society. You're not entirely sure. Are you sure about the people who are fighting the regime?" And suddenly found that those guys were very well armed. They could bring down aircraft of the other side. So the arms embargo clearly had not been effective and this is not the place to discuss that. All I'm making a cross reference to is, we are talking in the context of RTOP as to what exactly happened in Libya. But all right, I think the international community was quiet 30 days, 60 days, 90 days. However, we are into the fifth month now or something like that?

Schaper: Fourth.

Puri: Fourth month of military campaign? Well, that's not the issue. Even if there is-- For instance, they keep saying, "Regime change is not the thing." Fair enough. Regime change is not the objective, but that's what's happening.

Why is the political process not starting? Because those who are calling the shots here say, that present political dispensation has to go, then we will have that. In other words, the removal of that man is being-- The whole political process is being held hostage to that.

Again, I'm not going to go into that in details, we're not discussing Libya. We're discussing RTOP. Now, let us say there's physically something happens and there is a change in the political dispensation there. Do you think the problem is

going to be solved in a society which is a tribal society where tribal loyalties will make the determination? And, yesterday I heard something which completely blew my mind, completely. Somebody briefing the Security Council, I won't name them, said in the context of the protection of civilians, because this was what it was supposed to be all about, made the statement that, "The regime there has killed more civilians than the NATO bombing." Oh, my God, this was a candid admission that the purpose for which this whole thing was being carried out is resulting in the death of civilians. Obviously, so then I asked, I said, "Tell me, at the end of the day, you say you don't know what the ceasefire is going to be. A ceasefire between whom? I mean, accept the large-scale devastation and rubble which is going to be witnessing this. This is the issue."

Look, the Indian position has been absolutely clear from day go, we deplore and condemn the violence used against innocent civilians by anyone. So nobody's holding a brief for a particular person here or a particular person elsewhere. The issue is, what are the terms and conditions on which the international community comes in? All right, I'm very clear, if it is confined to Paragraph 138 of the World Outcome Summit Document, which is these four thing: genocide, crimes against humanity, ethnic cleansing. There's no question. If you see that happening, go in.

But every time there is going to be a protest in some country and the protesters pelt stones at the Security Forces and some idiot in the security forces fires back, then somebody in this zig-zag tactic violence becomes more.

Is the international community ready to go in each time? That is the issue. And if it is, does the international community have consistent standards where it is going to go in? There are five countries, one, two, three, four and five. And one or two countries are serious, but the international community didn't want to go in there. I'm not naming names, because we're in the public, there, they turned an armored personnel carrier on itself. And they'll use all kinds of violence, but the international community-- So they go in only because we have our own interests, because there are some strategic interests involved? These are the kinds of issues.

I'm going to go back into the history. I personally believe that what has happened in Libya has given RTOP a bad name. And I'm being very, very blunt in saying that. And unless we are careful, it's going to get worse.

Number two: Unless we are careful, people are going to turn around and say, "This is the same intellectual and cultural arrogance which goes back to the white man's burden theory that we know what's good for you inside your country." So be careful. We've heard this used in the past, let me tell you. Nazi Germany occupied the Czechoslovak Sudetenland in 1938 on the pretext that the Sudeten Germans were oppressed by the Czechoslovak authorities. Nearer home and in India, the annexation of Oudh in 1856 by the East India Company was justified on the grounds that the native prince was of evil disposition and indifferent to the welfare of his subjects. Still earlier in 1831, Governor General Bentinck informed the Praja of Mysore that the East India Company was taking over the administration of Mysore on the grounds of maladministration and misgovernment. Bentink similarly gave the pretext of severe oppression and cruelty towards the people of Coorg for annexing Coorg. Very serious stuff. People are going to rake this up. So I'm going to conclude by saying the concept of RTOP as developed and as enunciated in Paragraph 38 of the 2005 document, nobody has any problems with. When it comes to Paragraph 39 on the implementation, we have serious problems. Because we need a full

development, full discussion. And I believe that we will need to allow the developments in Libya and elsewhere to cool down for us to be able to develop a clearer understanding of what the trigger point is where the international community can come in, what is the point at which an innocent protest becomes an armed insurrection, what happens? We need clarity. And I hope, ladies and gentlemen, I have provoked you sufficiently. Thank you.

Hoge: Ambassador Puri, thank you very much. I would like to admit that yes, we did con him into appearing here. And now you know why. But let me explain a little bit about the con because within this explanation is a compliment to the Dutch. Very often when we plan meetings here with nations, with member-states, with missions, which are our partners, the partner is eager to put forward an argument and is usually inclined to invite other people who will endorse that point of view. When I was working with the Dutch to plan this, before I could even suggest that we get somebody with a contrarian point of view, because we know the point of view of the Netherlands, which is after all a friend of RTOP. And it was the Dutch who suggested Ambassador Puri and I endorsed it thoroughly. And now you know why. It was a con, but I'm glad we did it. But it is a compliment to the Dutch that they, from the very beginning, wanted this kind of conversation. So let me go to another contrarian, Colin Keating. The floor is yours.

Colin Keating: Thank you very much, Warren. I'm afraid I find it very difficult to be a dispassionate voice of reason on this subject. And I'll explain why in a minute. But I was very pleased to hear the way in which Ambassador Puri brought together the different threads that are connected between responsibility to protect and protection of civilians. It seemed to me that too often we tend to look in an academic way at these different concepts and pull them apart in academic ways and forget that, in practical reality, when situations actually emerge in particular countries and human beings' lives are at stake, the fine distinctions that academics and lawyers and diplomats make between protection of civilians and RTOP go out the window. And I think that is a very important part of the ongoing conversation, which Ambassador Puri concluded with mentioning as needed because I agree 100 percent with him about that. Now whether we call this a principle of RTOP or a principle of protection of civilians, I think in reality the principle has emerged. It's not an emerging principle. But what is emerging are the challenges and the opportunities and the risks in terms of implementation of these principles.

To me, there are two overriding factors that we need to talk about. The first is very simple: protecting people; the second is containing the use of unilateral military power. And certainly to my mind, one of the goals of what was achieved in 2005 was an attempt to fence in, in some ways, the unilateral use of military power for rationales, whether they were well-intentioned or not well-intentioned, but removing that unilaterality. Now the reason why I find it very difficult to be dispassionate on this subject goes to my own experience as president of the Security Council in 1994 at the time of the genocide in Rwanda. And what I experienced there was precisely what Ambassador Puri described: the appalling lack of political will to act in a responsible way and to responsibly respond to a situation that was well-identified and for which there was a crying need. We know that at least 1 million Rwandans died. But what we often forget is the fact that the failure of the international community in Rwanda played a very large part in triggering the crisis in Zaire, which we now call DRC, and leading to the civil war there in which people are still dying today as a result of poor actions by the international community in the 1990s. And we know that somewhere between 2 and 5 million people died in the DRC.

Now this is a tragic indictment, and I think there is no responsible person anywhere in the world who says that the Security Council was right or that, indeed, the major powers, and particularly the United States, which refused to support the resolutions which New Zealand and Nigeria had put forward to reinforce the United Nations mission in Rwanda, the fact that that implementation of those resolutions was blocked, I think is a huge part of the collective conscience which led, again, as Hardeep says absolutely rightly, to the momentum behind what we now see as related strands of protection of civilians and responsibility to protect.

Now I would like to fast forward from 1994 to March 2011. And before I get to Libya, I'd like to stop for a second and reflect about Côte d'Ivoire. And I'd have to say at the outset that I believed this time last year, and I think of what we saw at the end of last year and early part of this year, was that there were serious problems with the political reconciliation process in Côte d'Ivoire. The United Nations and everybody involved seemed to be in auto-pilot, leading to an election which was clearly fraught with huge risks. For many years, the special advisers on the protection of genocide had been warning of severe risk of ethnic conflict and violence if there was a collapse in Côte d'Ivoire. The realities and the grave risks that was known was there. But that auto-pilot continued. The election took place and we all know what happened.

Now I think it's important to stop and reflect a little bit about the relative caution which the Security Council employed in Côte d'Ivoire and the opportunities that were taken to exhaust all possible avenues in terms of political reconciliation, negotiation at the sub-regional level, at the regional level. And we saw for several months a very cautious process giving space for a range of mediators to try and resolve the issue.

But when, in the end, all those avenues were exhausted, there was agreement that there did need to be a collective response. And I think it was important that the leadership of that came from the sub-region. And Nigeria played an important role in bringing that to the Security Council. And when robust action was taken, there were two things that I thought were very important. Firstly, huge credit needs to go to the troop-contributing countries to the United Nations mission who were ready, willing and able to comply with the unanimous decision of the Security Council. So we had good political leadership from the Council; we had very good preparation and training from the troop contributors. And I think credit also needs to go to the DPKO and the huge work that has been put in since Rwanda to lift the quality of training, the quality of doctrine, the quality of preparation and the logistics capabilities for United Nations operations. UNOCI was able to act in a way that would have been inconceivable at an earlier point in time.

Now the fact is that we need to be still cautious however, because the future in Côte d'Ivoire is not assured. And one of the Achilles heels, and it's depending on where you sit, it's either small or huge, is the leadership role that was inevitably taken in Côte d'Ivoire by a former colonial power, we all know who. Now it seemed to me that this is a thread. It's a thread which has come out on several of Hardeep's comments as well. And I know it is going to be an important thread when we come on my next comment relating to Libya. I think when you come to the implementation of these principles, it is actually hugely important who is actually going to take the leadership in any action, whether it be political action or whether it be coercive military action.

Now to come to Libya, I think those five countries that abstained on Resolution 1973 deserve a huge amount of recognition and credit. They shouldn't be shy about abstaining. I think that is a responsible exercise of responsibility. Because what we saw was a group of five countries who were not prepared to allow the possible repeat in Benghazi and Misrata of what everybody could recall from those cities and villages in Rwanda in 1994. But they abstained because they were concerned about implementation. And I empathize with that 100 percent. And it goes back again to my experience in Rwanda in 1994.

Many of you may recall that there was a French operation which was styled as a protection of civilians operation. But some of us on the Security Council, again five, had grave reservations about both motivation and success of Operation Turquoise. And so I, along with Ibrahim Gambari, and a few others, abstained on the resolution. We thought it was the right thing to do, and history proved us right. Now I think there are some very important lessons here. I think that it is necessary and responsible to be ready to act collectively and use limited force for a particular purpose to protect civilians. And we saw how that could be done and done with the necessary restraint in Côte d'Ivoire. But what we are now witnessing, and have been witnessing for some time in Libya, is how, in some situations, the operational motivation takes control over the political motivation. And so the narrative shifts from protection of civilians to regime change. And it seemed to me that when one comes next to confront a huge crisis situation, it's important to ask questions even more deeply than the ones that were relayed to us before. Okay. It's fair enough to say, "Maybe this operation can be conducted by the use of air power. And we should have a provision in the resolution saying there will be no occupation force. We learnt that lesson from the past. But also perhaps there needs to be some quite clear rules of engagement about whether or not attacks on the leadership of a regime are permitted.

Now I think there are denials that that is the objective of the current operations. I don't have any independent information about it, but like everybody, it seems to me to be perhaps more than a coincidence that there are attacks in particular places in Tripoli. Now there are, I think, important ways in which acting responsibly in the future, countries who have responsibility for decision-making on these issues can demand much greater precision and clarity as to how operations will be carried out. The other thing I think that needs to be envisaged more in the future is, what is the end-game and how do we get to the end-game and what is the political track that leads us there?

I think it is very unfortunate and unseemly that in the last month, or maybe even two months, there has been this kind of game of ping pong going on between the contact group on the one hand on Libya, on the African Union panel, and the UN, as to who has leadership. And it seemed to me that really the important question should not be who has leadership? The real question should be the Libyan people, and the Libyan people as a whole, and how do we get to an end-game that resolves this question? And there are discussions at the moment which would talk about a presidential statement on which, for want of a better term, would set out parameters for a political solution. We're all familiar with the concept of setting out political parameters for peace negotiations in the context of Israel and Palestine. And we know how difficult it is in that context. But it's not impossible. And it should be even more possible in the context of the situation in Libya because the intrinsic historical dimensions are not there at the moment. But if we keep waiting long enough, they surely will be intrinsic historical dimensions that will be problematic.

I think that what is really possible and what we ought to be envisaging, if we authorize decisive, robust military action is also establishing what the collective responsibility for the end-game will be. And this is a really important lesson to bear in mind, to have drafting ideas and political motivation for the next time this happens, as I fear it inevitably will.

Last but not least, how do we deal with those protection issues before we get to the crisis situation? The Security Council is also deadlocked at the moment on the situation in Syria. It's all very well, it seems to me, to say that the situation in Libya and Syria is incredibly complex and we should be very careful about intervening. I agree 100 percent. But where was the motivation to intervene politically with preventive diplomacy before we got the situation of people being killed? And I think that is the challenge I want to leave in the air because without solving that problem one cannot, I believe, solve the problems of Paragraph 139. We still have work to do on Paragraph 138. Thank you.

Hoge: Colin, thank you. We're going to go get audience views in a second. Ambassador Puri has signaled he has something further to say, and then we'll go for your questions.

Puri: Thank you very much, Warren. I did say Colin is the voice of reason. And I'm very happy that he touched on Côte d'Ivoire. I deliberately skipped it because if I started off on Côte d'Ivoire, I wouldn't have reached Libya. There is an issue there.

But let me just say that Côte d'Ivoire was a sui generis situation. The United Nations there had a mandate on the elections, which is not the case in the 20 other countries in Africa which will have elections this year, number one. Number two, the negotiation of Paragraph 6 of Resolution 1975, which changes the UNOCI Mandate, was something that took a lot of doing. The Council assumed responsibility because it was a very difficult situation.

And I don't want to go into detail, but I thank you, Colin, for referring to it. I think, at some stage, if you want to have a closed-door discussion on 1975 and Paragraph 6, it will be very instructive. Because I think a lot of what appears outside the Council is what members of the Council selectively brief civil society and the press on. But what actually went on inside which made Paragraph 6 possible-- I agree with everything Colin said except that the true contributing countries rose to the-- They didn't know. I was the one on the Council just before Para 6 was adopted. I said, "Please, there are three countries there which have their troops. Has somebody bothered to inform them?" And they said, "No, we forgot." And then the first person that we asked revolted, said, "No."

So it's a very difficult situation, but we ultimately got around to them. So you're absolutely right, in the end, they agreed. The five countries who abstained, my second comment, look, they abstained. But if they had known how it would go around, they would have voted against. And that is the position on Syria today. The Chinese and the Russians, I think, are very clear that they would vote negative. I'm going by what's in the public domain, so I'm not sharing any-- Syria, I don't think what is known in the public on what is happening on Syria is really correct.

There's a point of view that some countries are pushing very hard for Council statement, and others are against. That's not the case. Those who are being today stigmatized as not wanting something on Syria were the first to say, "Let's get something on Syria." The issue is what you get out of the Council, if you get

something which is declaratory which tells both sides to behave themselves, you can get it tomorrow. But they say, "No, this is not under Chapter 7, this is under Chapter 6." No, they have provisions in there. So I think we could get a Presidential Statement on Syria, all that we need to do is to be clear amongst ourselves as to what views you want to put it to. Thank you.

Hoge: Okay. We're now ready for some questions and comments. Just raise your hand if you will, please. William, please, wait for the microphone and introduce yourself. And you might even stand up, it'd be easier.

William Verdone: Yes, thank you very much. Yesterday at the Czech Consulate, there was a film--

Hoge: Identify yourself?

Verdone: I'm sorry, William Verdone, thank you. There was a film on Resolution 1960. How does that play into everything you've been talking about? Because this talks about bringing to task those who raped in most of the countries of Africa, and including Bosnia as it was mentioned. I didn't hear resolution 1960 mentioned. I just wanted your impressions on that and how it connects to what you're discussing. Thank you.

Hoge: Would one of you like to comment on that?

Puri: Let me.

All the new resolutions now that are coming out of the Council have specific provisions against violence and sexual violence, et cetera, et cetera. We're building it. The previous generation once didn't have that. But now we're doing that. And there's no question. I mean, there's no tolerance for that. I mean, how you do it, there are differences. It happens in the DRC where there is a different context. It happened in the areas you are mentioning. So each case is different. But I'm totally in agreement with you, there should be zero tolerance for that. And those who are against whom there are serious allegations should be brought to trial.

Hoge: In the back of the room, please?

Ombeni Sefue: Thank you very much. My name is Sefue, I am the PR of Tanzania. It's not really a question, it's a comment. Tanzania is a friend of RTOP. And one of the reasons we became friends of that is our experience with Rwanda. Because we saw close hand what happened in Rwanda. We saw the bodies floating down the rivers. And we thought that it was very unfortunate for the international community not to intervene to protect the civilians.

And our own history, we went to war with Idi Amin precisely to protect the people of Uganda against Idi Amin. At that time, RTOP wasn't on the agenda. But that shows the commitment of Tanzania to the principle of right to protect. But Hardeep you said that we are talking about RTOP, not about Libya. But my thinking is that the future of RTOP will be determined by the end-game in Libya. I think so. Because, look, RTOP has to be based on a principle. You apply it evenly. You can't apply it in one context because it's easy or because it's self-set in other interests. And you don't apply it in another case because it's too complex or something like that. And, secondly, the complicating factor with Libya, as you say, are you protecting civilians or are you protecting an armed rebellion? Again, that's something that you have to look carefully at. And what bothers me about Libya really is from the beginning, the African Union had their own road map.

They had an idea of what is happening and the complexities and came up with a road map which wasn't given much attention, although I believe that in the end what the African Union is proposing would still be the best way out.

So how do you listen to the regional organizations? We listen to the regional organizations in Côte d'Ivoire, but you don't listen to them in Libya. You apply RTOP in Libya, but you can't apply it in Syria. And that is a problem. Because it really has to take us back to the drawing board. What do we mean by "right to protect"? And how do we make sure that we are consistent, we can apply it evenly, so that we are not accused of misusing it or using it for purposes other than what it was intended to be? So that as my comment. Thank you.

Hoge:
Thank you very much. Do I have any other comments? Yes, Bill in the back and then we'll come to Phillipe in the front. Actually we'll take both these questions back to back and we can answer them together. First, Bill.

Bill Pace:
Bill pace with WFM. I guess this will be a little bit provocative. I want to make about two or three points. One is to the importance of distinguishing between the principles and the framework for a decision versus the way that decision may be operationalized. And probably the best example in the world is the principles for how the Security Council is supposed to operate and how in fact the Security Council has operated for 65 years. And so that you're condemning the principles enshrined in 138 and 139 on responsibility to protect because you disagree with how it's being operationalized. And you're trying to defeat one by the other, I think, is not fair or responsible.

Two, I haven't heard anyone mention one of the primary reasons why this happened: a dictator said – I listened to it – that he was going to go into a region of his country and pull people out of their houses and kill them like cockroaches. That's what he said. So you all can talk about end games and lots of months of discussions, et cetera, but that wasn't one of the options that the international community had on the table at that time.

And the third point is, Ambassador Puri, I just want you to know, those of us that have worked on this for 10 or 12 years, we know where India has been. Your previous ambassador fiercely opposed RTOP here in 1995. Then he was ex-ambassador, he teamed up with the GA president to try to kill RTOP after it had been agreed to. And then you've come in. But for us to believe that, "Oh, you've naively misunderstood it," is just disingenuous to the maximum. And if anyone thought that, "Oh, we made this decision on 1970 because we have been misled and we were naïve about it," that is hard for us to take. It is political and intellectual hogwash. Thank you.

Hoge:
Thank you, Bill. I think rather than take the second question, Ambassador Puri, you should answer that.

Puri:
I mean, what constitutes hogwash and what hogwash means, I don't know. But best of luck. Every time anybody makes a speech and says, "I'll chase you out with a cockroach," if you want to have military intervention, then my response is that's going back to the traditional cultural arrogance of you know what has to be done in each country. So best of luck if you want to go down that road.

And that 12 years hard work which you put in on RTOP, I'm inclined to support you if I know it's on Para 138 and what has been agreed. Operationalization of principles? Well, principles are easy to agree to because they're always couched in good intentions and what is good. But it is the operationalization which makes

a difference. I agree if the operationalization is bad in two or three cases, don't change your principles. But nobody is suggesting that you should change the principles. No one is saying that the international community should become a mute bystander if genocide is taking place. Certainly not, certainly not. The international community must know how to intervene, also find why it did not intervene.

Let me come quickly to Tanzania, RTOP, and Libya. I agree with my distinguished colleague, the end game in Libya may actually determine how RTOP comes out. I agree with you. My hope is that there will be an end game which does not result in more devastation and more bloodshed, and therefore, the RTOP principle will still be intact.

And I don't want to go into personalities, what my predecessor's views were or someone else's view. We are dealing with hard situations where innocent people are dying every day. And if it's in the name of protection of civilians, you have a problem.

On the abstentions, I wanted to mention to you and what Tanzania said, I wish you had been with us when the Security Council team went to Addis Ababa. We got a mouthful. We were accused as a council of wanting to recolonize, et cetera. Very strong views. You mentioned the AU. I totally agree with you; the AU is the only game in town. And when the AU high level panel, came here, they tried the foreign ministers of Gabon, Mauritania, Uganda, and one or two others. What was it that we told them? We basically, the Security Council--told them, "Sorry, unless Qaddafi goes, there is no road map."

So let's be absolutely clear that the political process today is held hostage too. And that should make us think whether the principle is involved here of RTOP or wanting to avoid innocent-- It's not a game, which is regime change. So I don't want to get personal in all this, as I said, I have to be clear as I'm speaking as a PR here.

And, finally, let me just say that the prime minister of Italy yesterday, I think, asked for a secession of violence on humanitarian considerations. All right, let both sides keep their principles in tact, all right? Considering the kind of devastation that is taking place there, whoever is responsible, there is need for humanitarian access, there is need for food and medicine [INDISCERNIBLE]. Can't we have a pause in the bumping and pause from all sides so that humanitarian assistance can go in?

Hoge:	Phillipe Bolopion, in the second row here?
Phillipe Bolopion:	Thank you. Phillipe Bolopion from Human Rights Watch. I'd like to bring, if I can, the discussion a bit to Syria. Because, first, I think we would have issues with the idea that the end-game of RTOP's linked to the misfortunes of NATO's operation in Libya. But I think Syria might be a good test case for RTOP. And according to our research on the ground, it's very likely that crimes against humanity are being committed in Syria today.

And I think from what you said, Ambassador Puri, earlier, it's clear that you don't believe that the Security Council should just stand by while mass atrocities are being committed. Yet, the Security Council has not said a single word about the situation in Syria today, not a word. It was even able to have a statement on Friday on Yemen, but Syria still nothing. And you to referred the idea of a presidential statement of the Council. I'm not sure your Lebanese colleague on

the Council would be extremely comfortable with this. It seems very difficult for them to agree to any meaningful statement from the Security Council. So I'd like to put the question to you and maybe the other panelists as to what can be done in Syria today by the Security Council to fulfill its responsibility to protect?

Puri:	Well, you may well be right that the manner in which our responsibility to protect comes out may also be determined by what happens in Syria. You may be right. And there may be a sudden overlap if Libya goes on and Syria, nothing happens or gets worse you may be right on that.

All I can tell you is that we're spending an hour tomorrow on Syria. So not only with you, but other interested groups-- I'll just be very brief, I don't want to give you what I'm going to tell you tomorrow. I go on saying that the Security Council should say something. And I don't think that Lebanon's objection, because of the pressure they're in, should necessarily preclude that possibility. But what it should say should be declaratory. Look, we all want a message to go for secession of violence, for calm, for restraint. But we don't want to send a message which appears or which is likely to be viewed as providing encouragement to the opposition. No matter which way you say it, 145 security force people also got killed. Or you can say that was a revolt. It's very easy when you are-- I'm a student of history. And I'm student of empiricism. You can take the same facts, something you take up and the rest you leave out. Then you take another set of facts, you fit them in. We need to do something; on that, I'm agreed with you.

And it's not as if we've not been trying. But each time we are told, "This is not the way to do it. The way to do it is the way we would tell you." All right, that is what I find is not academically honest. Because if the objective is to send a message, send a message which will have the effect. If on the other hand, the idea is to go down the Libya road in Syria, then we are disagreeing. In any case, it's not up to us. It's not up to us. There are two countries which are permanent members of the Security Council which are saying, "We're going to veto it." So the discussion is not between us. Where we are drawn in, we are told that you as the democracies, must say-- Let us say I agree with you, it's still not going to change the situation.

So I think you should be concentrating on the solution and on the need to find something that is palatable. We must send a message to the government and to the forces fighting the government. Look, I keep coming back to the fact that I come from the land of Mahatma Gandhi: where you use peaceful protest as an instrument of social change as you did in Egypt, problem was much less. The minute you start arming the rebel groups because you have a game plan, your principles have had it.

You can't retain your principles and be disingenuous, to use a word, which has been used earlier. Arming the rebels, no boots on the ground, but you can put military advisers on the ground. Isn't that disingenuous? Security Council resolution says "No arms, arms embargo". Where does it say that you can supply arms to one side and then keep the principle alive? Let's have a discussion on Syria tomorrow, I think we have a lot to discuss.

Hoge:	Here's my plan: We're going to take three final questions, one there, one here in the second row, and finally, Jeffrey Laurenti. And then, finally, the person who has had the least to say is my co-host, Ambassador Herman Schaper, so he will have the last word. And we'll take these three questions at once.

Andrew Tomlinson: Andrew Tomlinson from the Quaker UN Office. I, firstly, want to thank the panelists and the host for a very intriguing discussion. I have a question and a quick comment. The question is that there was a comment from a panel member about there being a lack of agreement about the universal morality of the issues that are being discussed here. And I would love to know which moral issues are still in dispute in this discussion?

The other one has to do with this intersection, the protection of civilians and with the RTOP concept. Because there seems to be an unspoken thread here that anything that doesn't involve civilians is not RTOP, whereas presumably, as we know, the discussion, the definition of things like war crimes does include belligerent activities of different sorts. It would be perfectly possible to look at events in the Iran/Iraq War for example and say that war crimes were committed, even though they did not involve civilians. So the fact that even that it's people of sort of differing definitions of civilians and the merging of civilians into armed groups does not necessarily, I think, take it out of the RTOP set of definitions. Thank you.

Hoge: Thank you. In the second row here, please?

Monica Serrano: Monica Serrano from the Global Center for the Responsibility to Protect. I want to really refer to two points, which involve also a question, and to start by saying that I would hope that the result of Côte d'Ivoire, Libya and Syria will end up giving RTOP more of a good name than it already has.

And I say this on two grounds ; one, is because I think that the consensus that we saw in Resolution 1970 and the actions and the resolutoin of Côte d'Ivoire is something that we should be proud of rather than lament. But I want to come back to the point of the distinction between civilians and combattants and the question of peaceful protest, which recent research has shown that in almost every case that I mention a force has been present, whether in the protection of the civil rights movement here by federal forces or by the actual use of it. As we know, it's a terribly political question. But as we know, the responsibility to protect now entails a three-pillar perspective. And I entirely agree that it should ideally work on pillar one, and in accordance with Paragraph 138. But what is it that the international community should do when the evidence shows that it's not working on their pillar one and pillar two?

Hoge: Thank you, Monica. And Jeffrey?

Jeffrey Laurenti: Jeff Laurenti with the Century Foundation. It is pretty extraordinary that in the case of Libya, the intervening countries have not bothered to seek their own national parliaments' or legislatures' legal authorization for their individual participation and everything hinges on a Security Council resolution which said, as its primary demand, operational demands, "demands an immediate ceasefire," without any reference to somebody having to leave before one will accept a ceasefire.

And this really speaks to the question of the degree to which once the Security Council has set in motion through this kind of stamp of authorization, a process, how it is unable to reclaim the ability to reign in the authorized sheriff deputies, if you will, enforcing it. It is reassuring, perhaps, that foreign minister Franco Frattini has quite dramatically voiced second thoughts, although Italians say that Italy never ends up a war on the same side as it was when it began. But you do have to ask, what is it that the Security Council can do to reign in its more

enthusiastic sheriff deputies? How, institutionally, can this system of authorization work?

Hoge: Here's what I'd like to do. Colin, would you take those three questions, say anything in response that you'd like. And then I will get to you, Ambassador Puri.

Keating: Well, I was going to say that the subsequent set of questions, in a way, answered the question about where is the lack of agreement on universal morality? My answer to that, and Hardeep wants to give his own take, but my take on it is that there's a kind of selective universal morality at the moment. It's selective in terms of the way in which action to implement responsibilities in hard, difficult situations becomes integrated with preexisting domestic and other foreign policy agendas of various states. And that is really, to my mind, the core problem.

We have a Security Council which has a mandate and an expectation from the rest of the General Assembly to act on their behalf collectively. But we have an operationalization which still is through a very national policy paradigm. And I think that is really one of the major challenges, not only for RTOP and protection of civilians. It's to do with a whole lot of the work of the Security Council. In an answer to Monica's question, I think you should feel reassured, Monica, that all of us have said that when there are egregious cases, there is a responsibility to act. And there should be action. Where there are still differences is how to act and who should act, and how to get end games in all of these situations. Now those are not fundamental questions in the sense that we call and challenge or question the principle. It's the operationalization of the principle.

And, Jeff, your point is absolutely, inescapably right. And we have seen it over and over in the Security Council, whether it be Iraq sanctions, whether it be Resolution 1244 on Kosovo, that once a track is launched, it becomes almost impossible to reopen and revisit issues, even I would say in respect of Côte d'Ivoire. The track was set, we should have elections. And it got, as I said before, on to auto-pilot. Nobody ever stopped, and said, "Hey, is it a good idea to still go ahead with elections?" And same in Afghanistan. There was a whole series of resolutions commanding the plans to have elections. What crazy people would try to have elections in the middle of a major war? I don't know. But they did. And the real need is to be able to revisit policy settings in real time and in a collective way, not in a unilateral way.

Hoge: Ambassador Puri, and then finally, Ambassador Schaper.

Puri: Colin, thank you very much. You helped out because I've lost some of that edge which I brought with me. No, first of all, I think our friend there on universal morality and universal jurisdiction. Actually, I'm probably on your side. You probably misheard. What I said was there may be unanimity on the concept but not on the operationalization of a universal morality and universal jurisdiction. And that's exactly what he's saying, that everybody thinks they know what universal morality is.

Well, let me give you an example. Is the tyrant or dictator more oppressive in country A than the tyrant or oppressor in country B or C? Why do you choose to go in for RTOP in country A but not in country B or C? Because there's a perception that you've got your strategic interests. So that's the kind of discussion. And I don't want to go into that discussion here, but that's what I said. It's very easy to talk about universal morality, universal jurisdiction. But

when it comes to the operationalization, there's an element of subjectivity which comes in there.

And that's why I say, you have it on one and not on the other. Pillars one and two; pillar one is relatively straight-forward, and so is pillar two. Pillar two, I'm not so sure always. Pillar three is the problem. Because, again, it comes to the same issue. If those four crimes against humanity listed in Paragraph 138 are involved, I don't think the international community has any choice but to do something. Do what? Again, that opens up another area. But something short of that, here is a man who was threatening to carry out mass action against his own people, all right, and a regional grouping, the Arab League, said, "You must do something." Yes, you must do something. Surely, the action the international community should take should be targeted at that.

And then we're told that whole 1973 is about cessation of hostilities and you try cessation of hostilities on the Security Council, nobody wants to give you the time of day. Well, that's the way it starts, that's what it's all about. So it's a game where I'm afraid political interest, strategic interests, how do you reign in the sheriff's deputies? I mean, you would be asking me to write essays on my colleagues and this thing. But I don't think they're subject to my persuasion. They all take their instructions from their capitals. And I think civil society and the press make it very difficult for them.

Every day when I have a time advantage on Europe, we have five, six hours time I watch the television and I see civil society asking, "What's happening? What's happening?" I knew there was only problem in the Security Council when we meet. Because clearly public opinion-- And that's what democracy is all about: you put pressure on your government there, then assign instructions, do something, do something. Not always clear what to do. And that's what is showing up.

Hoge: Ambassador Schaper, the final words are yours.

Schaper: Thank you. Well, I haven't said a lot in the last 30 minutes. So perhaps let me organize my thoughts and answer to a couple of remarks which have been made.

Perhaps it's good to begin with Syria, because I think the way Syria is discussed and Tweeted in the Security Council makes the point that a large part of what Ambassador Puri is saying, to my mind, is basically the argument on which it is all about when we discuss the implementation of RTOP. If you look at the Syria situation, it's clear that in many cases it resembles Libya. As far as we know, of course, the information is not difficult to get the right kind of information. But there are clearly gross violations of human rights. There's more than enough cause for international reaction to that by, for instance, taking specific measures, targeted sanctions, what have you. But then the argument of RTOP is being used, the bad experience of RTOP and Libya to block that.

I think that is an invented argument. It is simply something which for a moment was pushed aside to when decisions were taken on Libya, which is reasserting itself, which is very old fashioned. You mentioned, Ambassador, the Westphalian system, an old-fashioned system of national sovereignty and doing away with much which has been accomplished over the last half decade, I think, in accepting that human rights and protection of human rights is a legitimate concern of the international community. That has led to the notion of RTOP, and

now when RTOP is being implemented, you see a kind of push-back in a very fundamental way, I find.

Not so much in Libya, because as the complaint has been expressed today, that's out of the control of those who want to push-back. So the push-back is now mainly focused on Syria. Well, like I said, there's more than enough reason for the Security Council to take certain measures. And those measures are not taken. All again, sometimes very strange arguments, one gets the feeling that the difference between the perpetrator and the victim is sometimes kind of pushed aside. And we have to be evenhanded. The regime in Syria is a bloody and bloodthirsty regime, we all know, also from experiences in the past. But Hardeep is making the argument, "Yeah, that you don't know the opposition, what kind of people they will be." I think, as far as I know, this is mainly peaceful demonstrations in Syria against which very heavy-handed tactics are being used. So I don't really see the even-handedness here, or the notion that we should be careful not to support one side more than the other.

So, like I said, I think what's happening fundamentally in the debate is not really about the military implementation of RTOP. It goes back to, at least for some, I think, to Ambassador Puri himself, as he made clear today, he has a different position than his predecessors. So he's not contesting the notion of RTOP as such. But I think if I look at the two countries which are threatening a veto in the Security Council for them, it is very much that issue of non-sovereignty and the international community not having business in involving itself in gross violations of human rights in countries.

Now, secondly, just let me mention another thing, that why is Libya, not Syria? One reason for that is that in Libya there was a clear involvement of regional organizations. We discussed the role of regional organizations. But an important element of the decision-making in the Security Council was that the Arab League had itself asked for a no-fly zone. So the regional organization has made the point that the international community should take action. And then, of course, the fact that even the perm rep over here in New York condemned in very strong terms, first his deputy, and then he himself condemned that the Libyan regime, all these elements played a role too. You don't see that so much at the moment happening in Syria itself. So there are also other reasons why the Security Council is not taking action. But this brings me down to what's happening in Libya. Bill Pace mentioned correctly that, of course, you never forget the original reason why we got in, which was the nature of the regime of Qaddafi and then his kind of language he used which made clear that he was intent on, at least we could reasonably assume he was intent on, perpetrating acts of mass violence and mass atrocities.

Now the question always is then, do you have to wait for that before you react? Or do you have to base yourself on the reasonable assumption that this is likely to happen? And I think there was a very broad feeling, including like I said, among fellow Arab countries, that something terrible was going to happen. So the Security Council first decided on 1970 with these non-military measures, but events overtook that. It was simply necessary to go to another phase. But it's important to underline that in 1970 already there was a call for a ceasefire. At that time, Qaddafi not for one moment gave any indication he was interested in a ceasefire. He thought he was on the winning hand. So he just moved on. And now, at the moment, the talk of ceasefire comes up. And perhaps that is a way to come to some kind of outcome.

In the end of Kosovo also, the campaign was ended on the basis of a political outcome. But there is a broad feeling, certainly included in my own country, that any political outcome cannot include Qaddafi remaining in charge of Libya. I mean, I think that is now growing acceptance. I also understand from many African countries, and that they need to be accepted by both parties before you can get a ceasefire. What I tried to say in the beginning was once you decide on using military means, you enter a new reality. One has to be aware of that. And if one is not willing to accept that fact, one should not call for military action. Once you start to use military means, there is a risk of civilian casualties. If you're thinking of military campaigns, air campaign without civilian casualties, you're daydreaming. If you think that you can have a military campaign, just kind of needlework, little bit here and a little bit of action there, that doesn't work. Military campaigns have their own military logic. If you don't want to accept that, don't start it. Don't begin about it.

So to my mind, there is a need for a certain kind of education here at the UN about what military action implies. A couple of months ago, I came from NATO, like I said, I met one of the foreign ministers of NATO who said, "What are you doing here?" I said, "I'm now the perm rep at the UN." He said, "You went from war to peace." NATO being war and the UN being peace. Well, the UN is less and less peace, at least in the short-term, if we discuss issues like this. Perhaps it's not welcome. This goes against the nature of the beast and the identity of the organization. Okay. That is then the case. So you then ask somebody else to do it, which is NATO now. But don't complain then that certain things are in a certain way, then handled by somebody else. You cannot have micro-managing from the Security Council of an operation in which, first of all, many of the member-states do not contribute themselves.

And, secondly, you don't have the facts or responsibility of what is going to happen. So I find that there's a lot of ducking the issue in this debate. And what we intended by doing this was not just to make the point that RTOP is worthwhile defending, but also trying to reason through and think through and discuss some of the questions we need to face in implementing RTOP. Let me repeat then once again, in the end, the military element is only the most extreme. Let's not forget we have this whole range of other things the UN can do. Thank you all for having been here. I thank you for your contribution to this discussion.

Hoge: We've gone over the time. Thank you very much, audience, for your questions. Thank you, panel, for a very enriching conversation.