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RESPONSIBILITY TO PROTECT: OPERATIONALIZATION NECESSITY

Lieutenant-Colonel Karen P. Page

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RESPONSIBILITY TO PROTECT: OPERATIONALIZATION NECESSITY

By Lieutenant-Colonel Karen P. Page

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ABSTRACT

Responsibility to Protect: Operationalization Necessity argues that the principles and criteria of Responsibility to Protect (R2P) must be operationalized to ensure a collective response to threats to human security. This paper, through exploring the UN's commitment to maintaining international peace and security, also asserts that R2P is but an elaboration of already existing commitments and legal obligations. Somalia, Rwanda, Srebrenica and Kosovo will be discussed to demonstrate the evolution of R2P.

R2P operationalization requires the use of both direct and indirect means. Direct means refers to the invocation of R2P; Sudan is provided as an example of a state that requires the international community to invoke R2P. Indirect means refers to measures other than invocation; the means discussed to advance R2P include national and international methods. Nationally, Canadian agencies that have a role to play in exercising R2P principles must be involved. Given Canada's prominent role in R2P development, Canadians need to be educated about R2P. Nationally and internationally, R2P needs to be marketed and branded so that it is a part of every day lexicon. New initiatives, such as museums and centres may serve as a means to promote R2P which must be explored. The largest leadership role however, resides with the United Nations. Under their leadership, barriers to R2P need to be removed and R2P must emerge as a norm that is elevated to international law.

R2P promotes sovereignty as a responsibility not a right and emphasizes the responsibility to protect. This concept is directly focused upon the protection of human security and the international responsibilities to fulfill the mandate of maintaining international peace and security. For these reasons, operationalization of R2P is a necessity.

TABLE OF CONTENTS

Introduction.....	1
Responsibility to Protect – Principles and Criteria.....	4
Chapter One – The Road to R2P	
Chapter One Overview.....	7
Evolution of UN Commitment to Genocide Prevention and Human Security....	7
Somalia.....	12
Rwanda.....	14
Srebrenica.....	23
Kosovo.....	24
United Nations Commitments to R2P and Human Security.....	31
Chapter One Summary.....	39
Chapter Two – Operationalizing R2P	
Chapter Two Overview.....	40
Direct Operationalization – Sudan.....	40
Indirect Operationalization.....	53
Canadian Comprehensive Approach.....	54
Lead Agency and Other Agency Requirements.....	55
Education	59
Marketing.....	64
Initiatives – National and International.....	67
A “United” United Nations.....	68
Sovereignty.....	69
Right of Intervention.....	74
Political Will.....	76
Elevation to International Law.....	79
Chapter Two Summary.....	80
Conclusion.....	82

List of Figures

Figure 1 – UN Resolutions by Region.....	46
Figure 2 – UN Peacekeeping Operations – Personnel Deployed by Region.....	47
Figure 3 – Distribution of Canadian Forces on Deployment.....	50
Figure 4 – Coverage (in minutes) of various topics in ABC, CBS and NBC nightly newscasts, 1994.....	66

RESPONSIBILITY TO PROTECT: OPERATIONALIZATION NECESSITY

*The law makes no decisions. It has no will of its own.
It's like a weapon, or a tool:
it works for those who pick it up and use it.*¹

Ken Follet, The Road to Freedom

INTRODUCTION

The aim of this paper is to demonstrate that operationalization of Responsibility to Protect (R2P) is a necessity. R2P is a concept that evolved from humanitarian intervention to describe the international responsibility to protect people at risk of human rights abuses such as genocide, human security and crimes against humanity. R2P was also in response to a question posed by the United Nations (UN) Secretary-General Kofi Annan. During the Millennium Summit, Annan asked: “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 that affect every precept of our common humanity?”²

In September 2000, Canada confronted Annan’s challenge. Lloyd Axworthy, Canada’s Foreign Affairs Minister at the time, sought to have a committee, under the UN umbrella, to study the legality and the implications of humanitarian intervention. Axworthy also offered to fund this study. Since it was controversial amongst UN members, the Government of Canada, with significant international support, established the International Commission on Intervention and State Sovereignty (ICISS).³

¹Ken Follet, *A Place Called Freedom*, 2nd ed. (London: Pan Books, 2004), 206.

²United Nations Secretary General. *Millennium Report of the Secretary General of United Nations* (New York: UN, 2000), 48; available from <http://www.un.org/millennium/sg/report/full.htm>; Internet; accessed 11 February 2008.

³Barbara Crossette, “Canada Tries to Define Line Between Human and National Rights” *New York Times*, 14 September 2000; available from http://topics.nytimes.com/top/reference/timestopics/people/a/lloyd_axworthy/index.html ; Internet; accessed 3 March 2008.

The ICISS was co-chaired by Gareth Evans, previous Australian Attorney General and Foreign Minister, and Mohamed Sahnoun, an Algerian diplomat and U.N. Special Adviser. Their team was comprised of twelve representatives from eleven states and two of the members were Canadians, Michael Ignatieff and Gisèle Côté-Harper. The ICISS mandate was to provide the UN Secretary-General a report to propose a means of achieving common ground on humanitarian intervention and address when, or even if, it is appropriate for the international community to intervene in a state's affairs.⁴ The aim was to provide clear guidance on situations requiring humanitarian response.

The resulting report, *The Responsibility to Protect*, emphasizes that the core concept is one of protection rather than intervention thereby placing the focus where it always ought to be, not on those exercising power but on the victims of conflict who need the assistance of others if they are to be protected from suffering, compromises of human rights, and, most importantly, crimes against humanity.⁵ Notably, R2P eliminated any notion of states being able to use sovereignty as a shield. Sovereignty, in the context of R2P, has evolved from “*sovereignty as control to sovereignty as responsibility*.”⁶ First and foremost, R2P places the onus upon the state, under its sovereign responsibilities, to ensure the protection of its citizens. Therefore, sovereignty under R2P is neither absolute nor sacrosanct. If a state is abusing its citizens and is either incapable or unwilling to protect their security, R2P calls for an escalation of intervention to restore security, with military intervention as a last resort.

⁴The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001) vii; available from <http://www.iciss.ca/pdf/Commission-Report.pdf>; Internet; accessed 1 October 2007.

⁵Gareth Evans, “Banishing the Rwanda Nightmare” *Frontline*, 31 March 2004; available from <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/etc/protect.html>; Internet; accessed 24 February 2008.

⁶The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* ..., 13.

Ultimately, if the international community truly has a commitment to prevent human rights abuses such as genocide, human security and crimes against humanity, R2P must be operationalized. To support this thesis, this paper will commence with an introduction to the principles and progress of R2P.

Following the introduction, Chapter One will review the evolution of the concept of R2P by providing the progression of UN decisions concerning human rights abuses such as genocide, human security and crimes against humanity. These decisions will have been influenced by both UN failures and international humanitarian intervention when the UN failed to act. Somalia, Rwanda, Srebrenica, and Kosovo will be presented to support the discussion about failure and intervention. A series of meetings, resolutions and reports will be presented to support international commitment. Chapter One will demonstrate that R2P mirrors international commitments to human security that have been made since the formation of the UN.

Chapter Two will discuss the Operationalization of R2P through both direct and indirect means. “Direct” refers to the actual invocation of R2P. This paper will assert that Sudan is an unfortunate opportunity to demonstrate the international commitment to R2P’s principles. “Indirect” refers to activities short of invocation to support R2P’s advance. The indirect means that will be discussed to operationalize R2P will be governmental support, education, marketing, a united UN and R2P elevations to international law. Ultimately, operationalizing R2P requires that the concept becomes more than a normative principle or empty rhetoric.

R2P is based upon three principles and six criteria. The principles are the responsibility to prevent, the responsibility to react and the responsibility to rebuild. The six criteria are related to military intervention; therefore, they will be discussed under the responsibility to react. These

criteria are right authority, just cause, right intention, last resort, proportional means, and reasonable prospects.⁷ This introduction will provide a brief description of each principle and criteria to provide a basis from which to review the role of the UN and the commitments that the international community has made towards preventing human security.

The concept of responsibility to prevent requires that the international community is supportive of state efforts to ensure that triggers to genocidal and human rights abuses are minimized. Some major triggers to conflict are poverty, lack of resources and unbalanced political power. These triggers may require that the international community provide assistance to a state to address political needs and deficiencies, economical shortfalls, and security.⁸ Prevention also requires a monitoring or early warning system whereby governments and media are informed about emerging conflict. R2P recognizes that there are many actors who play this role including embassies, intelligence agencies, relief and humanitarian workers and peacekeeping forces to name but a few. If and when preventative measures do not improve human security, the international community has the responsibility to react.

The responsibility to react does not necessarily demand a military solution. Reaction may also include other “coercive measures” such as “political, economic or judicial measures.”⁹ However, if there is no expectation that diplomatic or development policies will prevent imminent or ongoing genocide, R2P clearly articulates the requirement to intervene with military force. Indicators of the gravity of the situation should dictate the required reaction.

Reaction under R2P has six criteria related to intervention, the first is *right authority* which is placed with the UN Security Council. Therefore, any R2P intervention would require a

⁷*Ibid.*, 32.

⁸*Ibid.*, 22-24.

⁹*Ibid.*, 29.

UN mandate. The second, *just cause*, is also referred to as “Threshold Criteria” with two circumstances under which military intervention would be “amply” justified:

Large scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act, or a failed state situation; or

Large scale “ethnic cleansing,” actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape.¹⁰

The following four are referred to as “Precautionary Criteria.” *Right intention* means that “the primary purpose must be to halt or avert human suffering.” Any intervention for the purpose of self-interest would not be in keeping with R2P principles. *Last resort* requires that all diplomatic and non-military attempts, such as sanctions, be made prior to a military solution. This, however, does not require that a checklist of escalating measures must be completed prior to intervention. If speed is required to suppress on ongoing atrocity, military intervention may be the only recourse. *Proportional means* requires that the scale, duration and means must be the minimal amount required to effectively secure the welfare of the victims. *Reasonable prospects* mean that military intervention can only be used if there is an expectation that such action will either stop or avert the atrocities. If there is no chance of affecting the desired outcome, intervention could potentially cause further harm.¹¹ After the international community has fulfilled its responsibility to react, there is the responsibility to rebuild.

Responsibility to rebuild requires that the international community commits the requisite resources to provide “sustainable reconstruction and rehabilitation.”¹² This, therefore, requires that the time necessary to rebuild infrastructure and institutions, establish security conditions and

¹⁰*Ibid.*, 32.

¹¹*Ibid.*, 35-37.

¹²*Ibid.*, 39.

judicial systems, and provide development assistance is invested to prevent the conflict from reemerging and to allow for reconciliation.

Endorsement of *The Responsibility to Protect* and R2P's progress was overshadowed by the tragic events of 11 September 2001, which occurred just shy of three weeks before *The Responsibility to Protect* was released on 30 September 2001. In the report's forward, it was acknowledged by the co-chairs that the framework did not include actions to be taken when a state must contend with either attacks on its nationals in other states, or the attacks upon another state's nationals residing in a host state.¹³ The exposed vulnerability of all states and the change in threat brought terrorism to the fore. The Commission acknowledged that there was a distinct difference in the framework required to counter humanitarian crisis and that to counter terrorism. This did not, however, obviate the international responsibility to advance the R2P agenda for the protection of global human rights and security. Because R2P highlights international responsibility to address the most serious of crimes against humanity that threaten security, it is essential that R2P is widely recognized, R2P principles are operationalized, and the obligations under R2P be elevated into international law.

¹³*Ibid.*, viii.

CHAPTER ONE - THE ROAD TO R2P

CHAPTER ONE OVERVIEW

This chapter demonstrates that R2P elaborates upon already existing legal instruments and moral responsibilities because the UN has already committed to uphold human rights as well as international peace and security. Chronologically, this Chapter will present the international community's commitments to genocide and human security; comment upon the progress, or failures, of the international community in advancing the aspirations of the UN; and discuss commitments that have been made by the international community to human security. Somalia and Kosovo will be discussed because they represent humanitarian interventions. Rwanda and Srebrenica will be discussed because they represent abject humanitarian failures of the UN. These examples will be used to support this paper's assertion that the international community must not lack the resolve to act in accordance with its humanitarian commitments, and therefore the concept of R2P.¹⁴ The chapter will then demonstrate the commitment that the UN has made to R2P, through a variety of resolutions and public documents.

EVOLUTION OF UN COMMITMENT TO GENOCIDE PREVENTION AND HUMAN SECURITY

This Chapter commences with a focus on the UN because the roots of R2P are deeply linked to the stated purpose and expectations of the UN. The UN was established in 1945, shortly after World War II and the Holocaust, one of the most destructive acts of the 20th Century to threaten human security. In accordance with Chapter 1 of the UN Charter, the purpose of the

¹⁴Although it is acknowledged that other states have also been victims of genocide and crimes against humanity, the limited scope of this paper precludes the inclusion of all genocide or humanitarian crises. There is no intention to suggest that the three states selected are the most important or to marginalize other genocide or humanitarian victims.

UN is fourfold: to maintain international peace and security; to develop friendly relations among nations; to achieve international co-operation in solving international problems; and to be a centre for harmonizing the actions of nations in attainment of these common ends.¹⁵ The UN member states, or contracting parties, have a global focus and a collective voice that transcend the borders, boundaries and geography of other multilateral organizations, regional organizations or military alliances. Put simply, the UN is the one organization that legitimately claims to be the collective voice of the entire international community of states. Member states, regardless of race or religion, have accepted the collective responsibility of maintaining global peace and security under the UN umbrella. A major challenge for the UN is “to save succeeding generations from the scourge of war ...” as stated in the preamble to the UN Charter.¹⁶ This represents one of the UN’s major challenges since genocide figures amongst the most heinous scourges of war. To understand the challenge that genocide provides to the UN, it is essential to recall the origins of the act and the word “genocide.”

The act of genocide is centuries old. ‘Genocides’ may be traced back to biblical times, an example of which is Moses presenting the word of God in Deuteronomy 20:16 by saying, “But in the cities of those nations which the Lord, your God, is giving you as your heritage, you shall not leave a single soul alive.”¹⁷ It is written in Deuteronomy 20:17, “You must doom them all – the Hittites, Amorites, Canaanites, Perizzites, Hivites and Jebusites”¹⁸ commanding the extermination of a specific group of people, regardless of gender. There are examples of

¹⁵United Nations, “Chapter One Charter of the United Nations,” <http://www.un.org/aboutun/charter/index.html>; Internet; accessed 1 October 2007.

¹⁶*Ibid.*

¹⁷*The New American Bible* (Nashville: Catholic Bible Press, 1987) 178.

¹⁸*Ibid.*, 178.

genocide throughout history with the Holocaust providing a relatively recent, documented example of the ability of mankind to inflict cruelty and barbarity on humanity.

That the act of genocide has a name is directly attributable to Raphael Lemkin, a Polish Jewish lawyer. In 1944, Lemkin coined the word genocide, which is derived from the Greek word *genos* meaning race or tribe and the Latin *cide* (from *caedere*) meaning killing. In creating the word, Lemkin wanted a term that was succinct, was novel, and could not be mispronounced. It also had to have a meaning that could not be misconstrued.¹⁹ To this day, “genocide” is a word that evokes horror and legal scholar William Schabas describes genocide as belonging “at the apex of the pyramid” of crime.²⁰ Genocide is the ultimate crime against humanity and threat to human security and has become such a common part of our lexicon that we may forget that the articulation of this travesty has been with us for less than seven decades.

Lemkin envisaged that genocide would be understood as “a coordinated plan of different actions aiming at the destruction of essential foundations of the life of national groups with the aim of annihilating the groups themselves.”²¹ For Lemkin, the Armenian genocide provided the genesis for the word, but it was the Holocaust that provoked the international community into accepting the term. He relentlessly lobbied at UN Headquarter to seek acknowledgement of the atrocities of both the Armenian genocide and the Holocaust only to be initially met with skepticism, tolerance and ridicule.²² Eventually, Lemkin convinced the UN to commit to prevent a recurrence of atrocities such as those inflicted by the Holocaust. On 11 December 1946, the General Assembly condemned ‘genocide’ and tasked a subcommittee to draft a convention.²³

¹⁹Samantha Power, *A Problem From Hell* (New York: Basic Books, 2002), 42.

²⁰William A. Schabas, *Genocide in International Law* (Cambridge: Cambridge University Press, 2000), 9.

²¹Samantha Power, *A Problem From Hell...*, 43.

²²William A. Schabas, *Genocide in International Law...*, 51-53.

²³Samantha Power, *A Problem From Hell...*, 54.

Two years later, on 9 December 1948, the UN General Assembly's fifty-five member states unanimously approved the Convention on the Prevention and Punishment of the Crime of Genocide and proposed the convention for signature and ratification or accession.²⁴ The convention defines genocide as:

(A)ny of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.²⁵

The convention provides that genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide are all punishable offenses.²⁶

Despite the 137 parties to the convention, genocide and crimes against humanity continued to occur into the 20th and 21st Centuries. Because the convention's definition of genocide was agreed upon and the acts of genocide contained within the Convention clearly constitute punishable offenses, there is an expectation that genocide would be easily recognized, suppressed and prosecuted. This has not proven to be the case; collective interpretation and agreement concerning genocide and the action to be taken have been difficult to obtain. The Armenian Genocide, Cambodia and Sudan are examples of debates about whether or not the atrocities constituted genocide. These debates hamper action. While there is the proverbial hand-wringing about whether or not genocide is occurring, the crimes continue and more harm ensues. During the last two decades, there are examples where the decision to intervene has

²⁴United Nations General Assembly, *Resolution 260A (III), Prevention and Punishment of the Crime of Genocide*; (New York: UN, 1948) available from <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/044/31/IMG/NR004431.pdf?OpenElement> ; Internet; accessed 1 October 2007.

²⁵*Ibid.*

²⁶*Ibid.*

either not been taken or, if taken, sufficient capabilities and capacity have not been dedicated to suppress an ongoing genocide, Rwanda, Srebrenica and Kosovo are but a few examples. Other states, within the last two decades, would be subjected to ethnic cleansing, ethical bloodletting, political killings – little more than euphemisms for genocide.²⁷ No other word should evoke the same level of terror and internationally unified intervention as ‘genocide.’ Yet, confronted with genocide over recent decades, the international community has been disinclined to act. The continued existence of genocides has not resulted in consistent UN action to uphold its responsibility to protect citizens from genocide and crimes against humanity. The convention, therefore, has not been an effective tool in the prevention or suppression of genocide, more so because it has not been enforced.

Another means to protect human security is through a commitment to human rights called the Universal Declaration of Human Rights (UDHR). The Declaration was adopted and proclaimed by the UN General Assembly on 10 December 1948.²⁸ All members were called upon to publicize the Declaration and “to cause it to be disseminated, displayed, read and expounded principally in schools and other educational institutions, without distinction based on the political status of states or territories.”²⁹ Although the Declaration is not legally binding, it presents the desired end-state of the collective UN body and is unfettered by Western or Eastern

²⁷As a result of limitations on scope, this paper cannot and does not represent all genocides or humanitarian crises that have occurred since the adoption of the Genocide Convention; Bangladesh, Cambodia, Iraq are but a few examples of states who have experienced genocide that will not be covered.

²⁸United Nations General Assembly, *General Assembly Resolution 217 A (III) of 10 December 1948, Universal Declaration of Human Rights*, available from <http://www.un.org/Overview/rights.html>; Internet accessed 1 October 2007.

²⁹United Nations General Assembly, *General Assembly Resolution 217 A (III) of 10 December 1948, Universal Declaration of Human Rights*, available from <http://www.un.org/Overview/rights.html>; Internet accessed 1 October 2007.

ideologies.³⁰ With the number of human rights violations that have occurred and are continue to occur, the declaration also seems to be an ineffective tool to guarantee basic human rights.

The UN has the tools through the Genocide Convention and the UDHR to fulfill the protection of human security. The resolve of the international community to uphold these tools has been particularly tested in the last two decades since the end of the Cold War and history has proven that the resolve to use the tools available is lacking. Particular reluctance or a lack of political will has been evident to either prevent genocide or to ensure human security. As a result, the commitment to international peace and security is compromised. Specific cases will follow to support this assertion.

SOMALIA

Somalia was selected to demonstrate international resolve to intervene. Even though genocide was not a factor in the decision, massive starvation and malnutrition necessitated humanitarian intervention to facilitate aid delivery. This was the first time that Western states would conduct a military intervention in an African state using humanitarian reasons as justification.³¹ Somalia, therefore, serves as an important historic precedent for humanitarian intervention.³²

The UN adopted UNCR 733(1992) invoking Chapter VII of the Charter and also imposed a general and complete arms embargo on Somalia. With a series of other resolutions, UNSCR 751(1992) established UNOSOM I to create a secure environment to facilitate the delivery of

³⁰Robert F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000* (Westport: Greenwood Press, 2001), 104.

³¹L.R. Melvern, *A People Betrayed: The Role of the West in Rwanda's Genocide* (London: Zed Books, 2000), 77.

³²*Ibid.*, 77.

humanitarian aid.³³ From April 1992 to March 1993, the UN mission in Somalia was authorized under UNOSOM to monitor the cease-fire in Mogadishu, to provide protection and security for United Nations personnel, equipment and supplies in Mogadishu and to escort deliveries of humanitarian supplies. Resolution 814(1993) would expand the force and its mandate to include a disarmament mission.³⁴ Neither the US nor the UN, however, was prepared for the conflict that would follow. In what was supposed to be a humanitarian relief, not intervention effort, the US was drawn into inter-clan rivalries. The US did not anticipate the costly or shocking results.³⁵ The ferocity and resolve of the war lords was underestimated and the UN was ill-prepared and ill-equipped to successfully intervene.³⁶ Between 3 and 4 October 1993, US Army Rangers were engaged in the infamous Black Hawk Down battle. American personnel were held hostage and American bodies were desecrated in the streets. The mission failure had a significant impact upon the US psyche and a direct impact upon the US position for the UN Security Council vote on whether or not to provide peacekeepers to Rwanda that was to be held two days later.³⁷ Considering the experience in Somalia, the US had little appetite to return to Africa. There was even less appetite to remain in Somalia and, by 25 March 1994, US troops completely withdrew.

RWANDA

³³United Nations Security Council, "Resolution 751, Somalia, 24 April 1992," <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/011/10/IMG/NR001110.pdf?OpenElement>; Internet, accessed 17 March 2008.

³⁴United Nations Security Council, "Resolution 814, Somalia, 26 March 1993," <http://daccessdds.un.org/doc/UNDOC/GEN/N93/226/18/IMG/N9322618.pdf?OpenElement>; Internet, accessed 17 March 2008.

³⁵Richard W. Stewart, *The United States Army in Somalia 1992-1994* (Fort J. Leslie McNair: US Army Centre of Military History, 2003), 4; available from <http://www.history.army.mil/brochures/Somalia/Somalia.htm>; Internet accessed 17 March 2008..

³⁶L.R. Melvern, *A People Betrayed*,... 78.

³⁷L.R. Melvern, *A people betrayed*..., 79.

Concurrent with Somalia, the situation in Rwanda necessitated immediate attention. In October 1993, UNSCR 872(1993) authorized a contingent to deploy to Kigali to monitor the Arusha Peace Agreement, at the request of the opposing belligerents.³⁸ This agreement was signed on 4 August 1993 between the Government of Rwanda and the Rwandan Patriotic Front (RPF) after three years of vicious civil war. The number of forces provided was limited; UNAMIR was allocated four hundred troops from Belgium and another four hundred from Bangladesh. As previously mentioned, after Somalia the US had little will to return to Africa. The UN focus was on Europe, in particular Bosnia. Canada had its own national Somalia scandal and was committed to deployments in Europe. Canada's contributions to Rwanda were small in number but high in profile, with Canadian Dallaire assuming command of UNAMIR. Belgium and Bangladesh were the states to initially contribute troops of any number to Rwanda. Essentially, there was little interest in Rwanda.³⁹ It took five months to achieve an authorized strength of the monitoring force of approximately 2,550 personnel.⁴⁰

UNAMIR's role was to "monitor" rather than "enforce" the peace agreement, therefore UNAMIR was expected to be neutral and facilitate the Agreement. UNAMIR, therefore, had no authority to take action against contraventions. By all accounts, UNAMIR was expected to be a typical Chapter VI deployment meaning "lightly-armed, multi-national, blue-helmeted, impartial and neutral peacekeepers... deployed and interposed between two former warring factions, with their consent."⁴¹ There were, however, indications that approaching Rwanda as a Chapter VI mission was overly optimistic. In April 1994, the UN would be challenged by a genocide in

³⁸International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide*. (July 2000), 101.

³⁹*Ibid.*, 102.

⁴⁰United Nations, Department of Peacekeeping Operations, 'Rwanda UNAMIR Backgrounder,' http://www.un.org/Depts/dpko/dpko/co_mission/unamirS.htm; Internet, accessed 17 March 2008.

⁴¹Romeo Dallaire, *Shake Hands With the Devil; The Failure of Humanity in Rwanda*, (Toronto: Vintage Canada, 2004), 41.

Rwanda that would hold a permanent place in UN history and have a profound effect on UN credibility.

The UN's failures in Rwanda served as a concrete example of potential shortfalls, challenges and requirements, the veritable "lessons-learned" upon which to build a concept of just cause or humanitarian intervention, hence Rwanda's role in the development of R2P.⁴² As a result, even though R2P had not yet been published as a concept, Rwanda will be further discussed using the R2P principles and criteria.

The first failing of the international community was the *responsibility to prevent* the genocide from occurring. The potential to have prevented the conflict dates back to colonization since it has been suggested that the seeds of genocide were sown under Belgian colonial rule where ethnic divisions were created and heightened. Between 1926 and 1932, based upon physical appearance, the Belgians made distinctions amongst the indigenous people, developed an identity system and issued identity cards to every Rwandan. Height and facial features were the deciding factors; Tutsis were tall with refined features and Hutus were short and broad. Some Rwandans were assigned Tutsi status based upon relative wealth.⁴³ Divisions between the Hutu and Tutsi were exacerbated when the Belgians "groomed the Tutsis as a ruling class to enforce harsh colonial order against the Hutus."⁴⁴ This caste society could do naught else but lead to resentment that would eventually fester. When Rwanda achieved independence in 1962, the Hutus had political control that had been gained through a revolution in 1959. Hutu rule would be challenged in 1990 when the RPF, comprised of the Tutsi-led refugee diaspora in

⁴²United Nations Secretary General. *Millennium Report of the Secretary General of United Nations*,... 48.

⁴³International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide*. (July 2000), 12 .

⁴⁴Adam Lebor, "Complicity with Evil" *The United Nations in the Age of Modern Genocide*, (New Haven:Yale University Press, 2006), 165.

Uganda, “invaded” Rwanda. In the ensuing conflict over resources and political power, genocide came to the fore.

Another opportunity to prevent genocide was during the transfer of independence to Rwanda. Belgium, as the colonial power, also had a responsibility to ensure that the institutions and infrastructures were in place to permit a transition from colonial to a peaceful self-rule. With the shift in power and a marked division in the state, there were warnings that tensions could escalate. The advent of a vicious civil war and the crimes against the civilian population dictated that there was a responsibility to react.

Of the three R2P responsibilities, the *responsibility to react* is submitted as the most significant failure of the international community in Rwanda. There were a multitude of warning signs, before and during the genocide, to which the international community should have reacted, yet failed. The civil war served as the first indicator. It is often stated that genocide is conducted under the cover of war.⁴⁵ Scott Strauss finds “war to be fundamental to the logic of genocide in Rwanda. War legitimated killing as an acceptable practice. War turns rivals into “enemies” who must be killed.... (w)ar is not tangential to or a “cover” for genocide; war is central.” Whether war is a cover or central, genocide has fertile ground during war and the civilian population is at risk.

The second indicator was evidence of genocide provided to the Security Council in a report by Special Rapporteur of the UN Commission of Human Rights, B.W. Ndiaye. His mission in Rwanda was from 8 to 17 April 1993, just a few months prior to the adoption of the Arusha Peace Agreement. In his report, he raised concerns about the possibility that a genocide

⁴⁵William A. Schabas, *Genocide in International Law*, (Cambridge: Cambridge University Press, 2000) 1

was underway.⁴⁶ Considering that just a few months prior to the agreement concerns about genocide were expressed, the sincerity of the Arusha Peace Agreement (APA) should have been questioned and the circumstances in Rwanda should have been more closely monitored. At the very least, Dallaire should have been aware of the report but he was not even apprised of the report to ensure that he had situational awareness.⁴⁷ Ndiaye's warnings, in hindsight, should also have lent more credibility to Dallaire's warnings of plans for Tutsi extermination.⁴⁸

The Independent Inquiry into Rwanda assigned shared blame to UNAMIR for the Rwandan genocide.⁴⁹ UNAMIR, however was handcuffed because critical decision points, had they been permitted, may have influenced the outcome and prevented, if not contained, the genocide. The first of which was the authority to seize and destroy the arms caches; instead Dallaire was advised such action was not within the UNAMIR mandate. UNAMIR's mandate was not sufficiently robust to effectively deal with breaches to the Arusha Peace Agreement.⁵⁰ To worsen the situation, the UN Security Council was not responsive enough to increase the mandate to adjust with changes in the situation. When military forces are deployed, the capability to react to a change in the security situation must be swift. The forces cannot afford the loss of strategic advantage due to political infighting and bureaucracy.

⁴⁶B.W. Ndiaye, *Question of the Violations of Human Rights and Fundamental Freedom in Any Part of the World, With Particular Reference to Colonial and Other Dependent Countries and Territories*, Report prepared for United Nations, Economic and Social Council, (New York: UN, 1993), 22; available from <http://www.preventgenocide.org/prevent/UNdocs/ndiaye1993.htm> ; Internet accessed 19 March 2008.

⁴⁷International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide...*, 103.

⁴⁸Roméo Dallaire, Fax addressed to Maurice Baril, UNHQ, Request for Protection of Informant, dated 11 January 1994, available from <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw011194.pdf> .

⁴⁹Ingvar Carlsson, Han Sung Joo and Rufus M. Kupolati, *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda*, dated 15 December 1999 and prepared for the United Nations at the request of the Secretary General and advised to the Security Council, 30 available from <http://daccessdds.un.org/doc/UNDOC/GEN/N99/395/47/IMG/N9939547.pdf?OpenElement>; Internet; accessed 1 October 2008.

⁵⁰*Ibid.*, 31.

On 23 November 1993, Dallaire, in his capacity as Force Commander United Nations Assistance Mission in Rwanda (UNAMIR), sought the approval of the Secretariat of the Security Council for his draft Rules of Engagement (ROE). His draft requested that UNAMIR be provided with the authority and capability to act and, if required, use force, in response to crimes against humanity and other abuses, but there was no approval – UN Headquarters did not formally respond to his request.⁵¹ Dallaire was soon to be in the midst of a full blown genocide.

The amount of time that it took for the UN to react also contributed to the genocide. Rapid response requirements for additional troops cannot afford ramp-ups of two to three months prior to deployment. Within 100 days, approximately 800,000 people were killed in Rwanda. Perhaps the UN was lulled into a false sense of security since Rwanda lacked the sophisticated weaponry associated with the developed European nations. But, Rwanda proved that the realization of genocide is not predicated on technology. Rwanda's horrific genocide was achieved largely through the use of machetes, hoes and crude instruments. The Hutu's planning was impeccable and the execution swift.

The Security Council reacted by imposing an arms embargo against Rwanda in May 1994 under UN Security Council Resolution (UNSCR) 918(1994). Otherwise, no sanctions, either judicial, economic or political were placed against Rwanda despite the condemnation of ongoing violence in Rwanda, the "very numerous killings of civilians... and the impunity with which armed individuals have been able to operate."⁵² Therefore, Rwanda was under no international pressure to suppress the violence that was occurring within its borders. It was not until 22 June 1994, well into the Rwandan genocide, that the UNSCR 929(1994) authorized a

⁵¹*Ibid.*, 9.

⁵²United Nations Security Council, "Resolution 918 On the Expansion of the Mandate of the UN Assistance Mission for Rwanda and Imposition of an Arms Embargo on Rwanda," <http://www.un.org/Docs/scres/1994/scres94.htm>; Internet; accessed 19 March 2008.

Chapter VII operation. Operation Turquoise was a multi-national force with a mandate to establish a humanitarian protection zone in south-western Rwanda. Operation Turquoise ended in August 1994.

Because of the military intervention, Rwanda will also be discussed using the six R2P criteria for military intervention. Under the first criterion, the UN failed to provide the *right authority* to counter the genocide. Although the UN Security Council sanctioned the mission, operations were authorized under Chapter VI when a Chapter VII mandate, upon recognition of the worsening situation should have been authorized. If the deployment of military force is deemed necessary, the force must be provided with sufficiently robust ROE or authority to permit them to intervene and either prevent genocide or enforce the mandate. This means that military commanders must have the flexibility and sufficient ROE to exercise command decisions. Rwanda serves as an example of insufficient delegated authority for effective intervention.

The next criterion is *just cause*. Rwanda is reputed to be the fastest genocide in recorded history, as much as five times more efficient than the Holocaust.⁵³ In only one hundred days, approximately 800,000 people were slaughtered. It was reported by Médecins sans Frontiers that 8,000 were dead in Kigali and by the International Committee of the Red Cross, on 6 April 2004, that tens of thousands were killed.⁵⁴ These atrocities clearly provide *just cause*. That written, it is not the number of deaths that constitutes genocide or crimes against humanity. Since Article III(b) of the Genocide Convention includes “Conspiracy to commit genocide,” theoretically not

⁵³Alan J. Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda* (Washington DC: Brookings Institution Press, 2001) 16.

⁵⁴*Ibid.*, 27.

one death is necessary to constitute genocide. Therefore, the magnitude of the genocide does not influence criterion for the international community to react.

The first precautionary criterion is *right intention*. In addition to halting or averting human suffering, the end-state should be restoration of the subject state's sovereignty. The initial intent was there but the response was not significant enough to stop the genocide.

The second criterion of *last resort* would have been met, even if the force had been increased at the appropriate time. The APA had been signed and the diplomatic channels appeared to have been fruitful. A valuable lesson, concerning intervention as a last resort, is the necessity to have an immediate deployment capability, the proper number of troops assigned and a sufficiently robust ROE to achieve the required effect.

The third criterion of *proportional means* requires that one must consider the level of intervention required to achieve the desired end-state, which would be the suppression of genocide and/or crimes against humanity. In his book *The Limits of Humanitarian Intervention: Genocide in Rwanda*, Alan Kuperman proposes three levels of intervention: maximum, moderate and minimal. The levels are determined by the size of the deployment force and the level of force allowed by rules of engagement.⁵⁵ The R2P concept of proportionality states that the "scale, duration and intensity of the planned intervention should be the minimum necessary to secure the humanitarian objective in question."⁵⁶ Part of the issue, however, is quantifying what constitutes proportionality and what level of intervention is appropriate. Insufficient intervention, when intervention is required, has the potential to only reduce the impact but not quell the act. Excessive intervention has the potential to result in unnecessary harm, both in the loss of life and in the capability, on political and personal levels, to heal post-genocide. It is

⁵⁵ *Ibid.*, 63-77.

⁵⁶ The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect ...*, 37.

essential to achieve balance. With regard to Rwanda, there is little doubt that the criterion of proportionality was not met, meaning that the response was too little and that Dallaire has insufficient authorities and resources. While there were warning signs of impending genocide, the genocide occurred with such velocity and ferocity that the escalation of the 5000 troops that Dallaire sought would likely have had little effect.⁵⁷ Insufficient personnel were assigned to the mission and the rules of engagement were not sufficiently robust for the small contingent that was present to execute their mandate.

The fourth criterion *reasonable prospect* of a successful intervention was not met with the troops, authorities and resources allocated to Rwanda. The murder of ten Belgian soldiers in Rwanda achieved the desired result for the *genocidaires*; Belgian forces withdrew and the modicum of international will to intervene crumbled further hampering the opportunity for success. The only way that *reasonable prospect* could have been achieved is if timely, sufficient, equipped and prepared troops were committed to Rwanda.

The final responsibility that the international community had in Rwanda was the *responsibility to rebuild*. Although there were rebuilding successes, a major failure in Rwanda was providing Rwandans with the funding to repair their infrastructure. Rwanda was shattered by the genocide. In the words of the International Panel of Eminent Personalities:

There was a country, but no state. There was no money.... The infrastructure had been destroyed. There were no services. There was no water, power or telephones. There were no organs of government, either centrally or locally. There was no justice system to enforce laws or to offer protection to the citizenry.⁵⁸

⁵⁷Alan J. Kuperman, *The Limits of Humanitarian Intervention: Genocide in Rwanda*, ... 87.

⁵⁸International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide...*, 175

Its population had been decimated to one quarter of its pre-genocide numbers by death and displacement.⁵⁹ This remaining population had to contend with rebuilding their country. Although funds were donated by the international community, Rwandans were in an untenable position. They were expected to pay \$4.5 million to access the \$140 million in funds earmarked for them in The World Bank. Another roadblock was put up when the French vetoed the unblocking of \$200 million from the European Union. The French position was that the money should only be paid when the Rwandan refugees returned to Rwanda.⁶⁰ Between 1995 and 1998, approximately \$2.9 billion was committed by the international community but only \$1.8 billion materialized.⁶¹ The rebuilding process requires timely access to contributed funds and to labour to reconstruct a destroyed country.

In March 1999, the UN Secretary-General commissioned an independent inquiry into the actions of the UN in the face of the Rwandan Genocide.⁶² The report advised that Rwanda was a clear example of the abject failure of the UN to act; “the failure by the United Nations to prevent, and subsequently, to stop the genocide in Rwanda was a failure by the United Nations as a whole.”⁶³ The failure was attributed to, “in particular, the Secretary-General, the Secretariat, the Security Council, UNAMIR and the broader membership of the United Nations.”⁶⁴ The overriding failure was attributed to a lack of resources and a lack of will. Despite the

⁵⁹*Ibid.*

⁶⁰ L.R. Melvern, *A People Betrayed*,...224.

⁶¹ International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide*..., 179.

⁶²Kofi Annan, Letter Dated 15 December 1999 from the Secretary General Addressed to the President of the Security Council, S/1999/339, available from <http://daccessdds.un.org/doc/UNDOC/GEN/N99/395/47/IMG/N9939547.pdf?OpenElement>; Internet; accessed 1 October 2007.

⁶³Ingvar Carlsson, Han Sung Joo and Rufus M. Kupolati, *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda*, dated 15 December 1999 and prepared for the United Nations at the request of the Secretary General and advised to the Security Council,... 3.

⁶⁴*Ibid.*, 30.

Convention on the Prevention and Punishment of the Crime of Genocide, the international community failed to successfully intervene, either politically or militarily. The lessons learned from Rwanda are substantial and should not have been forgotten.

SREBRENICA

After the failures in Rwanda, the relevancy and effectiveness of the UN would again be called into question in Srebrenica. In July 1995, a little more than a year after the anniversary of the Rwandan genocide, Srebrenica would be recognized as another UN failure to protect. According to The Institute for War and Peace Reporting, Srebrenica was “the first legally established case of genocide in Europe since the Second World War.”⁶⁵ Whether Srebrenica was actually “ethnic cleansing” or “genocide” will likely be debated for decades. What is clear however is that Srebrenica was designated a UN safe-area, protected by UN peacekeepers and yet became the “largest single war crime since World War II.”⁶⁶ An estimated 8,000 Muslim men and boys were slaughtered on the heels of Rwanda. The UN, once again, failed to protect.

KOSOVO

After the shocking events at Srebrenica, Kosovo would also reflect the lack of UN resolve to respond to humanitarian crisis would again be evidenced in the face of a humanitarian crisis in Kosovo. In the face of UN inaction, NATO, a regional organization, was not prepared

⁶⁵ Institute for War and Peace Reporting, Bosnia I Herzegovina, Hvarska and Srpska Tribunal Update No 398, 18 March 2005, http://www.iwpr.net/?p=tri&s=f&o=235656&apc_state=henitri2005; Internet, accessed 25 March 2008.

⁶⁶ Jan Willen Honig and Norbert Both, *Srebrenica: Record of a War Crime* (London: Penguin Books, 1996), xix.

to play the role of bystander. From 24 March to 11 June 1999, without UN sanction, NATO conducted air strikes over Kosovo. Because there was no UN sanction, the air strikes over Kosovo were manifestly illegal but were considered, in the name of humanitarian intervention, justifiable and a just cause.⁶⁷

In 1996, the UN was worried that the situation in Kosovo could deteriorate to mirror another Bosnia.⁶⁸ The same Serbian regime was still in power, despite Milošević having been publicly accused of war crimes in by Secretary of State Lawrence Eagleburger, and the ruthlessness with which Milošević exerted authority was showing signs in Kosovo. Despite concerns, the UN action to quell the violence, even though it was noted as ethnically related, was minimal. The only affirmative action that the UN took was an arms embargo under UNSCR 1160(1998). A subsequent resolution, UNSCR 1199(1998) states, in reference to Kosovo, that “should the concrete measures demanded in this resolution and resolution 1160(1998) not be taken, [the UN undertakes] to consider further action and additional measures to maintain or restore peace and stability in the region.”⁶⁹ The UN’s ability to intervene, on either political, judicial or military means, was hampered by a lack of consensus since Russia and China did not support intervention due to issues of sovereignty recognition. The lessons of Rwanda, where inaction was concluded as a major UN failure, were ignored and the UN failed to take a leadership role.⁷⁰

⁶⁷ Independent International Commission on Kosovo, *Kosovo Report: Conflict, International Response, Lessons Learned* (New York: Oxford University Press, 2000), 4.

⁶⁸ Robert F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000*, (Westport: Greenwood Press, 2001) 365.

⁶⁹ United Nations Security Council, “RESOLUTION 1199 (1998),” <http://daccessdds.un.org/doc/UNDOC/GEN/N98/279/96/PDF/N9827996.pdf?OpenElement>; Internet, accessed 17 March 2008.

⁷⁰Independent International Commission on Kosovo, *Kosovo Report: Conflict, International Response, Lessons Learned* Rwanda Independent Inquiry..., 170.

To address this failure in leadership, NATO was prepared to fill the void. The NATO Treaty, signed in Washington on 4 April 1949, states: “The Parties to this Treaty reaffirm their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all governments.”⁷¹ Article 7 of the NATO Treaty states: “This Treaty does not affect, and shall not be interpreted as affecting in any way the rights and obligations under the Charter of the Parties which are members of the United Nations, or the primary responsibility of the Security Council for the maintenance of international peace and security.”⁷² NATO, therefore, recognizes the primacy of the UN Charter regarding international peace and security. Yet, when the UN was unwilling to act, NATO demonstrated its resolve to follow through with the action it considered necessary, regardless of the lack of UN sanction, to suppress gross crimes against humanity and assert that there was a limit to the boundaries of sovereignty.

Activation orders for air strikes on Kosovo were authorized by the North Atlantic Council on 13 October 1998,⁷³ but emphasis was placed upon resolving the crisis by diplomatic means, seeking to exhaust all means possible prior to resorting to the use of force. The Organization for Security and Cooperation in Europe’s (OSCE) Kosovo Verification Mission, a NATO aerial surveillance mission and military task force were measures already in place. These and intensive diplomatic means failed.⁷⁴

Controversy over the bombing would follow, not only because of the lack of UN sanction but because of the diplomatic discussions held at Rambouillet. The text of the Rambouillet

⁷¹ North Atlantic Treaty Organization, “The North Atlantic Treaty,” <http://www.nato.int/docu/basic/txt/treaty.htm>; Internet; accessed 3 March 2008.

⁷² *Ibid.*

⁷³ NATO Public Diplomacy Division, NATO Handbook (Brussels: NATO, 2006), 149.

⁷⁴ *Ibid.*, 149-150.

Agreement strongly favoured the Kosovo Liberation Army and the conditions were knowingly unacceptable to Slobodan Milošević, the Serbian President.⁷⁵ Essentially, despite the proposal for Kosovo to remain part of Yugoslavia, Belgrade's control would be virtually eliminated. Milošević, therefore, refused to sign away Belgrade's sovereign rights. When the KLA signed the agreement, NATO followed through with the air strikes. Despite Milošević's sovereignty argument, NATO was more concerned about the welfare of Albanians and avoiding another Srebrenica.

UNSCR 1203(1998), dated 24 October 1998, called for a cease fire and a withdrawal of Former Republic of Yugoslavia (FRY) forces.⁷⁶ Both Russia and China abstained; Russia abstained because it felt that the situation in Bosnia did not constitute a threat to international peace and security. China abstained because it was opposed to the Chapter VII invocation.⁷⁷ Arguments were made that Serbia's actions were internal to its own state and there was no aggression towards another state. Its actions were, therefore, within its sovereign territory and the UN had no legitimate right to intervene. This reaction is consistent of the Chinese and Russian voting practice and holds true, even if the UN interests are "peaceful" if sovereignty is at stake.⁷⁸ UNSCR 1203 (1998) clearly indicated that the UN was fully aware of NATO action.

⁷⁵Eric Herring, "From Rambouillet to the Kosovo Accords" in *The Kosovo Tragedy*, ed. Ken Booth, 225-245 (London: Frank Cass, 2001), 227.

⁷⁶United Nations Security Council, "Security Council Resolution 1203 (1998) on the situation in Kosovo," <http://www.un.org/Docs/scres/1998/scres98.htm>; Internet; accessed 17 March 2008

⁷⁷Robert F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000...*, 366.

⁷⁸A recent example is when, on 12 January 2007, the UN Security Council discussed the situation in Burma (Myanmar). At the end of September 2007, conflict broke out in Burma (Myanmar) when the government violently cracked down on pro-democracy demonstrators. Communications outside of the state were banned and news of the violence was minimal. Amid condemnation of the military crackdown, fears were expressed that ethnic tensions could escalate. A draft "peaceful" resolution was proposed by the United States and the United Kingdom to seek a cessation of attacks against ethnic violence (including rape and sexual violence) and allow unhindered access to humanitarian organizations to deliver aid in the interest of humanitarian intervention. Despite the resolution's peaceful nature, it was defeated. Russia and China did not believe that the situation in Burma constituted a threat to

The resolution also acknowledged “the establishment of an air verification mission over Kosovo... complementing the OSCE Verification Mission.”⁷⁹ This same resolution asserted that the UN was “Deeply alarmed and concerned at the continuing grave humanitarian situation throughout Kosovo and the impending humanitarian catastrophe, and re-emphasizing the need to prevent this from happening.”⁸⁰ UN concerns, however, amounted to no action and effected no change to the humanitarian crisis unfolding in front of the international community. UNSCR 1203 (1998) reiterated UN responsibility for the maintenance of international peace and security and that the UN remained seized. Yet no proactive measures were forthcoming.

NATO had no expectation that the UN would authorize NATO air strikes. NATO also anticipated that China and Russia, in their permanent member status, would veto UN support, sanction or action in Kosovo.⁸¹ China and Russia were also opposed to regional action without UN sanction because their respective veto powers would have little relevance if other states could choose to intervene in non-peaceful means without UN authority.⁸² Art Eggleton, Canada’s Minister of National Defence at the time, stated:

(W)e did not have the luxury of waiting for an ideal solution.... we faced the certain knowledge that some members of the UN Security Council were prepared to use their veto. So, we had a choice: we could stand on ceremony, plead that there was no UN

regional or international peace and security, but was an internal state affair. The resolution called for the government of Burma to cease all attacks against ethnic minorities, including rape and other sexual violence; allow unhindered access to humanitarian organizations; cooperate fully with the International Labor Organizations; make concrete progress toward democracy, by engaging in a substantive political dialogue with all political parties; release of all political prisoners, including Nobel Peace Laureate Aung San Suu Kyi; support the Secretary-General’s “good offices” mission in Burma. There were nine votes in favour and three against, by China, the Russian Federation and South Africa. Because two of the three votes against were from two permanent members of the Council, the veto power killed the resolution.

⁷⁹ United Nations Security Council, “Security Council Resolution 1203 (1998) on the situation in Kosovo,” ...

⁸⁰ *Ibid.*

⁸¹ Robert F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000...*, 367.

⁸² Ted Galen Carpenter, “Damage to Relations with Russia and China,” in *NATO’s Empty Victory: A postmortem on the Balkan War* (Washington: CATO Institute, 2000), 77.

mandate, and wash our hands of the whole matter. Or, we could stand on principle, roll up our sleeves and get to work.... weighing the right of state sovereignty and the demands of humanitarian intervention, is also more nuanced than some would have it.⁸³

After the failure of diplomatic means, NATO launched its air campaign on 24 March 1999.

NATO, for all intents and purposes, acted in accordance with its perception of the necessity to protect the Albanians against crimes against humanity and “held that the anticipatory commission of genocide by Serbian Forces justified its action and that the brutal fears of genocide were real, thus justifying further use of force.”⁸⁴ The NATO action was directly in accordance with the principles of R2P, despite the fact that the action took place before R2P was conceived, published and endorsed. Every attempt was made to avert military action and force was used only once it was determined that the state would not ensure the welfare of its nationals. Diplomatic efforts throughout the bombing campaign continued, especially led by the Russians. Lieutenant General Sir Michael Jackson attributes Russia with convincing Milošević to accede to NATO’s terms.⁸⁵ If Russia’s diplomatic means were in fact the impetus for the suppression of the atrocities, the effect, in all likelihood, would not have been achieved without NATO intervention since all other diplomatic measures had failed to achieve a peaceful settlement.

Despite setting the conditions for resolution, the NATO action was highly controversial. In his article *Setting Dangerous International Precedents*, Stanley Kober argues that NATO’s actions served to divide the international community, especially China and Russia. Kober also likens NATO’s intervention to Hitler’s substantiation for his actions in Czechoslovakia in so far

⁸³ Art Eggleton, Canadian Defence Minister On Lessons From Kosovo (Sept.30) Speaking Notes for Sept.30 speech at Harvard University Commencement ceremonies ; Boston, Massachusetts http://www.defense-aerospace.com/cgi-bin/client/modele.pl?prod=16290&session=dae.35388387.1207177745.@LKgC38AAAEAAHAXW0AAAAF&modele=jdc_1; Internet, accessed 19 March 2008.

⁸⁴Robert F. Gorman, *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000...*, 124.

⁸⁵Andrew Gilligan, “Russia, not bombs, brought end to war in Kosovo, says Jackson,” *The Electric Telegraph (UK)*, 1 August 1999, available from <http://www.cdi.org/russia/johnson/3417.html>; Internet: accessed 2 April 2008.

that Hitler fabricated concern for the Sudeten Germans and used their plight to facilitate his acquisition of Czechoslovakia. Although Kober acknowledges that NATO was genuinely concerned for the Albanians, he asserts that unilateral action to exercise a perceived responsibility to protect has the potential to legitimize a process that will lead to future tragedy. Because of the possibility for history to repeat itself, Kober expressed concern that by acting without UN sanction, NATO could set a dangerous precedent.⁸⁶ He also argues that humanitarian intervention is not a “recent invention” but takes issue with how the intervention took place which he attributes to a lack of power within and respect for the UN.

Although Annan criticized NATO for intervening in Kosovo without UN Security Council authority and admitted that the international community stood accused of “doing too little, too late,”⁸⁷ he did not assign blame to the ponderous UN process. In his article, *Two Concepts of Sovereignty*, Annan expressed concern over the NATO intervention and the resulting implications concerning an intervention that lacks legitimate authority by stating:

To those for whom the Kosovo action heralded a new era when States and groups of States can take military action outside the established mechanisms for enforcing international law..., is there not a danger of such interventions undermining the imperfect, yet resilient, security system created after the Second World War, and of setting dangerous precedents for future interventions without a clear criterion to decide who might invoke these precedents, and in what circumstances?⁸⁸

What was lacking was the recognition that, to be effective, the UN must be responsive. If it is not, other states will act, as demonstrated by NATO’s actions in Kosovo, instead of waiting for an ineffective and unresponsive reaction to atrocities. UNSCR 1244 (1999) acknowledged that there was a “grave humanitarian situation in Kosovo.” This resolution’s effective date of

⁸⁶ Stanley Kober, “Setting Dangerous International Precedent,” in *NATO’s Empty Victory: A Postmortem on the Balkan War...*, 108.

⁸⁷ Kofi A. Annan, “Two Concepts of Sovereignty” in *The Economist*, 18 September 1999, available from <http://www.un.org/News/ossg/sg/stories/kaecon.html>; Internet, accessed 1 April 2008.

⁸⁸ *Ibid.*

10 June 1999 was well into the NATO campaign. The resolution called for an “immediate and verifiable end to violence and repression in Kosovo” and sought the withdrawal of military, police and paramilitary forces. A UN international security presence, under Chapter VII, in Kosovo was also called for.⁸⁹ By then, NATO had achieved its aim.

NATO’s actions without UN approval serve as an example of how a portion of the international community took responsibility seriously and demonstrated the resolve and commitment to discharge its international duties. The R2P principle that the welfare of a state’s nationals is a sovereign responsibility is clearly stated in Eggleton’s following words: “Our actions in Kosovo declared, in no uncertain terms, that mass murder is an act of moral repugnance, not the prerogative of a sovereign state.”⁹⁰ Ultimately, the regional intervention in Kosovo emphasized that the UN needs to be a relevant, responsive and respected body that can be relied upon to act appropriately in the face of atrocities and not be impeded by internal politics.

The “luxury” of examining the failures of each state in hindsight using R2P standards affords the international community the opportunity to reflect upon how it might react in the future if faced with similar circumstances. It also provides cause to examine the international commitments to global peace and security and to determine actions that are collectively acceptable to achieve the desired end state. Since it is argued that R2P represents commitments that the UN has already made towards global peace and security, it is fitting to review some of the commitments that have been made to date.

⁸⁹ United Nations Security Council, Resolution 1244 (1999) adopted 10 June 1999, <http://daccessdds.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>; Internet, accessed 1 April 2008.

⁹⁰ Art Eggleton, Canadian Defence Minister On Lessons From Kosovo (Sept.30) Speaking Notes for Sept.30 speech at Harvard University Commencement ceremonies ; Boston, Massachusetts....

UN COMMITMENTS TO R2P AND HUMAN SECURITY

This section will present a succession of recent UN commitments to R2P and human security that will focus on post-Kosovo.⁹¹ Shortly after the publication of the Rwanda Inquiry, the role of the UN in the 21st Century was examined at the UN Millennium Summit, held from 6 to 7 September 2000. The Millennium Declaration states:

(I)n addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable....⁹²

The Declaration is another instrument that emphasizes the collective responsibility of the UN member states to protect all of the citizens of the world, “especially the most vulnerable.” There is no limitation of respecting sovereignty placed upon that duty. The UN also acknowledged, at this summit, that there was a broader concept of human security that also needed to be addressed. This responsibility to protect human security, however, comes into conflict with the concept of state sovereignty. At the Millennium Conference, states agreed to:

(S)upport all efforts to uphold the sovereign equality of all States, respect for their territorial integrity and political independence, resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination and foreign occupation, non-interference in the internal affairs of States,⁹³

This commitment to uphold sovereignty serves, for some states, to pose difficulty for the prevention and cessation of genocide. Principles, in the shape of R2P, emerged to recognize that

⁹¹ The items presented are not purported to be an exhaustive list of documents or meetings. They were selected to demonstrate a consistent progression towards the adoption of R2P principles.

⁹²Kofi Annan, *We The Peoples: The Role of the United Nations in the 21st Century*, Report prepared for the United Nations Millennium Summit (New York: UN, 2000) available from <http://www.un.org/millennium/sg/report/full.htm>; Internet, accessed 19 December 2007.

⁹³*Ibid.*

evolving concepts of human security are influence the latitude within states and the responsibilities that states have towards their nationals.⁹⁴ R2P and the UN's endorsement of R2P reflect that the greater priority is human security and an acknowledgement that sovereignty is not totally inviolate neither is it sacrosanct as envisaged by the Treaty of Westphalia.

Three years later, *The Human Security Final Report*, presented to the UN on 1 May 2003, directly linked human security and state security as interdependent; one typically does not exist without the other.⁹⁵ The focus on prevention points to the fact that when a state has strong viable institutions, many of the triggers to genocide and crimes against humanity are absent. The report also advises that human security is far more than the absence of violence. Human security requires policies that provide for the recognition and respect of human rights. Human security also requires good governance and provision for the welfare of its citizens through opportunities for education, development and the realization of personal aspirations.⁹⁶ Considering that the majority of crimes against humanity and genocide occur during times of war, the ability of a state to guarantee the human rights of its citizens is a strong indicator of its capability to avoid the internal strife which may lead to violence. If all states exercised and fulfilled their sovereign responsibilities, there would be no requirement for R2P.

Shortly afterwards, the UN Secretary General provided support to The Stockholm International Forum at an intergovernmental conference held in Stockholm on January 2004. The forum was at the initiation of then Swedish Prime Minister Göran Persson and was attended by fifty-five member states, fourteen international organizations as well as some leading

⁹⁴ The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* ..., 7.

⁹⁵ Commission on Human Security, *Final Report of the Commission on Human Security: Human Security Now* (New York: CHS, 2003), 6; available from <http://www.humansecurity-chs.org/finalreport/English/chapter1.pdf>; Internet accessed, 12 December 2007.

⁹⁶ *Ibid.*, 4.

practitioners and experts in the field of genocide prevention. One outcome was the Stockholm Declaration on Genocide Prevention. The declaration acknowledged the Holocaust and asserted recognition of the international responsibility to prevent further genocide:

Recalling our responsibility to fight the evils of genocide, ethnic cleansing, racism, anti-Semitism, islamophobia and xenophobia, we, the participants of the Stockholm International Forum 2004: Preventing Genocide: Threats and Responsibilities, conscious of our obligations and responsibilities under international law including human rights and international humanitarian law, deeply concerned with the repeated occurrence of genocide, mass murder and ethnic cleansing in recent history as well as with the widespread occurrence of impunity for such crimes, *are committed to doing our utmost for the prevention of these scourges* in order to build a more secure future for us all.
[emphasis added]⁹⁷

The declaration affirmed a commitment to develop and utilize means to identify, monitor and report genocidal threats to prevent genocide, mass murder and ethnic cleansing. The declaration also acknowledged the international responsibility to protect potential victims; ensure that perpetrators are held accountable; support research with a focus on prevention; and, importantly, educate the youth, public, government, international organizations, non-governmental organizations, humanitarian and peace support operations and the media about genocide.⁹⁸ This commitment is an acknowledgment by another international forum, outside of the UN, with a commitment to genocide prevention.

In December 2004, the UN published *A more secure world: Our shared responsibility*. This report was promulgated by the High-level Panel on Threats, Challenges and Change and recognized that the threats confronting nations are such that no nation can act alone. The report also presented the argument that opportunities exist for nations to act together to meet the

⁹⁷ Declaration by the Stockholm International Forum 2004 available from <http://www.preventgenocide.org/prevent/conferences/StockholmDeclaration28Jan2004.htm>; Internet; accessed 14 November 2007.

⁹⁸ *Ibid.*

challenges of both new and old threats.⁹⁹ It had been acknowledged in 2000 that the UN was facing new challenges and that intrastate conflict replaced interstate conflict as the prevailing threat to security. *The Millennium Report* spoke to crimes against humanity and terrorism was not included in the Chapter on freedom from fear.¹⁰⁰ *A more secure world: Our shared responsibility* report highlighted the threats that *The Millennium Report* understandably failed to foresee. Four years after *the Millennium Report*, terrorism and intrastate conflict would impose significant human suffering and have a harrowing impact upon security. The events of 9/11 would forever change the definition of security. *A more secure world: Our shared responsibility* distinctly supported the realization that collective security and responsibility to protect was as an emerging norm to confront the changing threats to humanity.¹⁰¹

Increasingly, states are facing threats, not of conventional warfare, but of counterinsurgency. With globalization, these threats have the potential to expand outside of state borders as demonstrated by the terrorist attacks of 11 September 2001. These terrorist attacks also served to heighten the requirement for a collective body to confront security issues and highlighted that no state is immune to security threats.¹⁰² *A more secure world: Our shared responsibility* also advised that the attacks of 11 September 2001 revealed that the international

⁹⁹ High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, Report Prepared for the United Nations Security General (New York: UN, 2004), 14-16, available from <http://www.un.org/secureworld/> ; Internet accessed, 2 April 2008. The report was authored by a series of prominent panel members, namely Robert Badinter (France), João Clemente Baena Soares (Brazil), Gro Harlem Brundtland (Norway), Mary Chinery-Hesse (Ghana), Gareth Evans (Australia), David Hannay (United Kingdom), -- Enrique Iglesias (Uruguay), Amre Moussa (Egypt), Satish Nambiar (India), Sadako Ogata (Japan), Yevgeny Primakov (Russia), Qian Qichen (China), Nafis Sadik (Pakistan), Salim Ahmed Salim (United Republic of Tanzania), and Brent Scowcroft (United States). The panel was tasked with “tasked with examining the major threats and challenges the world faces in the broad field of peace and security, including economic and social issues insofar as they relate to peace and security, and making recommendations for the elements of a collective response”.

¹⁰⁰ Kofi Annan, *We The Peoples: The Role of the United Nations in the 21st Century*, Report prepared for the United Nations Millennium, (New York: UN, 2000) paras 189- 253.

¹⁰¹ High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, Report Prepared for the United Nations Security General..., 57.

¹⁰² High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, Report Prepared for the United Nations Security General..., 14.

community had significant strides to make to improve the ability to confront changes in threats brought about by advances in communication, transportation, technology and globalization.¹⁰³ These advances are such that citizens are no longer remain within their own or neighbouring states and may readily access states previously out of reach, for either legitimate or illegal purposes. While the concept of collective responsibility appeared agreed upon, the international commitment to advance the concept of a collective responsibility was negatively influenced by disagreements over the 2003 United States-led actions in Iraq in response to the terrorist attack.¹⁰⁴ The concept of collective security, however, continued to be promoted within the UN and R2P maintained a high profile.

A more secure world: Our shared responsibility reinforced the Security Council's role in genocide or humans right violations with the assertion: "The principle of non-intervention in internal affairs cannot be used to protect genocidal acts or large scale violations of international humanitarian law or large-scale ethnic cleansing."¹⁰⁵ As per R2P, *A more secure world: Our shared responsibility* clearly placed human security above sovereignty. The report also spoke to humanitarian intervention not being a "right to intervene" but a "responsibility to protect" which mirrors the intent of R2P.

The following year, at the 2005 World Summit, world leaders met shortly after 9/11's fourth anniversary. One of the outcomes of the summit was directly related to R2P. The UN General Assembly resolved in resolution A/RES/60/1(138) that: "Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.... We [member states] accept that responsibility and will act in accordance

¹⁰³*Ibid.*, 13

¹⁰⁴*Ibid.*

¹⁰⁵*Ibid.*, 65.

with it....”¹⁰⁶ This resolution asserted the primary goal of using “appropriate diplomatic, humanitarian and other peaceful means... to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”¹⁰⁷ It did not, however, preclude “collective action, in a timely and decisive manner... should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.”¹⁰⁸ Timely and decisive action was to be coordinated through the Security Council. This means that the participants agreed that sovereignty would not preclude the use of force or military intervention should the state be failing its citizens. Sovereignty was, therefore, considered secondary to the protection of a state’s population. The Security Council, in the coordination of timely and decisive action was accorded the oversight function. Again, this mirrors R2P.

This commitment, however, has been called into question. In an article entitled “*Operationalising the ‘responsibility to protect,’*” Ramesh Thakur, one of the ICISS commissioners, expressed concern that “some national diplomats insist, with straight faces, that ‘the World Summit rejected R2P in 2005’” indicating that this denial is “shamefaced edging back from the agreed norm of 2005, a form of buyer’s remorse.”¹⁰⁹ Not only was the acceptance of the R2P principles included in A/RES/60/1, *The World Summit Outcome 2005 Fact Sheet* also very distinctly announced:

Clear and unambiguous acceptance by all governments of the collective international responsibility to protect populations from genocide, war crimes,

¹⁰⁶United Nations General Assembly, “A/RES/60/1 24 October 2005 Resolution adopted by the General Assembly 60/1. 2005 World Summit Outcome” <http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>; Internet, accessed 1 October 2007.

¹⁰⁷*Ibid.*

¹⁰⁸*Ibid.*

¹⁰⁹ Ramesh Thakur, “Operationalising the ‘responsibility to protect.’” *The Hindu*, 15 February 2008; available from <http://www.hindu.com/2008/02/15/stories/2008021554581000.htm>; accessed 7 April 2008.

ethnic cleansing and crimes against humanity. Willingness to take timely and decisive collective action for this purpose, through the Security Council, when peaceful means prove inadequate and national authorities are manifestly failing to do it.¹¹⁰

This reiterates the resolution of the General Assembly. In succinct, clear and media format, the World Summit clearly did not reject R2P in 2005.

One year later, at the 2006 World Summit, world leaders again endorsed the '*Responsibility to Protect*' doctrine. The UN also adopted the concept of responsibility to protect civilians in armed conflict with UNSCR 1674(2006) at the World Summit. This resolution, however, was not a new concept or commitment but a reaffirmation of UNSCRs 1265 (1999) and 1296 (2000) in which states were reminded of the responsibilities towards their civilian and the requirement to prosecute perpetrators of genocide, crimes against humanity and serious violations of international humanitarian law.

Support for R2P would again be demonstrated in August 2007. The current UN Secretary-General Ban Ki Moon proposed to the UN Security Council President, Pascal Guyama, the creation of a new position, the Special Advisor on the Responsibility to Protect. The intent was to reflect the UN's desire to raise the profile of its commitment to R2P. The request was approved and Edward C. Luck, Vice President and Director of Studies of the International Peace Academy, was appointed as the Special Advisor.¹¹¹ Luck, in his capacity as the Special Advisor liaises with the Office of the Special Representative on Preventing Genocide

¹¹⁰United Nations General Assembly, "High-Level Plenary Meeting, 14–16 September 2005, United Nations 2005 World Summit Outcome" (New York: 2005); available from http://www.un.org/summit2005/presskit/fact_sheet.pdf; accessed 13 February 2008.

¹¹¹Mr. Luck is Vice-President and Director of Studies of the International Peace Academy, an independent policy research institute. Within the UN, from 1995 to 1997, he was a Senior Consultant to the Department of Administration and Management of the United Nations, a Staff Director of the General Assembly's Open-ended High-level Working Group on the Strengthening of the United Nations System, and an adviser to the President of the General Assembly concerning Security Council reform. He also served as President and Chief Executive Officer of the United Nations Association of the United States, as a senior consultant to the Secretary-General's Special Representative for Children and Armed Conflict, and a member of the Secretary-General's Policy Working Group on the United Nations and Terrorism.

and Mass Atrocities. Such an appointment seemingly signifies the UN intent to uphold the principles of R2P.

CHAPTER ONE SUMMARY

Repeatedly, the UN has committed to collective responsibility for international peace and security as well as protection of the world's citizens from crimes against humanity. Despite this commitment and the endorsement of R2P, the UN has had difficulty operationalizing its resolutions and the principles of R2P.

The past two decades have left a legacy of UN failure to act and a regional organization's determination, NATO, to fill the void. The concept of humanitarian intervention has evolved to the point where sovereignty is no longer the sacrosanct concept that evolved from the 1648 Treaty of Westphalia. Sovereignty entails responsibilities and accountability. Under R2P, there is an implicit commitment to the state's citizens and international community for all states to uphold their respective responsibilities.

Significant commitment has been made to genocide and crimes against humanity prevention. The resolve to act upon those commitments is essential and R2P provides a tool for the international community to ensure that "Never Again" has substance by setting the conditions to either prevent, react or rebuild in the face of genocide or crimes against humanity.¹¹²

¹¹² The phrase "Never Again" in relation to genocide originated in the opening and closing speeches of Justice Robert H. Jackson at the Nuremberg Trials.

CHAPTER TWO – OPERATIONALIZING R2P

CHAPTER TWO OVERVIEW

Chapter Two will discuss the necessity of R2P's operationalization by both direct and indirect means. This chapter is, therefore, divided into two sections. The first section will cover direct means, which refers to the invocation of R2P when necessary. To support direct operationalization, Sudan will be presented as a state requiring the invocation of R2P. The second section will discuss indirect means to advance R2P. To do this, discussion and recommendations will be submitted on how to increase the profile and commitment of R2P within Canada, provide opportunities to educate the general public, promote R2P, achieve some unity in the UN and elevate R2P to international law.

DIRECT OPERATIONALIZATION - SUDAN

One of the most important ways to operationalize R2P is to invoke its principles when warranted. April 2008 marks the fifth anniversary of the conflict in Sudan. After five years of conflict, the AU has yet to make acceptable advances in suppressing the genocide and humanitarian crisis. As a result, Sudan serves as an unfortunate example of a state requiring the operationalization of R2P. Estimates are 200,000 dead and 2.3 million people displaced.¹¹³ Under the principles of R2P, the massive casualty rate and human destruction are grounds to invoke R2P. The protracted crimes against humanity, debates about whether or not genocide is occurring and the worsening humanitarian situation require that the international community take more action to assist the AU in restoring peace and security to the area.

¹¹³Human Rights Watch, *Darfur: Childhood at Risk After Five Years of War*, dated 11 April 2008, available from <http://hrw.org/english/docs/2008/04/11/sudan18528.htm>; Internet; accessed 13 April 2008.

The Sudan Tribune reported British Prime Minister Gordon Brown extended an invitation to all parties of the Darfur crisis for peace talks that he is prepared to host in London.¹¹⁴ While this seems to mirror “too little, too late,” a sustainable peace in Sudan is impossible unless a settlement is negotiated. In the interim, the international community has failed to intervene in a region that is supportive of R2P. The Human Rights Centre at University of California in their report *The Responsibility to Protect Moving the Campaign Forward*, advises that support for R2P is the most strong in the African Union (AU) amongst all regional organizations. The AU support of R2P is reflected in their constitution was expanded to include the right of the Union to intervene in AU member state pursuant to a:

(D)ecision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity as well as a serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council Adopted by the 1st Extraordinary Session of the Assembly of the Union in Addis Ababa, Ethiopia on 3 February 2003 and by the 2nd Ordinary Session of the Assembly of the Union in Maputo, Mozambique on 11 July 2003.¹¹⁵

The African Union (AU) also supported this concept through the *Protocol Amendment to the Constitutive Act of the African Union*.¹¹⁶ By all appearances, the AU has committed to uphold the principles of R2P as well as international peace and security. Benin, Rwanda and Tanzania are listed as strong supporters of R2P. Support is weak in Algeria, Egypt and Sudan.¹¹⁷ While Sudan has yet to support R2P, Sudan’s accession to the Genocide Convention occurred on 13

¹¹⁴“Britain proposes to host Darfur Peace Talks” *The Sudan Tribune*, 13 April 2008; available from <http://www.sudantribune.com/spip.php?article26741>; Internet, accessed on 14 April 2008.

¹¹⁵African Union, ‘Protocol on Amendment to the Constitutive Act of the African Union,’ <http://www.africa-union.org/root/au/Documents/Treaties/Text/Protocol%20on%20Amendments%20to%20the%20Constitutive%20Act.pdf>; Internet; accessed 17 March 2008.

¹¹⁶African Union, “Protocol Relating to the Establishment of the Peace and Security Council of the African Union,” http://www.africa-union.org/rule_prot/PROTOCOL-%20PEACE%20AND%20SECURITY%20COUNCIL%20OF%20THE%20AFRICAN%20UNION.pdf; Internet, accessed 17 March 2008.

¹¹⁷Human Rights Center, University of California, *The Responsibility to Protect (R2P) Moving the Campaign Forward*, (Berkley: International Human Rights Law Clinic, 2007) available from <http://www.globalpolicy.org/empire/humanint/2007/1007berkeley.pdf>; Internet, accessed 20 February 2008.

October 2003 and came into force on 11 January 2004.¹¹⁸ Sudan has therefore officially committed to prevent genocide. Notwithstanding, the AU is insistent upon Sudan being an African solution and Sudan has threatened a Jihad if the UN were to impose UN troops into Darfur.¹¹⁹ Yet, neither the region nor the state, despite their commitments, has been able to suppress the atrocities.

The chronology of Darfur's crisis began on 26 February 2003 when Darfur rebels attacked a military garrison and killed two hundred soldiers.¹²⁰ Until September 2003, the Government of Sudan committed to addressing the needs of the rebels and a cease-fire was agreed upon. The following month, the United Nations High Commissioner for Refugees (UNHCR) sought \$16 million to assist Sudanese refugees in Chad advising that that intense Janjaweed and Sudanese military attacks were being perpetrated against black Africans. The UN, therefore, was apprised of the plight of the Sudanese people at the latest by March 2003. Attacks included murder, rape, burning of homes and theft of humanitarian aid and, as of the writing of this essay, Darfur still figures prominently in the media as a humanitarian crisis yet, in the words of newspaper editor Peter Worthington, "In Darfur, the media scold the slaughter of innocents and urge that something be done. But little of consequence happens, except more killing."¹²¹

¹¹⁸United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide, New York, 9 December 1948, Sudan Accession" C.N.1204.2003. Treaties – 1 (Depositary Notification) dated 14 October 2003 available from <http://preventgenocide.org/law/convention/SudanDepositaryNotification13Oct2003.doc>; Internet, accessed 25 March 2008.

¹¹⁹M.W. Daly, *Darfur's Sorrow: A History of Destruction and Genocide* (New York: Cambridge University Press, 2007) 4.

¹²⁰Samuel Totten and Eric Markhusen, *Genocide in Darfur: Investigating the Atrocities in the Sudan* (New York, Routledge, 2006), xix.

¹²¹Peter Worthington, "Darfur, Tibet prompt little action" in *The London Free Press*, 24 March 2008.

Some, such as the US House of Representatives, George Bush and Colin Powell, have acknowledged that genocide is taking place in Darfur.¹²² Others, such as the UN, obfuscate the situation by trying to label it as ethnic blood letting, political strife or civil war, all the while ignoring that the human rights violations and crimes against humanity demand suppression. Scott Strauss describes Sudan as a “considerably less intense, slow-motion Rwanda” and attributes this to Sudan’s vast territory and lack of centralized institutions.¹²³

For example, on 22 July 2004, the US House of Representatives passed Resolution 467 in a resounding vote of 422-0. This resolution calls the atrocities in Darfur “genocide” and urges the Administration to “continue to lead an international effort to stop genocide in Darfur, Sudan” and “seriously consider multilateral or even unilateral intervention to stop genocide in Darfur, Sudan, should the United Nations Security Council fail to act.”¹²⁴ The U. S. Senate approved the Senate Concurrent Resolution 133 supporting the House of Representatives resolution.¹²⁵ US President Bush and US Secretary of Defense Colin Powell have both announced that the killings in Darfur constitute genocide. Notwithstanding, there has been no intervention.

The potential that that Darfur was experiencing genocide was also included in Report of the International Commission of Inquiry on Darfur which was submitted to the UN Secretary-General and was commissioned pursuant to UNSCR 1564. The report concluded that genocide was not occurring in Sudan with the following caution:

The conclusion that no genocidal policy has been pursued and implemented in Darfur by the Government authorities, directly or through the militias under their

¹²² Jim VandeHei, “In Break With U.N., Bush Calls Sudan Killings Genocide” in *The Washington Post*, 2 June 2005.

¹²³ Scott Strauss, *The Order of Genocide: Race, Power and War in Genocide* (Ithaca: Cornell University Press, 2006) 236-237

¹²⁴ Charles W. Corey, *U.S. Congress Terms Situation in Darfur "Genocide" Senate, House pass concurrent resolutions on Darfur*. 26 July 2004 available from <http://usinfo.state.gov/is/Archive/2004/Jul/26-233176.html>; Internet, accessed 12 March 2008.

¹²⁵ *Ibid.*

control, should not be taken in any way as detracting from the gravity of the crimes perpetrated in that region. International offences such as the crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide.¹²⁶

This finding reflects a reluctance to use the word genocide pertaining to Darfur. Essentially, the UN considered that the killings did not technically meet the definition of genocide.¹²⁷ This finding, however, is moot because the war crimes and crimes against humanity, acknowledged to be as heinous as genocide, are precisely the “just cause” required to invoke R2P. Even if one doubts the severity of the atrocities that are occurring, in the words of genocide scholar Samantha Power, “a bias towards belief would do less harm than a bias towards disbelief.... In the face of genocide, the search for certainty became an excuse for paralysis and postponement.”¹²⁸ The hesitancy to use the “g” word is no longer an argument since “large scale ‘ethnic cleansing’, actual or apprehended, whether carried out by killing, forced expulsion, acts of terror or rape” are also considered as “serious and irreparable harm caused to human beings.”¹²⁹ The difficulty with such statements is the determination of measurements to warrant military intervention. Without an agreed upon set of conditions, there is a risk of inconsistently applying intervention which would result in the promotion of inequality amongst states, reflective of the attitude that the West has betrayed or forgotten Africa.

On 8 December 2006, the responsibility to protect was reiterated by UN Secretary-General Kofi Annan when he allegedly scolded governments for failing to halt mass murder in

¹²⁶Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Geneva 25 January 2005 http://www.un.org/News/dh/sudan/com_inq_darfur.pdf; Internet, accessed 12 March 2008.

¹²⁷Jim VandeHei, “In Break With U.N., Bush Calls Sudan Killings Genocide,” *Washington Post*, 2 June 2005, A19 available from http://www.washingtonpost.com/wp-dyn/content/article/2005/06/01/AR2005060101725_pf.html; Internet, accessed 12 March 2008.

¹²⁸Samantha Power, “Raising the Cost of Genocide,” in *The New Killing Fields: Massacre and the Politics of Intervention*, ed. Nicolaus Mills and Kira Brunner, 245-264 (New York: Basic Books, 2002), 253.

¹²⁹The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect...*, XII.

Darfur. He said that the world has not learned the lessons of Rwanda and Srebrenica, where genocidal killings in the early 1990s defied the global ability to stop it.¹³⁰ Despite Annan's warnings, the situation in Sudan continues to exact its toll on human lives and security.

In accordance with R2P, it is not required to prove that genocide is taking place. Genocide is a term sparingly used, for a potential variety of reasons. One reason is over concerns that overuse of the term could serve to marginalize the impact that use of the term entails, hence the evolution of terms such as ethnic cleansing, genocide-in-part among others. The counter-argument is that if such atrocities are occurring, they merit being identified and recognized accordingly. Another reason is the expectation that the term implies the obligation of legal and political actions.¹³¹ Notwithstanding, history is replete with examples where the international community has failed to respond to the term or the crime such as Cambodia, Rwanda and Srebrenica to name but a few. Post R2P endorsement, Sudan provides the most recent example. The sheer magnitude of atrocities being committed are sufficient to demand international intervention. Five years later and counting, the atrocities continue.

Between 1 January 2003 and 1 January 2008, there were 276 state-related UNSCRs. Of those resolutions, 172, over 62%, were directly related to Africa, twenty-one or almost 8% were issues specifically related to Sudan. The trend is continuing in the first quarter of 2008 with 70% of the state-related resolutions attributed to Africa. The following chart represents the distribution of resolutions by region per year:

¹³⁰Lynch Colum, "Annan Decries Failure To Halt Darfur Killings: Passivity of Most Governments Faulted" *Washington Post*, 9 December 2006, A14 available from <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/08/AR2006120801535.html>; Internet, accessed 12 March 2008.

¹³¹Martin Shaw, *What is Genocide?* (Cambridge: Polity, 2007), 37.

Figure 1
UN Resolutions by Region¹³²

Considering the reported levels of instability and the media stories about Africa, one might be inclined to think that the UN has a limited presence in Africa. In 2007, as per data in the *Peacekeeping Operations 2007 Year in Review* report, there were 91,008 personnel, excluding local civilians, on peacekeeping operations at the end of 2007. Proportionate to the number of resolutions, there are 60,322 personnel, over 66%, deployed on missions in Africa. Of that number, 12,847 are in Sudan and, from that total, 1695 are deployed in Darfur.¹³³ A chart depicts the distribution of deployed personnel on peacekeeping missions as follows:

¹³²Author's calculations based upon data extracted from UN Security Council Resolution database at <http://www.un.org/Docs/sc/>.

¹³³Author's calculations based upon data available in United Nations, Peace Operations, Year in Review, 41 and 43, available from http://www.un.org/Depts/dpko/dpko/pub/year_review07/YIR_2007.pdf; Internet, accessed 26 March 2008.

Figure 2
UN Peacekeeping Operations – Personnel Deployed by Region¹³⁴

Considering the number of personnel is substantial, one would anticipate that there would be a significant improvement of stability in Africa, in particular in Sudan. *Foreign Policy's 2007 Failed State Index*, places Sudan in the number one position on the list of failing states for the second year in a row.¹³⁵ In 2005, Sudan held the number three position. Three of the index's measurements, specifically Group Grievance, Human Rights and State Legitimization score the maximum for instability indicators. Afghanistan, Iraq and North Korea, areas of significant international concern and contribution, are also in the red zone but their situations are not as critical as Sudan.¹³⁶ Despite the failing condition, the AU has insisted that troops in Sudan must be African. The AU, however, has too few troops and lacks both the financial and logistical resources required.¹³⁷ A call for UN support was met with reluctance in Khartoum with fears

¹³⁴ Author's calculations based upon data available in United Nations, Peace Operations, Year in Review, 41 and 43, available from http://www.un.org/Depts/dpko/dpko/pub/year_review07/YIR_2007.pdf; Internet, accessed 26 March 2008.

¹³⁵ Foreign Policy, *The Failed States Index 2007*, Carnegie Endowment for International Peace. http://www.foreignpolicy.com/story/cms.php?story_id=3865&page=7.

¹³⁶ Foreign Policy, *The Failed States Index 2007*, Carnegie Endowment for International Peace. http://www.foreignpolicy.com/story/cms.php?story_id=3865&page=7.

¹³⁷ M.W. Daly, *Darfur's Sorrow: A History of Destruction and Genocide...*, 301.

that “a strong UN force might become a permanent fixture.”¹³⁸ The UN, for its part, has been ineffective and a series of resolutions have been nonproductive. In June 2004, UNSCR 1566(2004) called for Sudan to disarm the Janjaweed and arrest their leaders, within thirty days. Five months later, UNSCR 1574(2004) called for an immediate end to violence in Darfur. In 2008, the violence continues; the UN has been impotent in Sudan.

There has been some international, non-African involvement in Sudan. The AU permitted the deployment of seventeen members of the Standing High Readiness Brigade (SHIRBRIG) to Sudan from July 2004 to February 2005 as part of the UN advance Mission in Sudan (UNAMIS), a political mission authorized under UNSCR 1547(2004). SHIRBRIG, a Danish project, was established on 15 December 1996 with Austria, Canada, Denmark, The Netherlands, Norway, Poland and Sweden as the initial signatories.¹³⁹ SHIRBRIG is comprised of “units from a number of member states, trained to the same standard, using the same operating procedures and taking part in combined exercises at regular intervals.” It is anticipated that the fully deployed SHIRBRIG strength would be four to five thousand troops. The intent is that reaction time would be within fifteen to thirty days following a UN resolution. While this would facilitate a rapid deployment, readiness and a willingness to use this force may be problematic since there are limitations upon deployability. One of those limitations is that member states decide whether or not they will participate in a specific mission. All deployments require a UN Security Council mandate and reaction time is targeted for between fifteen to thirty days from the UN mandate. The intent was that SHIRBRIG would deploy only on Chapter VI missions,

¹³⁸ *Ibid.*

¹³⁹ Minister of National Defence Canadian Back Grounder for SHIRBRIG available from http://www.mdn.ca/site/Newsroom/view_news_e.asp?id=500; Internet, accessed 26 March 2008. As of the access date, the Back Grounder reports current full participants in SHIRBRIG include Austria, Canada, Denmark, Italy, the Netherlands, Norway, Poland, Romania and Sweden. Finland, Lithuania, Spain, Portugal and Slovenia also participate but have not signed all memoranda of understanding. In addition, Chile Czech Republic, Hungarian General Assembly, Jordan, Ireland and Senegal take part in SHIRBRIG as observers.

however, the SHIRBRIG Steering Committee recently agreed to examine more robust operations on a case-by-case basis. There is, therefore, potential for SHIRBRIG to be deployed on a Chapter VII mission if genocide is either imminent or in progress. Within a maximum of six months, after SHIRBRIG deployment either the mission is terminated or SHIRBRIG will be replaced by non-SHIRBRIG forces. A significant limitation, however is that SHIRBRIG is dependant upon the international community providing the personnel to compose its resource pool. If the commitment lapses the capability is endangered.¹⁴⁰ SHIRBRIG provided key support to Sudan but it could also be instrumental in operationalizing R2P by providing a much more rapid response capability than traditional UN deployments. The most significant limitation, however, is the requirement for a UN mandate. If the UN is non-responsive, SHIRBRIG is ineffective.

Canada also played a role in Sudan. Canada's initial military contribution was comprised of a small Intermediate Staging Base to facilitate the delivery of 105 Grizzly, general purpose armoured vehicles. The African Mission in Sudan (AMIS) intended to use these vehicles for the quick and safe transportation of AU troops. They were also intended for improvement in security of AMIS, personnel on patrols, humanitarian convoys, and vulnerable civilians, especially those in the internally displaced persons camps.¹⁴¹ Today, there are only 41 Canadian personnel deployed to Sudan, less than 1.5% of Canada's deployed forces in a state that ranks the highest on the failing states index.¹⁴² Prime Minister Harper spoke of Darfur in his 21 September 2006 address to the UN General Assembly, referring to Darfur as "... a significant

¹⁴⁰SHIRBRIG, UNAMIS, <http://www.shirbrig.dk/html/unamis.htm>; Internet, accessed 26 March 2008.

¹⁴¹African Union, "Canada hands over APC keys to AMIS 20 November 2005" Press Release, <http://www.amis-sudan.org/Press%20Release/PR%2020051120%20CANADA%20HANDS%20OVER%20APC%20KEYS%20TO%20AMIS.pdf>; Internet; accessed 26 March 2008.

¹⁴²Canadian Expeditionary Force Command, "Current Operations," http://www.cefcom.forces.gc.ca/site/ops/index_e.asp; Internet, accessed 26 March 2008.

challenge – as multinational security efforts are transferred from the African Union to the United Nations. It is also a test of the principle that this body endorsed last year – the Responsibility to Protect.”¹⁴³ Canada’s military presence is not a critical force, by virtue of its size, capable of establishing a secure environment for prevention, reaction or rebuilding.

Canada’s Deployment statistics as of 12 March 2008 are as follows:

Atlantic and Mediterranean				
OP JADE	UNTSO	Middle East	7	
OP SNOWGOOSE	UNFICYP	Cyprus	1	
OP CALUMET	MFO	Egypt	28	
OP PROTEUS	USSC	Middle East	3	
OP BRONZE	NATO HQ	Bosnia-Herzegovina	8	
OP HAMLET	MINUSTAH	Haiti	4	
OP GLADIUS	UNDOF	Golan Heights	2	
			53	1.85%
South West Asia				
OP ATHENS	ISAF	Afghanistan	2500	
OP ARGUS	SAT-A	Afghanistan	15	
OP ALTAIR	OEF	Afghanistan	225	
OP ARCHER	OEF	Afghanistan	12	
OP FOUNDATION	OEF	Supported in Tampa	7	
			2759	96.37%
Africa				
OP CROCODILE	MONUC	Congo	10	
OP SAFARI	UNMIS	Sudan	34	
OP SATURN	UNAMID	Darfur	7	
OP SCULPTURE	IMATT	Sierra Leone	0	
			51	1.78%
Total Deployed Personnel			2863	100.00%

Figure 3. Distribution of Canadian Forces on Deployment Effective 12 March 2008, source CEFCON Public Site¹⁴⁴

Furthermore, Canada’s extension of its commitment to Afghanistan until 2011, has limited Canada’s capability to support another operation, despite the Government of Canada wishing to

¹⁴³Stephen Harper, Address by the Prime Minister to the 61st Opening Session of the United Nations General Assembly, 21 September 2006 available from <http://pm.gc.ca/eng/media.asp?id=1329>; Internet; accessed 22 April 2008.

¹⁴⁴Canadian Expeditionary Force Command, “Current Operations,”

have a Darfur option. The Afghanistan commitment of 2500 plus the other 350 personnel assigned to various other missions, is stretching military personnel resources. In the Department of National Defence (DND) *Report on Plans and Priorities* it is stated that “the current Land Forces commitment in Afghanistan means that Defence can sustain only one line of operation.”¹⁴⁵ The issue then becomes one of prioritizing where the military forces are deployed. Even though Afghanistan is in the critical zone of the Failing States Index, Sudan has consistently ranked in a higher critical position throughout the last three years.¹⁴⁶ The commitment to Afghanistan also has an impact on Canada’s ability to meet UN commitments. *United Nations Peace Operations Year in Review 2007* reported 84,309 UN personnel assigned to Peacekeeping Operations. The data from these operations are used to reflect activities whereby the international community has made a commitment to restore peace, improve security and reduce human suffering. Of these operations, Canada has contributed 149 personnel (92 police, 42 military observers and fifteen troops), not even .2% of the international contribution.¹⁴⁷ Priorities will have to be re-examined if Canada is to play a credible military role in assisting the African Union (AU) and Sudan and supporting the R2P concept.

Sudan is not yet in the responsibility to rebuild phase. Yet, in a hostile environment, there is significant focus on development and humanitarian aid. Between 2003 and 2005, Canada contributed over \$40 million in humanitarian assistance to Sudan.¹⁴⁸ The Canadian

¹⁴⁵Treasury Board Secretariat, *Department of National Defence Report on Plans and Priorities*, available from http://www.tbs-sct.gc.ca/rpp/0708/ND-DN/nd-dn02_e.asp#_Toc160251339; Internet accessed, 22 April 2008.

¹⁴⁶Fund for Peace, “Previous Failing State Indexes at the Fund for Peace, Promoting Sustainable Security,” http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=12&Itemid=175.

¹⁴⁷United Nations, Department of Peacekeeping Operations, *United Nations Peace Operations Year in Review 2007*, 44 available from http://www.un.org/Depts/dpko/dpko/pub/year_review07/YIR_2007.pdf; Internet, accessed 26 March 2008.

¹⁴⁸Canadian International Development Agency, *Statistical Report on Official Development Assistance, FY 2004 to 2005, December 2006* available from [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/stats/\\$file/Stat_rap_04-05.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/stats/$file/Stat_rap_04-05.pdf).

International Development Agency (CIDA) programme earmarked \$10.45 million for fighting hunger, malnutrition and disease.¹⁴⁹ This does not include funds for peacebuilding and reconstruction. For fiscal year 2008 to 2009, Canada will contribute up to \$275 million in Sudan for security, diplomacy and aid. Of this funding, \$40 million will be for training African troops.¹⁵⁰ Internationally, there is over \$1 billion a year contributed to Darfur, rendering Darfur the largest current humanitarian operation. The security environment, however, is such that all manner of humanitarian relief effort is subjected to pilfering and abuse, and the aid workers are in danger. Unless a secure environment is established, the aid is abused and the lives of aid deliverers are at risk.¹⁵¹

SUMMARY

Kofi Annan, in his farewell speech as UN Secretary-General said:

And when I look at the murder, rape and starvation to which the people of Darfur are being subjected, I fear that we have not got far beyond "lip service". The lesson here is that high-sounding doctrines like the "responsibility to protect" will remain pure rhetoric unless and until those with the power to intervene effectively - by exerting political, economic or, in the last resort, military muscle - are prepared to take the lead.¹⁵²

The international response has been deferred to the AU to solve its own problems as they have requested. At some point the AU and the international community have no option but to acknowledge that the AU has not been effective in suppressing the violence and crimes against

¹⁴⁹ Treasury Board Secretariat, "Canadian International Development Agency 07/08 Report on Plans and Priorities" http://www.tbs-sct.gc.ca/rpp/0708/cida-acdi/cida-acdi_e.pdf; Internet, accessed 17 March 2008.

¹⁵⁰ Foreign Affairs and International Trade, Minister Bernier Announces Major Canadian Engagement for Peace in Sudan, Press Release No. 64 26 March 2008 available from http://w01.international.gc.ca/minpub/Publication.aspx?isRedirect=True&publication_id=385984&Language=E&document_number=64 Internet; accessed 22 April 2008.

¹⁵¹ "Three food aid drivers killed in Darfur Men were delivering for U.N. World Food Program in war-torn Sudan region" *Associated Press* 17 October 2007, <http://www.msnbc.msn.com/id/21343602/>; Internet, accessed 17 March 2008.

¹⁵² Kofi Annan, Final Speech as United Nations Secretary General, 11 December 2006, transcript available from <http://news.bbc.co.uk/2/hi/americas/6170089.stm>; Internet, accessed 14 November 2007.

humanity. Both the Government of Sudan and the AU have proven unable to address the genocide occurring within Sudan, both in terms of prevention and suppression. The situation in Sudan presents a double-edged sword for Western states as well as the UN. On the one side, Western involvement is not desired and on the other, if the West fails to intervene, the West will stand accused of abandoning Africa and not caring about what happens to the African people.

If we are true to R2P, it should be acknowledged by now that Sudan has not been able to fulfill its sovereign rights and more assertive intervention is required to protect the Sudanese people in the Darfur region. Five years into the crisis, the AU needs to seriously consider opening its borders to increased international presence. If not, the time has come for the international community to admit that the AU does not have the necessary capacity to stop the massive human rights abuses, whether considered genocide or not, in Sudan. Thus, it is time to invoke and operationalize R2P.

INDIRECT OPERATIONALIZATION

Indirect means also have the potential to advance R2P. A major portion of R2P is raising R2P's profile which may be accomplished through commitment, education and awareness of the concept. As per the overview, there is a requirement to increase the profile and commitment of R2P, provide opportunities to educate the general public, promote R2P, achieve some unity in the UN and elevate R2P to international law. To make recommendation of how to accomplish this, this section is subdivided into four sub-sections. The first sub-section pertains to a national, Canadian comprehensive approach and discusses roles that Canadian agencies may take to advance R2P and also addresses educational opportunities and initiatives at secondary and post-secondary institutions to promote R2P learning. The second sub-section relates to marketing and

looks at ways in which the profile of R2P may be raised. The third sub-section discusses recent initiatives that promote or have the potential to promote general R2P knowledge and access to information. The fourth sub-section concludes with the UN and the requirement for a united UN to judiciously invoke R2P and elevate R2P to international law.

CANADIAN COMPREHENSIVE APPROACH

As a non-colonial power that is trusted internationally and typically not regarded with suspicion, Canada's attitudes towards promoting cultural diversity and harmony are internationally renowned. Canadian involvement in the International Criminal Court (ICC) also speaks to the commitment to support international initiatives and Canada's longstanding commitment to multilateralism. Canada must also recognize that its membership of NATO and position as a key ally and trading partner with the US, may sometimes influence its ability to interact with states hostile to either. Canada was and remains in an ideal position to positively influence the operationalization of R2P principles, especially given Canada's role in the development and advancement of R2P. Canada, however, has recently been quiet about R2P on the national and international stage. Former ministers Lloyd Axworthy and Allan Rock consider Canada "missing in action in this contemporary debate - and particularly absent on the question of how to properly implement the R2P-inspired UN mission in Darfur - is Canada."¹⁵³

Not only has Canada been quiet on the international stage, there is progress for Canada to make on the national stage to advance the concepts of R2P. Two recommendations to do so are as follows: firstly, establish a comprehensive approach with a federal department appointed as a

¹⁵³Lloyd Axworthy and Allan Rock, "Breathe new life into R2P: Canada has abandoned the very principle it once championed at the United Nations," *The Globe and Mail*, January 29, 2008.
<http://www.globalcentrer2p.org/pdf/R2POp-edAxworthy.pdf>; Internet, accessed 12 March 2008.

lead agency and other agencies engaged; and secondly, educate the general Canadian public about R2P.

Lead Agency and Other Agency Requirements

Within Canadian government, the comprehensive government approach stems from the political aims of the leadership. Canada has a reputation of commitment to human rights and security that is not hampered by partisan politics and is, therefore, a multi-partisan commitment. Prime Minister Stephen Harper also demonstrated a personal commitment when he took a determined stance concerning Armenian genocide. Although acknowledging the genocide was politically sensitive and he was under pressure to relent from the Turkish community, he remained steadfast and resolute.¹⁵⁴ He also spoke of the principles of R2P in a speech to the General Assembly shortly after assuming office.¹⁵⁵

Internal to national politics, a review of Hansard reveals that R2P has little profile in Canada's parliamentary affairs and that R2P is not favourably commented upon. An example of this may be found in comments in a proceeding of the Standing Senate Committee on National Security and Defence when, on 29 November 2004, Donald Macnamara, Senior Fellow and former Canadian Forces Officer, commented, "I suspect that you have heard already a lot about this whole issue of the responsibility to protect, but this is the one that is something more than a

¹⁵⁴Stephen Harper, Statement From the Prime Minister on Day of Commemoration of Armenian Genocide, 19 April 2006, available from http://www.armenian-genocide.org/Affirmation.359/current_category.1/affirmation_detail.html; Internet; accessed 24 March 2008.

¹⁵⁵Stephen Harper, Address by the Prime Minister to the 61st Opening Session of the United Nations General Assembly, 21 September 2006 available from <http://pm.gc.ca/eng/media.asp?id=1329>; Internet, accessed 22 April 2008

sleeper as far as we are concerned in the security context.”¹⁵⁶ Douglas Bland, Chair Defence Management Studies at Queen’s, stated to the committee, “It is okay to have a policy about responsibility to protect, but in Canada what we are doing is we have a responsibility to talk about a responsibility to protect, period.”¹⁵⁷ Quite accurately, he finished with the comment “If you have no instruments, these are mere platitudes.”¹⁵⁸ A review of parliamentary debates and bills reveal that Canada’s focus is on the past, acknowledging and commemorating past genocides and not taking proactive action to confront current genocide. While history must be acknowledged to serve as warning, Canada cannot believe that by acknowledging that genocide has occurred, by commissioning a memorial to genocide or by formulating policies that it has fulfilled its obligations to the international community. If Canada truly supports R2P, more affirmative action is necessary to confront genocide of today.

Within the Canadian context, R2P involves primarily four federal agencies, the Department of Foreign Affairs (DFAIT), CIDA, the Royal Canadian Mounted Police and DND. Each agency has a distinct role to play in R2P responsibilities. Non-Governmental Organizations (NGOs) also are key to the advancement of R2P.

A lead agency needs to be appointed, funded and promoted as the national lead to advance R2P. DFAIT, in its diplomatic capacity, is best positioned to recognize genocide and crimes against humanity and, therefore, influence prevention. The lead agency assignment would also be in keeping with DFAIT’s role in the stand up of the ICISS and its continued initiatives to advance R2P. DFAIT needs to improve in this capacity by promoting its R2P role

¹⁵⁶Proceedings of the Standing Committee on National Security and Defence, Issue 4 – Evidence, morning meeting, Kingston, November 29, 2004, 7. http://www.parl.gc.ca/38/1/parlbus/commbus/senate/Com-e/defe-e/04mn-e.htm?Language=E&Parl=38&Ses=1&comm_id=76; Internet, accessed 14 February 2008.

¹⁵⁷*Ibid.*..., 14.

¹⁵⁸*Ibid.*

nationally to ensure Canadians are aware of the investment and contribution that Canada has made towards R2P. Both the Canadian government and DFAIT have progress to make to promote DFAIT's accomplishments. In addition to Canada's international policy development, DFAIT's primary role concerning R2P would be the transparent responsibility to react and enforce measures of non-military intervention and propose military intervention requirements to government.

CIDA reacts to DFAIT direction concerning the safety of their personnel in the delivery of humanitarian aid and development, and already serves a unique role in creating an environment to limit the triggers of genocide by providing humanitarian development to promote self-sustainment. CIDA was contacted to determine the internal policy concerning R2P and its role should genocide be imminent or occurring in a country in which CIDA is providing development assistance. There is no public policy, however, it was stated that in the light of genocide, the CIDA commitment to provide humanitarian aid would not be abated and only on the direction of DFAIT would CIDA normally suspend humanitarian operations in a hostile environment. If anything, the presence of genocide serves to deepen CIDA's presence on the ground as well as their operational commitment of human and financial resources.¹⁵⁹ In this way, CIDA plays a critical role in the responsibility to rebuild and is in the ideal position to warn of impending human security issues. To advance R2P within government and because of CIDA's integral role in rebuilding societies, CIDA should create a liaison officer position within CIDA, responsible for liaison with other government departments and NGOs. It is essential to remember, however, that CIDA does not play a policing or enforcement role.

¹⁵⁹Michael Koros, Senior Analyst, Peace and Security Democratic Institutions and Conflict Division, Canadian International Development Agency, email with author, 25 March 2008.

The policing role belongs to The Royal Canadian Mounted Police (RCMP) if Canadian policing is deployed internationally. The RCMP role would be in both intervention and security building capacities, in a policing context. To ensure the inter-agency communication, there should also be a liaison officer within the RCMP appointed to coordinate the RCMP role.

DND would also enact the principles of R2P in either a security or intervention role, within a military context. More and more, however, the military is also involved in the delivery of humanitarian aid, either through the protection of aid deliverers or through reconstruction projects. DND, with its recently enhanced Special Operations Force, is also in a position to insert forces, at the behest of government, into conflict zones to confirm whether egregious crimes against humanity are in fact taking place. This capability may be critical if the security situation has deteriorated to the point whereby other agencies which might provide the local intelligence are no longer able to safely remain within the state's territory.

NGOs also have a critical role to play. Although military intervention is not the preferred course of action for many human rights organizations, the involvement of several NGOs such as International Crisis Group, Human Rights Watch, Institute for Global Policy, Oxfam International, and Refugees International in promoting the advancement of R2P indicates that some NGOs recognize that intervention may be necessary to suppress violence. The principles of R2P appeal to these groups and have their support because R2P looks to intervention as a last resort. The policy is also in their best interest because delivery of humanitarian aid and development projects are enhanced by a secure environment. NGOs, by virtue of their close proximity to the people with whom they interact, are critical to providing advance notice of potential threats to human security. The NGO community is key to sustaining the momentum of R2P, especially in light of the lack of long-term governmental and media focus. Through

continued lobbying to uphold Summit commitments, NGOs also hold governments publicly accountable for its actions.¹⁶⁰

Considering the impact that the policy has on each of the organizations, it is essential that each of them is engaged and that professional development within each of the agencies includes R2P. In this manner, each agency may be aware of the roles to be played in the fulfillment of R2P responsibilities.

Education

The Canadian public needs to be educated about R2P to be aware of Canadian international responsibilities and the role that Canadian government has played in R2P. While there is a plethora of information available, it is not consolidated and can be difficult to find, unless one specifically knows the name of a report or institution. Arguably, people who are concerned about human security and the protection of humanity know about R2P and the Genocide Convention. However, it is the general Canadian population that needs to be reached so that they may be aware of Canada's international commitments. Education about genocide and international responsibilities are important issues for Canadians to comprehend because the globalization of international travel and potential transmission of international conflict to within our borders should give cause to realize that genocide and crimes against humanity are a global concern. Although there has been significant activist response to the situation in Darfur, it is only through a clear understanding of R2P that the general population can hold the government accountable to the commitments that were made.

¹⁶⁰Maria Banda, "The Responsibility to Protect: Moving the Agenda Forward" (Ottawa: United Nations Association in Canada, 2007)18 – 19 available from http://www.unac.org/en/library/unacresearch/2007R2P_Banda_e.pdf; Internet, accessed 14 November 2007.

The potential for DFAIT to promote its involvement in R2P has been lost since the information has been removed from the DFAIT website.¹⁶¹ Attempts to find information on DFAIT's site about R2P now directly links to "Freedom from Fear" for human security policies and updates but information about R2P is missing.¹⁶² *Freedom from Fear: Canada's foreign policy for human security* was the only DFAIT document that had any significant mention of R2P but it had to be accessed through another site.¹⁶³ There is reference to R2P in this DFAIT publication, but it is mostly informational and does not state Canada's R2P policy. Canada's International Policy statement makes no mention of R2P, nor is there any mention of R2P in the International Security section of the National Security Policy. Opportunities to educate those interested in foreign affairs, who seek to find Canada's position concerning R2P, are lost. Considering Canada's instrumental role in developing R2P under DFAIT leadership, the accomplishments of Axworthy and the Canadian commission members should be lauded. The DFAIT site is an ideal forum to promote Canada's involvement and R2P education. A direct and obvious link from the DFAIT home page to the R2P section should be established to provide greater visibility and ease of searching.¹⁶⁴

¹⁶¹ Nicolas Doire, DFAIT, telephone conversation with author, 22 April 2008.

¹⁶² Department of Foreign Affairs and International Trade, <http://geo.international.gc.ca/cip-pic/cip-pic/humansecurity-en.aspx..>

¹⁶³ Department of Foreign Affairs, *Canada's foreign policy for human security*, Ottawa: 2002) available from http://geo.international.gc.ca/cip-pic/cip-pic/library/freedom_from_fear-en.pdf; Internet, accessed 12 March 2008.

¹⁶⁴ Because R2P was a Liberal initiative, there is a possibility that the profile of R2P within Canada has been the victim of politics. It has been remarked that the current Prime Minister Stephen Harper showed his support for R2P in his first address to the UN General Assembly shortly after coming into office. The reference to R2P, however, was not one of support but one line that was made in reference to Darfur. He stated: "Darfur too is a significant challenge – as multinational security efforts are transferred from the African Union to the United Nations. It is also a test of the principle that this body endorsed last year – the Responsibility to Protect." Footnote to speech as follows: Stephen Harper, Address by the Prime Minister to the 61st Opening Session of the United Nations General Assembly, 21 September 2006 available from <http://pm.gc.ca/eng/media.asp?id=1329>; Internet; accessed 22 April 2008.

Another means to promote education is through our educational and social institutions. Worthy of further study and endeavour is the availability of genocide studies at institutes of higher learning.¹⁶⁵ The Montreal Institute for Genocide and Human Rights Studies at Concordia University has a strong genocide studies programme. The focus is on the underlying reasons for genocide and other crimes against humanity as well as policy recommendations. R2P is also included in two courses and assigned in undergraduate honours, post-graduate and doctoral seminars.¹⁶⁶ Another institute that provides a robust genocide studies programme is the Zoryan Institute which offers a “Genocide and Human Rights University Program” organized by the International Institute for Genocide and Human Rights Studies sponsored with the University of Minnesota. This course is available to registered university students.¹⁶⁷ An intensive two-week course specifically focuses upon understanding genocide, examining practical genocide examples and studying means to prevent genocide. At this time, R2P is included in the syllabus in the genocide prevention component and in discussions related to Rwanda and Darfur. There is not, however, a specific unit dedicated to R2P nor is *The Responsibility to Protect* one of the required or suggested readings.¹⁶⁸ This may be another forum through which a more in-depth knowledge of R2P and the resulting responsibilities may be promoted. In addition to genocide courses, universities such as York University and University of Toronto host a significant number of seminars, St. Thomas University also has a complete genocide programme. There are, therefore, many opportunities at the post-secondary level comprehensive education with

¹⁶⁵ Although comments are made reference to some institutions, those mentioned are not exhaustive and there is no intent to infer that they are the only Canadian universities offering genocide studies.

¹⁶⁶ Dr. Frank Chalk, email with author, 15 April 2008.

¹⁶⁷ The complete syllabus for the programme is available from <http://www.genocidestudies.org/Main/Default.htm>; Internet, email access 21 April 2008.

¹⁶⁸ International Institute for Genocide and Human Rights Studies (A Division of the Zoryan Institute) and University of Manitoba, *Genocide and Human Rights University Program Required Readings* (Toronto: 2007).

regards to genocide and genocide prevention for the public to advance their personal knowledge, even if they are not pursuing formal studies.

Significant strides are also being made to have genocide included in Canadian High School curriculum. The Toronto District School Board (TDSB) took a very proactive approach and recently received Ministry of Education approval for an extensive Grade 11 genocide programme.¹⁶⁹ The motives and goals of the Board are impressive. An abstract from their proposal reads as follows:

Many students within the Toronto District School Board and their families have experienced bias, stereotypes, prejudice, and discrimination from dominant groups within society due to their perceived difference and inferiority both in their home countries and here in Canada. Our community includes refugee students, as well as the children and grandchildren of people who have experienced genocidal acts and extreme human rights abuses. Given the specific multi-cultural and multi-ethnic diversity within Toronto, we feel it is essential that students born within and outside Canada have the opportunity to explore in depth the causes and consequences of genocide and the lived realities of the aggressors, targets, bystanders, and resisters to these horrific acts of violence. A study of these experiences will help foster a sense of empathy for the targets of these violent acts and hopefully encourage students to understand the connections they have to their fellow human beings.¹⁷⁰

Genocide: Historical and Contemporary Implications will be provided to Grade 11 student as an optional College/University prep course in 2008/2009. R2P is also included in a unit called Social Action, within a Grade 10 civics course. The inclusion of R2P in current studies reflects an awareness of a significant Canadian concept and a dedication to ensure that the students, as the leaders of tomorrow, are aware of their international responsibilities. The Board initiatives have met with some concern, especially about which genocides are presented. With both the

¹⁶⁹Toronto District School Board, Ontario Ministry of Education Approved Proposal for a Locally-Developed Course Genocide: Historical and Contemporary Implications Grade 11, College/University Preparation CHG38M available from http://www.tdsb.on.ca/wwwdocuments/programs/Equity_in_Education/docs/TDSB%20Genocide%20Course%20Proposal.pdf; Internet, accessed 15 April 2008.

¹⁷⁰Toronto District School Board, Ontario Ministry of Education Approved Proposal for a Locally-Developed Course Genocide: Historical and Contemporary Implications....

recent Canadian government's acknowledgement of the Armenian genocide and the multi-cultural student body, there is potential for conflict. There is outcry amongst some Turkish communities and a sense of closure in some Armenian communities, both of which are present within Toronto. To address community concerns about the proposed course content, the board welcomed comments and, in May 2008, a report will be posted to their website.¹⁷¹ Dr Alan Whitehorn, who was invited to partake in some of the Board's development, encourages us to acknowledge past injustices, no matter how unpalatable they may be, and reminds us: "The past can serve as a warning. We must not shove aside the evidence. We need to be solemn public witnesses to the fragments of the scarred bones of countless genocide victims. 'We must resist the sin of indifference.'"¹⁷² The Toronto District School Board initiative is a strong demonstration of leadership to promote genocide awareness and prevention. The Ontario Ministry of Education should consider making the Board's programme mandatory throughout all Ontario schools. The Ontario Ministry of Education should also take a proactive national role and promote the genocide programme throughout the rest of Canada's provincial and territorial ministries of education. This recommendation is made because the programme would provide all Canadian youth with the potential means of understanding conflict and human rights abuses. This knowledge would better prepare the students of today for the humanitarian challenges that will face them in their time of leadership.

Numerous groups in Canada also share the horrors of the Holocaust with the youth, not only an act of remembrance but also with hopes of preventing a recurrence of the atrocities. These groups also have the potential to reach the non-student sector of the population. Groups

¹⁷¹Professor Alan Whitehorn, Emails with author, 14–15 April 2008.

¹⁷²Alan Whitehorn, "In order to prevent genocide we need to learn about it" *Kingston Whig Standard Forum*, 14 January 2008.

such as the Canadian Jewish Council, the Friends of Simon Wiesenthal, the Holocaust Centre of Toronto and the Beth Tzedec Congregation of Toronto are just a few of the organizations that place significant emphasis on education, within not only the Jewish community but throughout the many religions and faiths that make up Canadian society. The already established reputation in the realm of genocide prevention, and their commitment to learn from the past, make these organizations an ideal voice to educate a large sector of the Canadian population about R2P. There are also lessons to be learned from other immigrants to Canada that have experienced other genocides or abuse. There must be awareness, however, about whether or not they are ready to share their stories.

MARKETING

To ensure that R2P has a prominent recognition level, a promotional campaign, such as that of the United Nations Children's Emergency Fund (UNICEF) would ensure that R2P is easily recognized and known world-wide. "UNICEF" is immediately recognizable and, even if the entire mandate is not fully understood, the general public understands that the focus of UNICEF is children. To promote recognition, serious consideration should be given to branding R2P and designing a logo that is readily associated with R2P. R2P's mandate is so important to humanity in total that term R2P deserves to be immediately recognizable as a concept and a responsibility. By using a brand and creating instant recognition, R2P could achieve greater advertising visibility. Consideration needs to be given to determining if R2P is an appropriate acronym for Responsibility to Protect. By using an acronym, there is an element of "watering down" or lessening of the message that responsibility to protect needs to convey if people are not fully

aware of the concept.¹⁷³ While the acronym is somewhat entrenched, it is important that any promotion of R2P be sensitive to this issue and ensure that the principle and obligations behind R2P are clearly evident.

Part of improving the visibility of R2P also requires using means of promotion other than the Internet. To increase exposure to R2P, better use of media, common sources such as newspapers, journals, advertisements, and television, is required. Ironically, the media may influence a population, distant from a genocide, to be virtually unaware of the plight of those suffering and, yet, through media bombardment, will be fully aware of celebrity pregnancies, marriages, divorces and rehabilitation admissions; information of minimal, if any, value to human welfare, human security and international peace. The mainstream media play an extremely large role in the information that the general public receives. During the Rwandan genocide, the O.J. Simpson case was of greater prominence in CNN newscasts. Although the deaths of Nicole Brown Simpson and Ronald Goldman were tragic, the deaths of hundreds of thousands of Rwandans were even more so, but the media was fixated on O.J. Simpson. The following chart depicts the news coverage, in minutes, of international events in 1994 and reveals that Rwanda did not even begin to figure prominently in the news until the genocide was practically over.¹⁷⁴

¹⁷³Class discussion during Joint Command and Staff College Elective Course on Genocide originated by Lieutenant Colonel John Cullen, 14 April 2008.

¹⁷⁴Livingston, Steve "Limited vision: how both the American media and government failed Rwanda" available from the International Development Research Center site." at http://www.idrc.ca/en/ev-108202-201-1-DO_TOPIC.html; Internet; accessed 7 April 2008.

Coverage (in minutes) of various topics in ABC, CBS and NBC nightly newscasts, 1994
Source: Livingston and Stephen 1998.

It is difficult to say whether the public interest was fuelled by media exposure, but the sensationalism attached to O.J. Simpson would certainly have generated a much higher awareness in the public than the news of what was happening in Rwanda. Part of ensuring an appropriate reaction is having the accurate information upon which to base one's actions. If genocide received the same focus, perhaps the individual and national will to confront and intervene would correspondingly increase. More importantly, if the profile of R2P were heightened, public awareness of the international responsibility to prevent or stop genocide would be better understood and supported. In Canada, between 1 September 2001 and 15 April 2008, there were forty-two articles about R2P and 953 about genocide.¹⁷⁵ To place this in the same context as the O.J. Simpson coverage in 1994, using the same search engine, the celebrity status of Britney Spears accounted for 305 news articles in the same timeframe....

¹⁷⁵ Numbers based upon search through Proquest.

By increasing the information available to the general public, public awareness of R2P and its principles would lead to a greater understanding of our international commitments and awareness of the instruments available to ensure that we live in a peaceful and stable world.

INITIATIVES – NATIONAL AND INTERNATIONAL

On 20 April 2007, Prime Minister Harper emphasized his dedication to human rights by declaring the Canadian Museum for Human Rights in Winnipeg as a federally funded and supported institution. The promotional material of the museum states that: “Many survivors of Canadian human rights abuses, including First Nations, Ukrainians, Japanese, Italians, suffragettes and others, are now in their advanced years. We must record the lessons of history – the testimonials from survivors and the stories of our human rights heroes before they are lost forever.” Canada thereby acknowledges that its own history of respecting human rights is not without fault. The museum will be located in Winnipeg Manitoba and, upon completion, could serve as an excellent opportunity to promote R2P in its capacity as a Canadian initiative, acknowledge the Canadians who played a key role in R2P, and ensure that the museum also serves as a repository not only of history but, through highlighting our collective commitment, of aspirations for international peace and stability of the future.

On 14 February 2008, the Global Centre for Responsibility to Protect (GCR2P) in New York, within close proximity to UN Headquarters, was launched with the stated aim to “serve [as] a catalyst for moving the responsibility to protect from principle to practice.”¹⁷⁶ The mandate of the Centre, independent from the UN, is to “conduct, coordinate, and publish

¹⁷⁶Global Centre for Responsibility to Protect Website – located at <http://www.globalcentrer2p.org/about.html>; Internet, accessed 25 March 2008.

research on refining and applying the R2P concept.”¹⁷⁷ GCR2P is an initiative of the International Crisis Group, Human Rights Watch, Institute for Global Policy, Oxfam International, and Refugees International which speaks highly of the engagement and commitment of NGOs to the concept of responsibility to protect. The Centre also has significant international support with pledges from the governments of Australia, Belgium, Canada, France, The Netherlands, Norway, Rwanda, and the United Kingdom and private sources such as the John D. and Catherine T. MacArthur Foundation and the Open Society Institute. Immediate two-year funding has been secured from these sources and GCR2P is proceeding well with their sustainment funding.¹⁷⁸

The GCR2P benefits from prominent support. Two patrons of GCR2P, Desmond Tutu and Mary Robinson, are also members of The Elders, a group of world leaders, who look to the model of trusting in the wisdom and experience of the elders in a community for advice and conflict resolution. Canadians Axworthy and Dallaire are also patrons. RCR2P’s International Advisory Board is co-chaired by Evans and Sahnoun, the co-chairs of R2P. The continued involvement of R2P’s co-chairs is significant in that their presence provides continuity and an in-depth understanding of the principles of R2P. This level of participation and a blending of humanitarian and military goals perspectives will be instrumental in advancing R2P.

A UNITED UN

A major step in towards operationalizing R2P would be consensus within the UN. Despite the resounding support for R2P in the General Assembly, R2P has yet to be

¹⁷⁷*Ibid.*

¹⁷⁸Nicole Deller, GCR2P Director of Programs, Telephone conversation with author, 15 April 2008.

operationalized or elevated to the status of international law. Three of the major obstacles to R2P are sovereignty, right of intervention and political will.

Sovereignty

Since R2P stresses protection rather than intervention, the reluctance to operationalize R2P is difficult to understand. R2P looks to intervention only if a state is not fulfilling its responsibilities, and the first level of responsibility rests with the state, not the international community. The primary concern for some states is sovereignty since R2P acknowledges that it may be necessary to violate the sovereignty of a nation. Under R2P, unlike the Treaty of Westphalia, sovereignty is a responsibility, not an unalienable right. Kofi Annan, in his capacity as UN Secretary-General, confirmed this as follows: “The Charter protects the sovereignty of peoples. It was never meant as a license for governments to trample of human rights and human dignity. Sovereignty implies responsibility, not just power.”¹⁷⁹ This argues towards holding states accountable for their treatment of their nationals – a state that is unable or unwilling to care for its nationals is subject to international intervention.

R2P, however, does not advocate unfettered breaches of sovereignty. The UN does not have a reputation of ignoring sovereignty to effect irresponsible intervention. If anything, the UN has been overly cautious which has led to failures like Srebrenica and Rwanda. The likelihood of the UN using R2P to intervene without justifiable cause is virtually non-existent. If the UN fails to assume the leadership role and react where reaction is necessary, there is recourse under UN General Assembly Resolution 377(1950), *Uniting for Peace*.¹⁸⁰ This resolution provides for the

¹⁷⁹Kofi Annan, “Reflections on Intervention,” 35th Annual Ditchely Foundation Lecture, June 26, 1998, reprinted in *The Question of Intervention: Statements by the Secretary-General* (New York: United Nations, 1999), 6 located in Supplementary Volume to ICISS report, 152.

UN General Assembly to immediately consider security issues if there is a lack of unanimity amongst the permanent members of the Security Council. If both the Security Council and the General Assembly refuse to act, there is a strong likelihood that regional organizations will fill the void. This will increase the potential for global instability. Although there are roles for regional organizations, Chapter VIII of the UN Charter foresaw that regional organizations would only act with UN Security Council authority.¹⁸¹ As evidenced by the Kosovo experience, regional organizations will act if the UN is seen to be unresponsive. Scott Robertson has suggested that "...models of intervention will need to be amended. UN-sponsored intervention may become less relevant, replaced by regionally sponsored interventions and coalitions of the willing."¹⁸² While this may well be the way of the future, R2P sees the UN as the body of authority to invoke intervention if required. Should the UN not take a relevant, responsive and authoritative role, the potential for inequity and abuse exists.

Another area closely linked to sovereignty is domestic jurisdiction. The UN Charter provides equal rights of sovereignty for all members under Article 2.1 of the UN Charter which would infer that states have sole jurisdiction over what happens within their territorial borders.¹⁸³ The issue of domestic jurisdiction is directly related to sovereignty. Territory, protection,

¹⁸⁰"Uniting for Peace" refers to United Nations General Assembly (UNGA) resolution 377, adopted in November 1950. This resolution is invoked if, "...because of lack of unanimity of the permanent members, [the Security Council] fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures." Ten sessions whereby the General Assembly met are available for review at <http://www.un.org/french/ga/liemsp.htm>.

¹⁸¹The International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* ..., 54.

¹⁸²Scott Robertson, "Years of Innocence and Drift," in *The Canadian Way of War*, ed, Colonel Bernd Horn, (Toronto: Dundurn Press, 2006) 372.

¹⁸³Office of the Judge Advocate General, "Charter of the United Nations -1945, Chapter I, Purposes and Principles, Article 2.1," in *Collection of Documents on the Law of Armed Conflict*, 2001 ed. Edited by Directorate of Law Training (Ottawa: DND, 2005), 62.

nationality of offender, nationality of victim and universality are the five elements upon which states exercise domestic jurisdiction in criminal law.¹⁸⁴

Lemkin sought to have genocide subjected to universal jurisdiction; this universal jurisdiction was considered *sine qua non*, an indispensable condition and essential to prevent Heads of State or other senior officials the ability to evade accountability and prosecution by virtue of their position.¹⁸⁵ After much debate about prosecutorial jurisdiction concerning genocide, Article VI to the Convention provides that those charged with either genocide or other acts in Article III of the Convention “shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.”¹⁸⁶ “Shall” indicates an imperative, but allows states to exercise jurisdiction on the basis of territory or to subject those charged to an international body. When Lemkin envisaged universal jurisdiction, however, he likely did not expect genocide to be an intrastate crime, but a crime caused by interstate war. Notwithstanding, the requirement still existed and exists for perpetrators to be held accountable for their actions.

Universal jurisdiction implies a universal standard. On 3 December 1993, the General Assembly unequivocally recognized that states have “the right to try their own nationals for war crimes or crimes against humanity.”¹⁸⁷ Collective accountability, within an international context,

¹⁸⁴*United States v. Yunis*, 681 F. Supp. 896 at 900-1 (DDC 1988). See Yoram Dinstein, C. Green, eds., *The Law of Armed Conflict: Into the Next Millenium*, Newport, RI: Naval War College, 1998, pp.17-37 located in William A. Schabas, *Genocide in International Law* (Cambridge: Cambridge University Press, 2000) 353.

¹⁸⁵William A. Schabas, *Genocide in International Law* (Cambridge: Cambridge University Press, 2000) 354.

¹⁸⁶United Nations General Assembly, *Resolution 260A (III), Prevention and Punishment of the Crime of Genocide....*

¹⁸⁷Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes against Humanity (3 December 1973) available from <http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/281/46/IMG/NR028146.pdf?OpenElement>; Internet, accessed 26 March 2008.

was established with the ICC, implemented by the Rome Statute of the ICC which entered into force on 1 July 2002.¹⁸⁸ The establishment of this court is important because it exerts jurisdiction over party states for grave crimes that “threaten peace, security and well-being of the world.”¹⁸⁹ Under Article 5 of the Rome Statute, the specific crimes are genocide; crimes against humanity; war crimes; and the crime of aggression. The establishment of the ICC did not remove a state’s sovereign right to charge and prosecute its nationals. Article 17 of the Rome Statute allows that a case is inadmissible unless the “State which has jurisdiction over it, unless the State is unwilling or unable genuinely to carry out the investigation or prosecution.”¹⁹⁰ This allows some potential for abuse. In July 2005, the Sudanese government established the Special Criminal Court on the Events in Darfur (SCCED), one day following the announcement by the ICC that investigations were going to be conducted into events in Darfur. This was done to demonstrate Sudan’s ability and willingness to prosecute war crimes in Sudan. Human Rights Watch, however, reported a lack of genuine willingness and capacity in Sudan to prosecute war criminals who allegedly perpetrated the crimes in Darfur. The SCCED has yet to hear charges of a single major atrocity committed in Darfur.¹⁹¹ Sudan has repeatedly stated that it will not submit to the ICC, asserting principles of complementarity in the Rome Statute. Therefore, the international community may be confronted with determining means to ensure that war crimes committed in Sudan do not go unpunished.

There is no provision for a statute of limitations in the Genocide Convention.¹⁹² In accordance with Article 29 of The Rome Statute, crimes that are within the jurisdiction of the

¹⁸⁸International Criminal Court, “Rome Statute of the International Criminal Court,” http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_English.pdf

¹⁸⁹*Ibid.*, preamble.

¹⁹⁰*Ibid.*, Article 17.

¹⁹¹Human Rights Watch, “Lack of Conviction: The Special Criminal Court on the Events in Darfur,” 1; <http://www.hrw.org/backgrounder/ij/sudan0606/sudan0606.pdf>; Internet, accessed 12 March 2008.

¹⁹²William A. Schabas, *Genocide in International Law*,... 414-417.

ICC are not subjected to any statute of limitations.¹⁹³ This also has sovereignty implications. Should a state attempt to avoid prosecuting a genocidaire on the basis of elapsed time, the state “which allowed such an obstacle to a genocide prosecution would, in effect, concede jurisdiction to the International Criminal Court in such cases.”¹⁹⁴ This places the same emphasis upon the exercise of sovereign responsibility as that of protecting one’s nationals.

In order for prosecution to serve as a deterrent as well as punishment, it has to be swift and just. While some argument may be made that sufficient time is required to collect and validate evidence, timelines could be more dramatically reduced. Those responsible need to be made accountable for their actions. Moreover, the process needs to be timely to have merit for the victims. The longer prosecution is delayed, the more victims may feel doubly victimized, thinking that the international community does not care and that the perpetrators have essentially gotten away with the commission of their crimes. Under this argument, the old adage rings true: Justice delayed is justice denied.

Right of Intervention

A more secure world: Our shared responsibility emphasized that “genocide anywhere is a threat to the security of all and should never be tolerated.”¹⁹⁵ To prevent or suppress genocide, the international community must acknowledge that:

There is a growing recognition that the issue is not the “right to intervene” of any State but the “responsibility to protect” of *every* State when it comes to people suffering from avoidable catastrophe – mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease.”¹⁹⁶

¹⁹³International Criminal Court, “Rome Statute of the International Criminal Court,”..., Article 29.

¹⁹⁴William A. Schabas, *Genocide in International Law*,... 416.

¹⁹⁵High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*, Report Prepared for the United Nations Security General..., 65.

¹⁹⁶*Ibid.*

The 1970 Declaration on Principles of International Law restricts the threat or use of force against states, to include: “the forcible action to deprive peoples of self-determination, freedom and independence... and organizing armed bands for incursion into another state’s territory” as prohibited use of force.¹⁹⁷ This places the requirement to respect human rights and sovereignty at cross purpose and the instrument has not been amended to reflect the changing environment. The stated purpose of the UN is a reminder of its responsibilities to our generation and the generations to come. The Charter states that purpose of the UN is:

(T)o save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind;...to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small;...to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; and to promote social progress and better standards of life in larger freedom.¹⁹⁸

The Charter also commits “that armed force shall not be used, save in the common interest.”¹⁹⁹ Inherent with this commitment, however, is the acknowledgement that armed force may be employed, if necessary, in the common interest. While it may be argued that military intervention to halt genocide is a declaration of war, there are times when only military intervention will achieve the necessary result. Professor and author Chris Brown states that “effective humanitarian intervention is an act of power; it involves taking sides, choosing which of the parties to support, and enforcing one’s choice by superior strength.”²⁰⁰ Intervention means choosing sides and assessing where the blame for atrocities lies.

¹⁹⁷Robert L. Bledsoe and Boleslaw A. Boczek, *The International Law Dictionary*, (Santa Barbara: ABC Clio, 1987), 327.

¹⁹⁸ UN Charter

¹⁹⁹ UN Charter

²⁰⁰ Chris Brown, *Humanitarian Intervention and International Political Theory*, in *Humanitarian and Military Intervention* (Burlington: Ashgate, 2002), 164.

Article 2.7 of the UN Charter speaks to sovereignty and states: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction, of any State.”²⁰¹ Sometimes ignored, however, is that “this principle shall not prejudice the application of enforcement measures under Chapter VII.”²⁰² Chapter VII, Article 41 of the UN Charter allows for measures that do not include military action; however, Article 42 recognizes that if non-military measures either would be or have been inadequate, the UN Security Council may take the military action considered necessary to maintain or restore international peace and security.²⁰³ This means that, if necessary, there are provisions to violate the sovereignty of a state. These provisions were in place prior to R2P. Chapter VII decisions, however, are not taken lightly and just cause must be present to invoke Chapter VII. That decision, however, as per Article 39 rests with the Security Council. It is the Security Council’s responsibility to:

(D)etermine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.”²⁰⁴

In this leadership role, the UN is expected to take a stand and, should the circumstances require, exercise their authority in accordance with their Charter.

The UN and, therefore, the international community have resolved to collectively prevent and, if required, suppress genocide. Arguments that the UN has no right to intervention, despite the provisions in the UN Charter to do so are further refuted by the international commitment to uphold human security. Ultimately, national and international communities must come to

²⁰¹ William A. Schabas, “Preventing Genocide and Mass Killing - From a Culture of Reaction to Prevention” from UN Chronicle On-line Edition, available from <http://www.un.org/Pubs/chronicle/2006/issue1/0106p62.htm> Internet: accessed on 26 February 2008.

²⁰² United Nations, Article 2.7, United Nations Charter.

²⁰³ United Nations, Chapter VII, Article 42, United Nations Charter.

²⁰⁴ United Nations, Chapter VII, Article 39, United Nations Charter.

understand that sovereignty entails responsibility. Protection of one's state sovereignty entails fulfilling one's responsibilities towards one's citizens. This further supports that R2P is based upon existing commitments. Unless a country is planning on abusing its citizens, there is no cause to worry about sanctioned intervention into sovereign territory.

Political Will

The UN has been accused of a lack of political will. It must be remembered, however, that the UN is but the collective voice of its members. Overall, the UN has demonstrated a reluctance to intervene in a state's affairs, despite a commitment to R2P where the right of sovereignty does not supersede the right of protection. Part of the argument to not meet the responsibilities under R2P is related to resources and responsiveness. The expectation is that R2P as a legal norm would stretch resources beyond capacity. The international community needs to embrace the concept that human rights are just as significant as economic interests and that human security has an economic value. This does not mean that there needs to be a complete abdication of national interests, for if national resources and capabilities were depleted there would be no capacity to intervene.

A standard by which the international community can assess the cost implications of fully committing to R2P or, barring that, a standard which denotes an upfront share of investment in R2P may be a means to address concerns and advance R2P. States that cannot or refuse to exercise their responsibilities would have clear indicators and expectations of the actions that the remainder of international community *will* take to exercise their responsibilities under R2P.

Part of the political will to advance R2P is also impeded by persistent vetoes by P5 member states on resolutions where R2P should be invoked. If both China and Russia continue

to exercise their respective vetoes at the Security Council to prevent invoking R2P when merited, R2P will be stonewalled. Examples of vetoes, such as Kosovo and Sudan, were provided earlier in this paper. That is not to say, however, that obtaining their approval is impossible. In 1948, Russian opposition to the Convention was eliminated when Lemkin convinced then Foreign Minister of Czechoslovakia, Jan Masaryk, to quell Soviet suspicions with “penicillin is not an intrigue against the Soviet Union.”²⁰⁵ Understanding Russian and Chinese opposition to the concept is key to dispelling the suspicions that are presenting roadblocks. Addressing their oppositions related to sovereignty and rights of intervention may improve their political will to promote R2P. If Russia and/or China perpetually block motions for intervention, humanitarian intervention will inevitably fall to the UN General Assembly or regional organizations. Devolution to regional organizations might not be the worst outcome since solutions, such as Vietnam in Cambodia, India in East Pakistan and Tanzania in Uganda, have been considered the most successful interventions over the past few decades. It was the rebel army of the Rwandan Patriotic Front (RPF), not the international community, which brought an end to the Rwandan genocide when they overthrew the Habyarimana government. Michael Walzer’s parallel of the neighbourhood fire to the bureaucracy of decisions to intervene is insightful. He wrote, “It wouldn’t make much sense to call a meeting of the block association, while the house is burning, to vote on whether or not to help (and it would make less sense to give a veto on helping to the three richest families on the block).”²⁰⁶ The major concern about resorting to regional organizations envisions that the same debate that shadowed Kosovo, legality versus just cause, would certainly ensue.

²⁰⁵Samantha Power, *A Problem From Hell...*, 53.

²⁰⁶ Michael Walzer, “Arguing for Humanitarian Intervention” in *The New Killing Fields: Massacre and the Politics of Intervention*, ed. Nicolaus Mills and Kira Brunner, 19-35 (New York: Basic Books, 2002) 23.

If the “richest families” continue to block UN intervention, it speaks not to international peace and security but a position of power and authority. This suggests that the UN should examine its constitution concerning the veto power of the permanent members. Both China and Russia were initially supportive of R2P. They subsequently withdrew support after contemplating the implications for their respective sovereignty. With current human rights violations in Tibet and Chechnya, China and Russia are in a position where their credibility as veto members could, and perhaps should, be called into question. China is increasingly in the news over Tibet and human rights abuses, and the word genocide is even being used. Both states possess marked military strength and the threat of military intervention would not be a deterrent, but as a minimum, international pressure could serve to assert the responsibilities of all member states and force China and Russia to uphold sovereign responsibilities. It is imperative that a position of veto should not mean that states may act only in their own political interests or with impunity within their own borders, ignoring both their respective responsibility to protect their own nationals and responsibilities to the international community.

Elevation to International Law

The advancement of R2P should seek to have R2P elevated to the status of international law. As it stands, R2P is a concept without legal standing. Despite a history of commitment to the responsibility to protect humanity against genocide and crimes against humanity and endorsement of R2P, there is no legal obligation to act in accordance with R2P principles. For R2P to be elevated to international law, R2P must be invoked, when required, to establish R2P as a norm. This will be achieved if, over time, R2P is established as an international norm thereby influencing acceptance as a practice with standing in customary law.

Change is often brought about based upon failures or what may be termed as lessons learned. As a result, the UN cases provided to support the evolution of R2P tended to reflect negatively on the UN. The danger with presenting the failures of the UN to promote change is that one may be left with the impression that the UN has been completely ineffective. We cannot, however, forget that the UN has contributed to securing or improving international peace and security. Pre-R2P endorsement and in recent history, the UN has improved conditions in Congo, the Ivory Coast and Haiti to name but a few.

To eliminate any question about the UN's commitment to international peace and human security, it has to consistently act in accordance with the evolving security requirements. The progression of increasing commitment to human security over sovereignty supports that R2P should be elevated to international law. Yet, the UN has failed to invoke R2P in Sudan to ensure a sustainable peace.

If the international community lacks the resolve and will, there is potential that genocidaires may blatantly flaunt their actions in the face of the international community.²⁰⁷ This would render the ultimate injustice. R2P needs to be elevated to international law to ensure that the vulnerable citizens of the world are protected.

CHAPTER TWO SUMMARY

Understanding, recognizing, preventing and suppressing genocide are complex undertakings that merit concerted national and international resolve. A commitment is required at the individual, national and international level to advance R2P. This chapter has argued that operationalizing R2P requires both direct and indirect means.

²⁰⁷ Norman Cigar, *Genocide in Bosnia*, (College Station: Texas University Press, 1995) 197

The “direct means” refers to the actual invocation of R2P. In this context, Sudan, unfortunately, clearly meets the *just cause* threshold. R2P needs to be invoked to protect the citizens of Sudan because, after five years of violence, neither the AU nor Sudan has been able to effectively suppress the atrocities.

The “indirect means” are methods, short of invocation, to demonstrate commitment at the national and international levels. These methods include the involvement of the required agencies, education, marketing, new initiatives and a “united” UN. Nationally, within Canada, the establishment of a lead agency and liaison officers in each of the federal agencies would serve to promote R2P’s profile and agency roles. Promotion of educational opportunities could serve to advance R2P by increasing awareness about their availability. Most noteworthy is the recent genocide and R2P courses developed by the TDSB. This course should be promoted nationwide to increase the knowledge of Canada’s youth so that they may be better prepared to confront the challenges that will come in their future. The appropriate institutions must be engaged and the public needs to be educated about R2P to promote the advance of R2P concepts. Part of the awareness is also related, at the international level to marketing and branding R2P so that there is international recognition and profile. Initiatives, such as the Canadian Human Rights Museum, once opened, and the GCR2P are excellent means to increase awareness of R2P. Last, but certainly not least, there needs to be a “united” UN. The advance of R2P is primarily based upon the UN’s resolve to invoke R2P. To increase the possibility to gain consensus, the concerns of those members reluctant to invoke R2P need to be addressed. Unless R2P is invoked, it stands little chance of becoming a norm to advance the concept to international law. By acting in a consistent manner in accordance with the commitments to

human security, the UN has the potential to ensure that it maintains a leadership role and relevance. If not, other organizations will fill the void.

Operationalizing R2P requires awareness, education, commitment and resolve to invoke the principles when required. Both direct and indirect means have been presented to recommend means to accomplish further advance of R2P. A commitment to its principles necessitates R2P's operationalization.

CONCLUSION

The road to R2P started with the UN, formed in 1945, to essentially maintain international peace and security. To address what was considered the challenges of conflict at the time, the UN adopted the Convention on the Prevention and Punishment of the Crime of Genocide and the Universal Declaration of Human Rights. The last decade has seen an increased focus on human security because of the change in the nature of conflict from interstate to intrastate and because, through globalization, there is an increased awareness of world affairs. The change in the nature of war significantly increases the risk to the civilian population and brings to the fore the concept that sovereignty is a responsibility and not a right. States are, thereby, considered responsible for providing security to their citizens. This security is not just an absence of violence but also the provision of basic human rights. Consecutive UN summits and reports have asserted the commitment of the UN to protect the citizens of the world.

The international community has not always or consistently respected its responsibilities. Therefore, there are many lessons to learn from the past. The failures of the international community to act in Rwanda and Srebrenica, the two states instrumental the establishment of ICISS and the development of R2P, serve as constant reminders. Since *The Responsibility to Protect* was published in 2001, high profile reports, such as *A more secure world: Our shared responsibility*, have been published and summit meetings, especially the 2005 World Summit, have provided direct to support R2P and its principles. Despite this commitment, the UN has yet to operationalize R2P. Rwanda and Srebrenica must serve as reminders of the consequences of inaction and a warning about the lack of international action in Sudan.

The UN Charter and policies of the international community, prior to the publication and affirmation of *Responsibility to Protect*, speak to the international commitment to international peace and security, which includes human security. The resolve, however, to utilize the legal arguments already in existence to protect nationals from crimes against humanity, such as genocide and ethnic cleansing, has been lacking and controversial. Intervention should be sanctioned by a governing body, namely the UN, to ensure consistent application of R2P as an emerging norm. To guide the UN, the principles of R2P serve to explain the intent of universal protection, and if means other than military intervention fail, the parameters under which military intervention is required to fulfill international obligations to protect human security.

There are two major means to advance R2P, direct and indirect. Direct requires the invocation of R2P. The international community must demonstrate resolve and act with credibility and fully endorse the use of intervention as a last resort. R2P will only have credibility if it is invoked, where circumstances warrant. In situations where time is of the essence, the decision to take appropriate action cannot be stymied by a bureaucratic process. Once it has been determined that intervention is the means by which to quell the violence, it is essential that the military commander be delegated ROEs that permit the appropriate, proportional force and is provided the requisite resources to perform those duties. An unfortunate opportunity exists for the UN to redeem itself as the keeper of international peace and security by acting in Sudan. It is time for the international community to acknowledge that the AU and Sudan need assistance to restore peace and security to Sudan. Five years into the conflict and after countless atrocities, neither the AU nor Sudan has been able to suppress the violence. The situation begs the invocation of R2P. As long as the international community fails to acknowledge crimes against humanity and lacks the resolve to act in the face of atrocities,

genocides and human rights violations will continue to exist. In this environment, governments will expect that they can act with impunity and the relevancy of the UN will be called into question.

Within indirect means, Canada has a role to play on national and international stages. Upon the national stage, the federal agencies with a role to play in R2P need to be engaged. A lead agency needs to be established and DFAIT is recommended to fill that role. To ensure that members of each agency are aware of their responsibilities under R2P, it is recommended that professional development include R2P. NGOs also need to be integrated into a comprehensive Canadian approach as a result of their enormous involvement in failing states. NGOs, considering their commitment to humanitarian aid and security, are vital to advancing R2P. Interagency cooperation and coordination would serve to present a collective voice that would elevate R2P's visibility and credibility.

Education is essential to advance R2P as well as genocide education and prevention. This education needs to reach and be available to the entire population. Canadians must be fully aware of the role that Canada has played in the development of R2P and recognize the ensuing obligations. Given DFAIT's role in the genesis of R2P, information should be easily accessed at the DFAIT site and promoted as an international responsibility. To further address education, we need to enlist the support of the community leaders and groups that are already providing genocide education and promote the excellent courses and seminars in our post-secondary institutions to promote R2P. The leadership demonstrated by the TDSB to educate the youth about genocide and R2P should be emulated. The Ontario Ministry of Education should recognize the invaluable benefit that will be incurred as a result of the Board's initiative and implement the programme within Ontario. Furthermore, the Ontario Ministry of Education

should promote TSDB's initiative nationwide and encourage other provincial and territorial ministries of education to adopt the programme.

Part of ensuring the population is aware of R2P, in addition to education, is ensuring that R2P is marketed and brand-named so that it becomes part of everyday lexicon. To increase awareness, Canada should also take full advantage of new initiatives such as the Museum of Human Rights to promote and advance R2P. Promotion is also required internationally; the GCR2P is a recent international initiative that will serve to research and promote R2P. To ensure awareness of their site, an intense marketing campaign is required.

The strides made by the international community to recognize collective responsibility to protect humanity need to continue to counter blames of inefficiency and failure that have been placed upon the UN. To further this advance, we must negotiate the barriers of sovereignty, right of intervention and political will which currently inhibit complete acceptance of R2P. To do this the appropriate frameworks and standard highlighting responsibilities are required to eliminate any doubt about the expectations of commitment and sovereign responsibilities.

To counter the lack of inaction that is brought about by repeated vetoes, serious consideration must be given to further UN reform. The reputation of the UN cannot be tarnished with the impression that member states, either by their size or veto power, can act with impunity or impede the necessary action required to ensure sustainable international peace and security are achieved. If member states cannot act according to the Charter, serious consideration must be given to their membership and voting powers.

The UN, a collective voice of its member states, must also continue to advance the issue of accountability. If there are doubts concerning the process implemented by member states to

hold their nationals accountable, the ICC needs to be engaged and states, themselves, held accountable to the international community for the actions or lack thereof that they take.

Finally, the continuing presence of genocide and crimes against humanity in the 21st Century clearly demonstrates that R2P and the conventions that support R2P must be more than a normative principle without any teeth; concrete international commitment and a resolve to operationalization are necessary to ensure that these atrocities are prevented or suppressed in the future. R2P needs to be recognized not only as a responsibility but an obligation, and therefore must be elevated to international law. Ultimately, failure to act in accordance with the principles of R2P is an abdication of commitments made to ensure international peace and security and protect the basic human rights of the world's citizens. R2P will only serve to be effective in the fight against crimes against humanity if the international community chooses to exercise the responsibilities to which a commitment has been made to uphold.

In short, R2P is not based upon new concepts or legal imperatives. It summarizes the commitments that have already been articulated by the international community. The international community needs to treat R2P as a guiding principle, solidify R2P as a norm and elevate R2P to international law. To ensure that the international community acts in accordance with the collective responsibility to ensure international peace and security, R2P operationalization is a necessity.

BIBLIOGRAPHY

BOOKS AND JOURNALS

- Bledsoe, Robert L. Boleslaw A. Boczek. *The International Law Dictionary*. Santa Barbara: ABC Clio, 1987.
- Brown, Chris. *Humanitarian Intervention and International Political Theory, in Humanitarian and Military Intervention*. Burlington: Ashgate, 2002.
- Cigar, Norman. *Genocide in Bosnia: The Policy of "Ethnic Cleansing."* College Station: Texas A&M University Press, 1995.
- Dallaire, Romeo. *Shake Hands With the Devil*. (Toronto: Vintage Canada, 2004.
- Daly, M.W. *Darfur's Sorrow: A History of Destruction and Genocide*. New York: Cambridge University Press, 2007.
- Dutton, Donald G. *The Psychology of Genocide, Massacres, and Executive Violence: Why "Normal" People Come to Commit Atrocities*. Westport: Praeger Security International, 2007.
- Follet, Ken. *A Place Called Freedom*, 2nd ed. London: Pan Books, 2004.
- Freeman, Michael. "Genocide, Civilization and Modernity" *The British Journal of Sociology*, Volume 46, Number 2. (June 1995): 207-223.
- Goldhagen, Daniel Jonah. *Hitler's Willing Executioners: Ordinary Germans and the Holocaust*. New York: Vintage Books, 1997.
- Gorman, Robert F. *Great Debates at the United Nations: An Encyclopedia of Fifty Key Issues 1945-2000*. Westport: Greenwood Press, 2001.
- Granatstein, J.L. *Who Killed the Canadian Military*. 2nd Edition. Toronto: HarperCollins Publisher Ltd., 2004.
- Greenawalt, Alexander K.A. "Rethinking Genocidal Intent: The Case for a Knowledge-Based Interpretation" *Columbia Law Review*, Volume 99, Number 8 (December 1999): 2259-2294.
- Hewitt, William L. *Defining the Horrific: Readings on Genocide and the Holocaust in the Twentieth Century*. Upper Saddle River: Pearson Education Inc., 2004.

- Honig, Jan Willem and Both, Norbert. *Srebrenica: Record of a War Crime*. London: Penguin Books, 1996.
- Independent International Commission on Kosovo, *Kosovo Report: Conflict, International Response, Lessons Learned*. New York: Oxford University Press, 2000.
- International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events. *Rwanda: The Preventable Genocide*. 2000.
- Kressel, Neil J. *Mass Hate: The Global Rise of Genocide and Terror*. Second Edition. New York: Westview Press, 2002.
- Kuperman, Alan J. *The Limits of Humanitarian Intervention: Genocide in Rwanda*. Washington DC: Brookings Institution Press, 2001.
- Lebor, Adam. *"Complicity with Evil" The United Nations in the Age of Modern Genocide*, New Haven: Yale University Press, 2006.
- Lifton, Robert J. *Nazi Doctors: A Study of the Psychology of Evil*. London: MacMillan, 1986 also available as an e-book at <http://www.holocaust-history.org/lifton>.
- Marrus, Michael R. *The Holocaust in History*. Toronto: Key Porter Books, 2000.
- Melvern, L.R. *A People Betrayed: The Role of the West in Rwanda's Genocide*. London: Zed Books, 2000.
- NATO Public Diplomacy Division. *NATO Handbook*. Brussels: NATO, 2006.
- Power, Samantha. *A Problem From Hell*. New York: Basic Books, 2002.
- Reimer, Neal, Douglas W. Simon, Helen Fein, George A. Lopez, David Wippman, Saul Mendlovitz and John Fousek, Michael Joseph Smith. *Protection Against Genocide: Mission Impossible?* edited by Neal Riemer. Westport: Praeger Publishers, 2000.
- Schabas, William A. *Genocide in International Law*. Cambridge: Cambridge University Press, 2000.
- Shaw, Martin. *What is Genocide?* Cambridge: Polity, 2007.
- Sitkowski, Andrzej, *UN Peacekeeping: Myth and Reality*. Westport: Praeger Security International, 2006.
- Staub, Ervin. "The Evolution of Bystanders, German Psychoanalysts, and Lessons for Today" *Political Psychology*, Volume 10, Number 1 (March 1999): 39-52.

- Carpenter, Ted Galen. "Damage to Relations with Russia and China," in *NATO's Empty Victory: A postmortem on the Balkan War*, edited by Ted Galen Carpenter, Washington: CATO Institute, 2000.
- Evans, Gareth. "Banishing the Rwanda Nightmare" *Frontline*, 31 March 2004; available from <http://www.pbs.org/wgbh/pages/frontline/shows/ghosts/etc/protect.html>; Internet; accessed 24 February 2008.
- Herring, Eric. "From Rambouillet to the Kosovo Accords" in *The Kosovo Tragedy*, edited by Ken Booth, 225-245. London: Frank Cass, 2001.
- Jones, Holly Manges. "ICJ: Serbia not guilty of Bosnia genocide but broke law by not preventing Srebrenica." *Jurist Legal Research and Law Review*, University of Pittsburgh School of Law available from <http://jurist.law.pitt.edu/paperchase/2007/02/icj-serbia-not-guilty-of-bosnia.php>.
- Khan, Adnan.R. "Genocide Denial: As the U.S. weighs recognition of the 1915 Armenian genocide, Turkey continues to resist." *Macleans* 29 October 2007. Journal on-line; available from: http://www.macleans.ca/world/global/article.jsp?content=20071029_110331_110331; Internet, accessed 15 January 2008.
- Livingston, Steve "Limited vision: how both the American media and government failed Rwanda, on the International Development Research Center site." available from http://www.idrc.ca/en/ev-108202-201-1-DO_TOPIC.html.
- Power, Samantha. "Raising the Cost of Genocide," in *The New Killing Fields: Massacre and the Politics of Intervention*, edited by Nicolaus Mills and Kira Brunner, 245-264. New York: Basic Books, 2002.
- Robertson, Scott. "Years of Innocence and Drift," in *The Canadian Way of War*, edited by Colonel Bernd Horn. Toronto: Dundurn Press, 2006.
- Schabas, William A. "Preventing Genocide and Mass Killing - From a Culture of Reaction to Prevention" from UN Chronicle On-line Edition, available from <http://www.un.org/Pubs/chronicle/2006/issue1/0106p62.htm>.
- Walzer, Michael. "Arguing for Humanitarian Intervention" in *The New Killing Fields: Massacre and the Politics of Intervention*, edited by Nicolaus Mills and Kira Brunner, 19-35. New York: Basic Books, 2002.

REPORTS

- Annan, Kofi A. *We The Peoples: The Role of the United Nations in the 21st Century*. Report prepared for the United Nations Millennium. New York: UN, 2000.

Canada, Treasury Board Secretariat, “Canadian International Development Agency 07/08 Report on Plans and Priorities” http://www.tbs-sct.gc.ca/rpp/0708/cida-acdi/cida-acdi_e.pdf.

Canada, Canadian International Development Agency, Statistical Report on Official Development Assistance, FY 2004 to 2005, December 2006 available from [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/stats/\\$file/Stat_rap_04-05.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/stats/$file/Stat_rap_04-05.pdf).

Canada, Proceedings of the Standing Committee on National Security and Defence, Issue 4 – Evidence, morning meeting, Kingston, November 29, 2004, 7.
http://www.parl.gc.ca/38/1/parlbus/commbus/senate/Com-e/defe-e/04mn-e.htm?Language=E&Parl=38&Ses=1&comm_id=76.

Canada, Treasury Board Secretariat, *Department of National Defence Report on Plans and Priorities*, available from http://www.tbs-sct.gc.ca/rpp/0708/ND-DN/nd-dn02_e.asp#_Toc160251339.

Commission on Human Security, *Final Report of the Commission on Human Security: Human Security Now*. New York: CHS, 2003.

High-level Panel on Threats, Challenges and Change, *A more secure world: Our shared responsibility*. Report Prepared for the United Nations Security General. New York: UN, 2004.

Human Rights Center, University of California, *The Responsibility to Protect (R2P) Moving the Campaign Forward*. Berkley: International Human Rights Law Clinic, 2007. available from <http://www.globalpolicy.org/empire/humanint/2007/1007berkeley.pdf>.

Human Rights Watch, “Lack of Conviction: The Special Criminal Court on the Events in Darfur,” available from <http://www.hrw.org/backgrounder/ij/sudan0606/sudan0606.pdf>.

Human Rights Watch, *Darfur: Childhood at Risk After Five Years of War*, dated 11 April 2008, available from <http://hrw.org/english/docs/2008/04/11/sudan18528.htm>.

International Commission on Intervention and State Sovereignty. *The Responsibility to Protect*. Ottawa: International Development Research Centre, 2001.

Institute for War and Peace Reporting, Bosnia I Herzegovina, Hvarska and Srpska Tribunal Update No 398, 18 March 2005. available from http://www.iwpr.net/?p=tri&s=f&o=235656&apc_state=henitri2005.

Ndiaye, B.W. *Question of the Violations of Human Rights and Fundamental Freedom in Any Part of the World, With Particular Reference to Colonial and Other Dependent Countries and Territories*, Report prepared for United Nations, Economic and Social Council. New

York: UN, 1993. available from
<http://www.preventgenocide.org/prevent/UNdocs/ndiaye1993.htm>.

Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General, Geneva 25 January 2005
http://www.un.org/News/dh/sudan/com_inq_darfur.pdf.

United Nations, Department of Peacekeeping Operations, United Nations Peace Operations Year in Review 2007, 44 available from
http://www.un.org/Depts/dpko/dpko/pub/year_review07/YIR_2007.pdf.

United Nations, Department of Peacekeeping Operations, ‘Rwanda UNAMIR Backgrounder,’
http://www.un.org/Depts/dpko/dpko/co_mission/unamirS.htm.

United Nations Secretary General. *Millennium Report of the Secretary General of United Nations*. New York: UN, 2000. available from
<http://www.un.org/millennium/sg/report/full.htm>.

WEBSITES

African Union, ‘Protocol on Amendment to the Constitutive Act of the African Union,’
<http://www.africa-union.org/root/au/Documents/Treaties/Text/Protocol%20on%20Amendments%20to%20the%20Constitutive%20Act.pdf>.

African Union, “Protocol Relating to the Establishment of the Peace and Security Council of the African Union,” http://www.africa-union.org/rule_prot/PROTOCOL-%20PEACE%20AND%20SECURITY%20COUNCIL%20OF%20THE%20AFRICAN%20UNION.pdf.

Canada, Minister of National Defence Canadian Back Grounder for SHIRBRIG available from
http://www.mdn.ca/site/Newsroom/view_news_e.asp?id=500.

Canadian Expeditionary Force Command, “Current Operations,”
http://www.cefc.com.forces.gc.ca/site/ops/index_e.asp.

Foreign Policy, *The Failed States Index 2007*, Carnegie Endowment for International Peace.
http://www.foreignpolicy.com/story/cms.php?story_id=3865&page=7.

Global Centre for Responsibility to Protect Website. <http://www.globalcentrer2p.org/about.html>.

International Criminal Court, “Rome Statute of the International Criminal Court,”
http://www.icc-cpi.int/library/about/officialjournal/Rome_Statute_English.pdf.

North Atlantic Treaty Organization, "The North Atlantic Treaty."
<http://www.nato.int/docu/basic/txt/treaty.htm>.

Responsibility to Protect – Engaging Civil Society. <http://www.responsibilitytoprotect.org/>.

SHIRBRIG, UNAMIS, <http://www.shirbrig.dk/html/unamis.htm>.

United Nations, United Nations Charter. <http://www.un.org/aboutun/charter/>.

United Nations Security Council, Resolutions. <http://www.un.org/Docs/sc/>

Zoryan Institute, Genocide Studies. <http://www.genocidestudies.org/Main/Default.htm>.

NEWSPAPER AND ON-LINE ARTICLES

Axworthy, Lloyd and Allan Rock. "Breathe new life into R2P: Canada has abandoned the very principle it once championed at the United Nations," *The Globe and Mail*, January 29, 2008. <http://www.globalcentrer2p.org/pdf/R2POp-edAxworthy.pdf>.

Colum, Lynch. "Annan Decries Failure To Halt Darfur Killings:Passivity of Most Governments Faulted" *Washington Post*, 9 December 2006. available from
<http://www.washingtonpost.com/wp-dyn/content/article/2006/12/08/AR2006120801535.html>

Corey, Charles W. "U.S. Congress Terms Situation in Darfur "Genocide" Senate, House pass concurrent resolutions on Darfur." 26 July 2004 available from
<http://usinfo.state.gov/is/Archive/2004/Jul/26-233176.html>.

Crossette, Barbara. "Canada Tries to Define Line Between Human and National Rights" *New York Times*, 14 September 2000; available from
http://topics.nytimes.com/top/reference/timestopics/people/a/lloyd_axworthy/index.html.

Ramirez, Luis. "Neighbors Fear Ethnic Conflict in Burma If Government Collapses" *Voice of America News*, 23 October 2007. available from
<http://www.voanews.com/english/archive/2007-10/2007-10-23-voa11.cfm?CFID=43544334&CFTOKEN=85624742>.

Thakur, Ramesh Thakur. "Operationalising the 'responsibility to protect.'" *The Hindu*, 15 February 2008; available from
<http://www.hindu.com/2008/02/15/stories/2008021554581000.htm>.

VandeHei, Jim. "In Break With U.N., Bush Calls Sudan Killings Genocide," *Washington Post*, 2 June 2005. available from http://www.washingtonpost.com/wp-dyn/content/article/2005/06/01/AR2005060101725_pf.html.

Whitehorn, Alan. "In order to prevent genocide we need to learn about it" *Kingston Whig Standard Forum*, 14 January 2008.

Worthington, Peter. "Darfur, Tibet prompt little action" in *The London Free Press*, 24 March 2008.

ARTICLES - AUTHORS NOT SPECIFIED

"Britain proposes to host Darfur Peace Talks" *The Sudan Tribune*, 13 April 2008; available from <http://www.sudantribune.com/spip.php?article26741>.

"Dallaire describes carnage he saw during Rwandan genocide Canadian senator says UN troops he led were unprepared for Rwanda." CBC News, 2 October 2007 available from <http://www.cbc.ca/canada/montreal/story/2007/10/02/qc-dallaire1002.html>.

"Three food aid drivers killed in Darfur Men were delivering for U.N. World Food Program in war-torn Sudan region" *Associated Press* 17 October 2007, <http://www.msnbc.msn.com/id/21343602/>.

OTHERS

Annan, Kofi. Letter Dated 15 December 1999 from the Secretary General Addressed to the President of the Security Council, S/1999/339, available from <http://daccessdds.un.org/doc/UNDOC/GEN/N99/395/47/IMG/N9939547.pdf?OpenElement>.

Annan, Kofi A. Final Speech as United Nations Secretary General, 11 December 2006, transcript available from <http://news.bbc.co.uk/2/hi/americas/6170089.stm>.

Canada, Foreign Affairs and International Trade, Minister Bernier Announces Major Canadian Engagement for Peace in Sudan, Press Release No. 64 26 March 2008 available from http://w01.international.gc.ca/minpub/Publication.aspx?isRedirect=True&publication_id=385984&Language=E&docnumber=64.

Canada. Department of Foreign Affairs, *Canada's foreign policy for human security*, Ottawa: 2002) available from http://geo.international.gc.ca/cip-pic/cip-pic/library/freedom_from_fear-en.pdf.

Canada. Office of the Judge Advocate General, "Charter of the United Nations -1945, Chapter I, Purposes and Principles, Article 2.1," in *Collection of Documents on the Law of Armed Conflict*, 2001 ed. Edited by Directorate of Law Training . Ottawa: DND, 2005.

Dallaire, Roméo. Fax addressed to Maurice Baril, UNHQ, Request for Protection of Informant, dated 11 January 1994, available from <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB53/rw011194.pdf>.

Declaration by the Stockholm International Forum 2004 available from <http://www.preventgenocide.org/prevent/conferences/StockholmDeclaration28Jan2004.htm>.

Eggleton, Art. Canadian Defense Minister On Lessons From Kosovo (Sept.30) Speaking Notes for Sept.30 speech. Canadian Minister of National Defence, at Harvard University Commencement ceremonies ; Boston, Massachusetts http://www.defense-aerospace.com/cgi-bin/client/modele.pl?prod=16290&session=dae.35388387.1207177745.@LKgC38AAAEAAHAXW0AAAAAF&modele=jdc_1.

Harper, Stephen. Statement From the Prime Minister on Day of Commemoration of Armenian Genocide, 19 April 2006, available from http://www.armenian-genocide.org/Affirmation.359/current_category.1/affirmation_detail.html.

Harper, Stephen. Address by the Prime Minister to the 61st Opening Session of the United Nations General Assembly, 21 September 2006 available from <http://pm.gc.ca/eng/media.asp?id=1329>.

International Institute for Genocide and Human Rights Studies (A Division of the Zoryan Institute) and University of Manitoba, Genocide and Human Rights University Program Required Readings (Toronto: 2007)

Toronto District School Board, Ontario Ministry of Education Approved Proposal for a Locally-Developed Course Genocide: Historical and Contemporary Implications Grade 11, College/University Preparation CHG38M available from http://www.tdsb.on.ca/wwwdocuments/programs/Equity_in_Education/docs/TDSB%20Genocide%20Course%20Proposal.pdf.

World Publics Favor New Powers for the UN,” World Public Opinion Survey. available from http://www.worldpublicopinion.org/pipa/pdf/may07/CCGA+_UN_article.pdf.