

## **Rights, Liberties, and the Rules of Engagement**

The Ninth Annual Travers Ethics Conference

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Lipman Room, Barrows Hall

UC Berkeley

### Conference Report

The Ninth Annual Travers Ethics Conference, sponsored by the UC Berkeley Colonel Charles T. and Louise H. Travers Program on Ethics and Government Accountability, as well as the UC Berkeley Institute of International Studies, the World Affairs Council for Northern California, the UC Berkeley Political Science Department, the UC Berkeley Institute of Governmental Studies, and the Commonwealth Club of California, took place on May 6, 2005. The topic of the conference was “Rights, Liberties, and the Rules of Engagement.” Bringing together experts in the study of violent conflict, criminal justice, U.S. foreign policy, international law, human rights and humanitarian law, and international justice, it sought to examine how the laws and practices that govern state conduct during war are changing and will continue to change in the next decade. Guided by a concern that neither the laws of war nor the domestic criminal justice system is entirely appropriate for current conflicts, the conference considered the possibility of developing new rules and norms governing state behavior during wartime, and the role of the United States in such an effort.

The conference began with welcoming remarks by Colonel Charles T. Travers, who was introduced by Bruce Cain, Robson Professor of Political Science at UC Berkeley. After the death of his wife Louise in 1995, Colonel Travers established the Charles T. and Louise H. Travers Program on Ethics and Government Accountability at UC Berkeley. In May 2005, Colonel Travers, who is a 1932 graduate of UC Berkeley, endowed the Charles and Louise Travers Department of Political Science.

Following Colonel Travers’ remarks, Amy Gurowitz introduced the topic of this year’s conference. In particular, the conference would address such questions as, Are current laws and norms appropriate for the challenges of the “war on terrorism” and other international conflicts? If change is needed, what should states, and particularly the United States, do to promote such change?

### **Panel 1: Blurring the Boundaries**

The first panel focused on the nature of the actors that are engaged in conflict, and the problems that emerge when traditional distinctions may no longer operate. These problems further blur the domestic-international divide—for example when there is no clear boundary between combatants and non-combatants, between citizens and non-citizens, or between states and non-state actors. The discussion addressed why these changes have occurred, and focused most critically on the consequences for using particular laws, as well as the tool of law in general, as a regulatory mechanism in violent conflict.

The chair of the first panel, Professor Shannon Stimson of UC Berkeley, introduced the panelists. Helen Kinsella, postdoctoral fellow at the Stanford Center for International Security

and Cooperation, began by discussing the “principle of distinction,” which is the injunction to distinguish between combatants and civilians at all times in armed conflict. She provided a brief history of the origins of the principle, discussed its codification in the laws of war, and presented some challenges to the principle in current conflicts. Tracing the history of the principle to the fifth century, when St. Augustine wrote of war as a form of prayer in which one must avoid cruelty, bloodlust, and vengeance, Dr. Kinsella then discussed the evolution of the Just War tradition, particularly under St. Thomas Aquinas, and its relationship to the rules of chivalric Europe. In particular, this tradition distinguished those who could be killed in war from those who were to be specifically protected.

In the 19<sup>th</sup> century, Professor Kinsella explained, the laws of war began to be codified more formally. In this regard, General Orders 100 in the U.S. Civil War was a significant development, as it distinguished between combatants and civilians, and described this principle of distinction during war as a hallmark of civilized countries. It was not until after the Second World War, however, that international law formally addressed the principle of distinction. The Geneva Convention of 1949 and its 1977 Protocol were the most significant agreements in this regard, defining civilians as those who were not combatants. Critically, these international agreements made clear the obligation on combatants not to harm civilians, even in the case of doubt about civilian status.

Finally, Professor Kinsella discussed the challenges of current conflicts, in which the identity of civilians is often blurred. She suggested that the empirical and juridical categories of civilian and combatant are not as distinct as we would like to believe, and that this ambiguity points to the necessity of extending the category. She ended by asking how, in contemporary conflicts, one should decide who or what is a civilian; and who is to make that distinction.

Professor Stimson then introduced the second panelist, Lucas Guttentag, the national director of the Immigrants’ Rights Project of the American Civil Liberties Union and lecturer at Boalt Hall Law School. Mr. Guttentag discussed his role as lead counsel in the ACLU’s lawsuit for violations of international law and the U.S. Constitution against Secretary of Defense Donald Rumsfeld and three high-ranking military commanders brought on behalf of torture victims in Iraq and Afghanistan. Mr. Guttentag discussed this lawsuit in some detail, describing it as the last, best resort for the victims of torture, after the failure of both the Congress and the executive branch to deal effectively with the problem of torture in U.S.-run detention facilities related to the war on terrorism.

Mr. Guttentag began by discussing an area where there is *no* blurring of boundaries: that is, torture is absolutely prohibited by the U.S. Constitution (in the due process clause) and by international law (most specifically, in the Convention Against Torture) regardless of the status of the victim—i.e., whether the victim is a combatant or a civilian, a citizen or a non-citizen, etc. He then explained why the Secretary of Defense was the subject of the ACLU’s lawsuit, citing the widespread, systemic use of torture in Afghanistan, Iraq, and Guantánamo Bay, Cuba, as well as the orders directly issued by the Secretary of Defense (including his approval of interrogation techniques amounting to torture). In addition, Mr. Guttentag pointed to the norm of command responsibility, a norm championed by the United States at the end of World War II, which holds civilian and military commanders legally responsible for the actions of those under their

command. Critically, the Secretary of Defense failed to stop the practice of torture, even after repeated complaints and reports from the International Committee of the Red Cross (ICRC) and other human rights organizations as well as the FBI. Indeed, it was not until the photos from Abu Ghraib were published that the issue began to receive the Secretary's real attention.

Despite this responsibility, there has yet to be any finding against the Secretary of Defense. Mr. Guttentag explained this failure as a result of the difficulty for foreign nationals to find remedy for abuse by U.S. government officials. This lawsuit thus represented the last, best effort to deal with the problem of torture. As Mr. Guttentag suggested, the courts remain the only place left to turn when the political branches fail. He concluded his remarks by saying that security is not incompatible with human rights or with respect for the U.S. Constitution. He urged the audience to consider how the U.S. as a country will look back on this period years from now, and to realize that we still have a great deal to prove to ourselves and to the rest of the world.

Professor Stimson then introduced the final panelist, Professor Scott Straus (PhD, UC Berkeley) of the University of Wisconsin, Madison. Professor Straus, an expert on violence, genocide, human rights, and African politics, discussed four aspects of the contemporary patterns of violence in wartime, particularly in sub-Saharan Africa. First, he noted the prevalence of civil conflict in Africa, and the ways in which such conflict is blurring boundaries. While there has not been a dramatic increase in the number of civil conflicts, nor in the number of battle deaths, there has been a dramatic increase in the number of indirect civilian casualties of war. In this regard, he noted the current conflict in the Democratic Republic of Congo, where 3.8 million people have died since war began in 1996; of those, only 2% are violent, battle-related deaths. Estimates in other conflicts put indirect civilian casualties at not less than 70%. While there is no reliable comparative data as yet, deliberate targeting of civilians as a tactic of war seems to be increasing in recent years. Moreover, further blurring the boundaries, Professor Straus noted the emergence of non-professional combat forces (militias, paramilitaries, and barely trained rebel recruits) that resemble civilians more than soldiers of any type. Professor Straus also noted that after a decade of democratization in Africa, it was clear that in some cases (Zimbabwe, Ivory Coast, Kenya, Burundi, Togo), multiparty elections deteriorated into violence or civil war, where the main violent actors are political party youth. The collapse of several states as a result of civil conflict (Somalia, DRC, Southern Sudan) further blurs boundaries.

Second, Professor Straus discussed the sources of conflict. He argued that there is an emerging consensus among experts that ethnic heterogeneity is *not* the primary cause: though ethnic identification may intensify violence, ethnic differences do not drive the conflicts, nor do they make Africa particularly susceptible to conflict. Rather, there is some agreement that weak state capacity and low GDP are the greatest factors that increase the risk of conflict. Regarding the question of why these conflicts involve so many civilians as victims and as violent actors, Professor Straus explained that there was no consensus in the literature, but made several observations. First, the greatest levels of violence tend to take place in wars, especially when previously repressive regimes splinter. Second, in several cases, the multiparty elections that brought about the rapid end to one-party rule have also led to violence and civil war that directly involves civilians. Finally, the end of the Cold War has contributed to the sources of conflict: in the absence of superpower rivalries acting as *de facto* guarantors for repressive regimes, states

have become more vulnerable to internal attack. Superpower involvement may have also served to professionalize the combatants during the Cold War.

Third, Professor Straus examined the laws of war and other legal approaches to dampening the negative effects of civil conflict in Africa. He discussed three legal avenues for dealing with violence: international human rights conventions and humanitarian law; humanitarian intervention; and international criminal courts. Regarding human rights and humanitarian instruments, Professor Straus suggested that treaty ratification is not a good predictor of domestic enforcement or compliance. He cited research by Oona Hathaway that suggests that human rights agreements are made more effective by active civil societies, especially functioning independent judiciaries, and independent media. As such, if weak states are more susceptible to civil conflicts, those states are also unlikely to have the effective democratic institutions necessary to make international legal agreements more effective. Professor Straus was also skeptical that military action in the form of humanitarian intervention would become an effective tool for dealing with violence. The experiences of intervention, and non-intervention, in the 1990s suggest that there is still no effective doctrine of humanitarian intervention; and the events of September 11 and the war on terrorism have moved the question of humanitarian intervention even further off center stage. Darfur provides only the most recent example, where even the declaration of “genocide” did not provide a sufficient threshold for action. Finally, Professor Straus considered a third legal avenue, that of international criminal courts, including the ICC and the international tribunals for Rwanda and for the former Yugoslavia. Although “justice” through such institutions has become the preferred policy route, such courts are expensive, slow, and limited, and their long-term benefits remain unclear.

In his final remarks, Professor Straus suggested an alternative way forward, which takes a more integrated approach to dealing with violence and civil conflict. Acknowledging that it may appear to be an old-fashioned view, he reiterated the importance of building state capacity and focusing on economic development. Such an approach focuses on the factors that are central to long-term stability and to lessening the risks and effects of war. While state capacity and development may not be panaceas, they are critical to progress in this area. And while his remarks focused on Africa, Professor Straus suggested that the lessons are probably relevant to other war-torn areas as well, most obviously in Afghanistan.

**Keynote Address: Morton Halperin, “A New Paradigm for Confronting Terrorism”**

Nelson Polsby, Heller Professor of Political Science at UC Berkeley, introduced the keynote speaker, Morton Halperin, Director of U.S. Advocacy for the Open Society Institute and former senior official in the Clinton, Nixon, and Johnson administrations, having served in the Departments of State and Defense and the National Security Council. Mr. Halperin argued that we need a new paradigm to deal with the terrorist threat, but that the paradigm that the Bush Administration has put forward is not the right one, and is in fact an enormous step backward. After assessing this flawed paradigm, he offered his alternative.

Mr. Halperin’s critique of the Bush Administration’s new paradigm had three main elements. First, the paradigm violates the fundamental principles on which the U.S. government is based, particularly the rule of law and due process. In so doing, the Bush administration has allowed the terrorists to “succeed” by mirroring what they do. Secondly, Mr. Halperin argued that the

Bush paradigm is extraordinarily ineffective, citing FBI memos on the ineffectiveness of the interrogation techniques used in Guantánamo Bay. Mr. Halperin's final criticism of the Bush administration's approach was that it jeopardizes the ability of the United States to lead the world, not only on the terrorism issue, but on all other issues as well. In short, the Bush paradigm was a "disaster," insisting on a false choice between war and criminal prosecution, when in fact the struggle against terrorism requires both law enforcement and limited military action.

Mr. Halperin then offered an alternative paradigm for dealing with terrorism. First, it would rely on existing international and domestic law to deal with the problem of terrorism. If changes are necessary, Mr. Halperin argued that they should be made in ways that changes always have been made, through transparent legal means. Domestically, that means that any changes in the law should be made not through executive order, but through legislation. In this regard, Mr. Halperin pointed out that the USA Patriot Act, for all its flaws, at least went through the proper legal process. Internationally, changes should be pursued through international legal channels, either through the UN Security Council (as with the Resolution on Financing of Terrorism passed shortly after September 11, 2001), or through treaties.

Secondly, the new paradigm will require the US to forge the leadership role it used to have in the world, particularly in the formation of new institutions that respect international law and human rights. In this effort, compromise may sometimes be necessary. For example, the US needs to renounce the use of the death penalty in its fight against terrorism. Because there exists a consensus in most of the rest of the "civilized world" against the death penalty, such a renunciation by the US would help in cooperation efforts with other states. The US should also take a leadership role in the final completion of the Convention against Terrorism, including, once and for all, an agreed definition of terrorism.

Finally, Mr. Halperin discussed the need for a new paradigm *within* the US. In particular, the government needs to restore and reinforce the responsibility of the judicial branch to uphold the Constitution and protect the rights of the individual. The attempts of the current administration to keep the courts out of the process should be reversed, and the use of military tribunals and the category of "unlawful enemy combatants" should be abandoned.

In response to questions from the audience, Mr. Halperin also discussed the need for a new agency that combines intelligence and law enforcement responsibilities for terrorism, both domestically and internationally, and suggested that the US might learn lessons from the United Kingdom and Spain in their experiences with terrorism.

## **Panel 2: Changing Laws and Practices**

The second panel, "Changing Laws and Practices," focused on the relationship between norms and actual behavior in international conflict, and the sources of change both in norms and in practice. In introducing the panel, Chair Darren Zook of UC Berkeley posed the question of whether there are absolute standards in law, or whether there are threshold conditions under which the old laws no longer apply. The first panelist was John Yoo, former deputy assistant

attorney general in the Bush Administration's Justice Department (2001-2003) and professor of law at Boalt Hall at UC Berkeley. Professor Yoo argued that in responding to the attacks of September 11, the US had to decide between the two competing frameworks of war and criminal justice. Even though the United States as a society has not yet come to a conclusion as to whether the attacks of September 11 were an act of war or a crime, Professor Yoo suggested, there were several reasons why the US government should deal with the current terrorist threat through the framework of war rather than criminal justice. First of all, although Al Qaeda is not a nation-state, on September 11, 2001, it wielded power that previously only nation-states could possess. Indeed, because of their scale and their political goals, Professor Yoo argued, the September 11 attacks would have been considered an act of war had they been carried out by a nation-state.

Secondly, the criminal justice system is by nature reactive and retrospective, while war is prospective, and aimed not at punishing previous acts but rather at preventing future attacks. Third, while crime is a result of persistent social problems, war is fought against an enemy—in this case, Al Qaeda and the states that harbor them. Finally, Professor Yoo suggested that framing the struggle against terrorism as a war rather than a crime creates several useful incentives: the war framework allows the US to target Osama bin Laden, which would be illegal under the criminal justice system; war uses detention as a preventive measure, not as punishment after a guilty verdict; war provides different rules for interrogation, either the Geneva Conventions for prisoners of war or lesser standards for “illegal combatants” (which applies to Al Qaeda, because it is not a nation-state and it does not observe the laws of war).

The second panelist was Dinah PoKempner, general counsel of Human Rights Watch. Ms. PoKempner disagreed with Professor Yoo that the US, in responding to international terrorism, faces a binary choice between war and criminal law. She argued that while the current war on terrorism has some differences from earlier wars (in particular, that it is fought against a diffusely global network, without territory under its control, with increasingly destructive capabilities), there are many aspects of the war on terrorism that are *not* new. In particular, there is nothing new about an enemy using mass destruction, targeting civilians, not wearing uniforms, crossing borders, or indoctrinating its fighters in hatred for their enemy. The purpose of law in times of war, of protecting human rights even when lives are at stake, is twofold. The instrumental or positivist argument for law is one of reciprocity: laws reinforce standards that are beneficial to us. The moral argument emphasizes the content of law and its role in constructing a society based on values we respect.

Ms. PoKempner then discussed the three US policy determinations regarding standards of detention and interrogation in the war on terror that have deviated from international law: the creation of the new category of “enemy combatants”; the experimentation with new interrogation techniques that constitute torture; and the use of rendition. In light of these violations of international law, she asked, “Why do we think law is the problem? Does law hold us back from doing what needs to be done?” She cited the ineffectiveness of brutality in obtaining intelligence, as well as the failure to find alternative methods that could be at least as effective that also avoid negative repercussions. Among such alternatives, she discussed the need to agree on an international definition of terrorism and the expansion of extraterritorial jurisdiction to the US. Torture, she argued, was investigation “on the cheap.”

Geoff Lane, Head of the Regional Delegation of the United States and Canada for the International Committee of the Red Cross (ICRC), provided an operational perspective on international humanitarian law. After giving a brief overview of international humanitarian law and its origins, he discussed the particular issue of terrorism, and responded to the contention that humanitarian law was inadequate to deal with the current problem. While international humanitarian law is composed of both the Geneva Conventions and the Hague Law, as well as customary international law, Mr. Lane focused on the Geneva Conventions, which include two components: agreed thresholds on minimum standards of protection and assistance during armed conflict, and a balance between military necessities and humanitarian principles. The 1977 additional protocols to the Geneva Convention focused on internal conflicts, which today include both wars in failed states (e.g., Congo, Somalia) and wars in emerging states (e.g., the Balkans, the Caucasus, Ethiopia-Eritrea). In such internal conflicts, there has been little if any accountability among combatants, and the laws of war have failed to provide protection.

Turning to the current problem of transnational terrorism, Mr. Lane discussed some of the problematic characteristics of terrorists: they have no ambition for land, no respect for law, no credible interlocutors, and no recognizable chain of command. The responses of states have included the criminalization of terrorism, the claim that law does *not* apply to terrorist suspects, and the hiding of detainees from the ICRC.

In response to this, Mr. Lane made four points. First, we need to protect the law as it exists, which includes maintaining its limited scope for *armed conflict*. Second, we must recognize that the law may be imperfect, but it does work. Third, we need to address the challenge of terrorism, but perhaps beyond the confrontational approach that is currently dominant. And fourth, we must respond in ways that do not further fuel the conflicts.

The fourth and final panelist, Professor David Cohen, Director of the UC Berkeley War Crimes Studies Center and Adler Professor of Rhetoric and Classics at UC Berkeley, brought the perspective of a legal historian to these issues, particularly to the question of how legal systems and international humanitarian law should deal with novel situations. Noting that it is a characteristic response to crises to dismiss standards of the present as inappropriate, Professor Cohen urged caution in making such judgments.

In making his argument, he discussed some historical examples from World War II, when both Germany and Japan saw the Allied bombing of their civil infrastructure as a threat to their national existence, which they believed justified their dismissal of earlier rules. A German executive decree mandated that Allied pilots of bombers intending to bomb civilian populations would not be considered POWs, but “terror-flyers.” After the war, US military tribunals explicitly rejected this justification, and convicted hundreds of Germans for violations of humanitarian law perpetrated under this decree. Similarly, the Japanese established special interrogation camps—not reported to the ICRC—in response to US firebombing of Japanese cities. US flight crews were brought to these camps and denied POW status unless they cooperated. Once again, the state justified these departures from existing laws of war on the grounds of national emergency. And once again, the postwar US military courts rejected these arguments. In convicting hundreds of the interrogators and guards from these special camps, the

US military tribunals argued that the denial of POW status can only be predicated on fair and judicial proceedings; that responsibility had to be traced up the chain of command to military and civilian leaders who allowed it; and that military necessity was no defense for such violations of humanitarian law.

Professor Cohen emphasized that the US military courts did not make such judgments lightly. These were, after all, American officers in a postwar environment who had lived through four years of war. The laws of war were drafted for warfare, for times of total war, for situations of national emergency. The 1949 Geneva Conventions, its 1977 Protocol (which dealt with internal conflict), and the US Army's Field Manual (which specifies that any individual detained who is suspected of not being entitled to POW status should be provided POW protections until determined not to be a POW by a competent tribunal—at which point he/she would be protected under the Fourth Geneva Convention) are all designed to deal with wartime situations. Professor Cohen cautioned that national emergencies *always* appear to present novel challenges, and governments will use this claim whenever they want to step outside of their obligations.

### **Panel 3: What Should the United States Do?**

The third panel followed a slightly different format, as Amy Gurowitz and Steve Weber, both of UC Berkeley, led a discussion about what the United States should do. The discussion started with the proposition that the US may, in some circumstances, have significant influence over the evolution of the rules of engagement in violent conflict. It examined America's goals regarding the rules of engagement in violent conflict, and considered where US power lies in this set of issues.

Professor David Caron of Boalt Law School at UC Berkeley explained that in the fifty years since World War II, the US had led efforts to make progress through institutions and rules. But in the current conflict, the US has not moved to strengthen those rules and institutions; rather, the US has turned toward maximum discretion and maximum immunity. Jane Wales, President and CEO of the World Affairs Council of Northern California and former senior official in the Clinton administration, agreed with this assessment, saying that since the attacks of September 11, 2001, the US seems to be acting more like a rogue state. She argued in favor of a return to international rules, explaining that the US has the most at stake in this debate.

Professor Steve Weber asked the panelists what such an analysis suggests about the next five years, given the possibility that the US might find itself more constrained and less powerful—and more in favor of international rules—in the coming years. Professor Caron suggested that earlier discussions about the competing paradigms of war and law enforcement neglected a third paradigm, that of martial law or national emergency, which best describes where we are today. The extension of national emergency includes such practices as prolonged detention and harsher interrogation techniques, which may sometimes be somewhat effective. But the problem with the emergency paradigm is that it is addictive, and prone to abuse and uses beyond its original intent. Particularly worrisome in the US today is that some of these national emergency measures have permanent aspects.

Professor Caron discussed the differences between the “white world,” which is the realm where law operates, and which is out in the open; and the “black world,” the zone without law, which

exists in the shadows, and where, for example, the CIA often operates. Panelist Eric Stover, Director of the Human Rights Center at UC Berkeley, cautioned that we should not assume that the white world is wholly clean either, and that even the “legal” world can turn dark as well, as has happened in Guantánamo Bay and Abu Ghraib. In order to clean up the white world and minimize the black world, the American people need to be vigilant, and to demand accountability and transparency from their government.

This raised the question, posed by Steve Weber, of whether civil society in the U.S. could be expected to demand accountability and act as an effective check on government, or whether new institutions were needed. Professor Caron noted that in the current environment, much of the burden has been placed on the courts, as legal and procedural mechanisms have had to correct for political abuses. The Bush administration has been able to capitalize on anti-legalistic sentiments in the U.S., and it has been difficult for supporters of international rules to communicate to civil society the values of the rules in and of themselves.

Jane Wales was more hopeful regarding the ability of current institutions to act as a check on abuses. She pointed out that the system has worked in some key respects: the courts eventually ruled in the cases of several Guantánamo detainees, who were then released; the press (including even the *Wall Street Journal*) has been critical of the administration’s internal memos regarding ways around the Convention on Torture; and civil society—via photos on the internet—broke open the Abu Ghraib story. Moreover, Ms. Wales argued, the rest of the world has begun to look beyond the U.S., as evidenced by Tony Blair’s efforts at Davos regarding climate change, and France’s position in the Security Council regarding the use of force. Professor Caron agreed that some of these examples were hopeful signs, but suggested that law needed to become more a part of the public debate on these issues. For example, it might be easier if there *were* an exception to the prohibition on torture, because then we as a society would be forced to debate what the threshold for that exception would be. But at this point, law and politics had yet to bring about a healthy discussion of these issues.

Professor Weber observed that a primary problem is that there is now a presumption of secrecy in government, and that we need a clear set of criteria for when secrecy can be legitimately invoked. Eric Stover pointed out that the doctrine of command responsibility holds that the commander of troops is responsible for what he knows, or should have known. So far, the investigations by the US government have failed to address this question of who knew, or should have known, about the abuses taking place. He also pointed out that the struggle against terrorism must take place at several levels: it must be a global effort that engages military action, law enforcement, and economic development (including institution-building of the domestic criminal justice systems in countries where terrorism exists); it must demand accountability and transparency, even for those who operate in the black world (it’s in the “emergency box” that human rights violations take place); it should include the ICC, hybrid courts, and national war crimes tribunals; and it must work within the human rights and humanitarian law framework (which implies no summary execution, no torture, and no punishment without due process). Professor Stover emphasized that this framework protects not only the potential victims of torture, but also the jailers and those in authority over them.

Finally, the panelists discussed what they would do differently in the next few years. Eric Stover discussed the need for a multilateral policy that operates on both the military and law enforcement levels, and that focuses on economic development and institution-building; and on the need to strengthen the ICC. David Caron suggested the need to give maximum support to the ICRC, one of the few organizations that manages to pierce the veil of secrecy. Jane Wales suggested four points: the need to get serious about weapons of mass destruction; the need to walk back from the idea that countries are “either with us or against us,” making it easier for others to embrace cooperation with us; the need to do everything possible to strengthen international norms and institutions; and the necessity of asking ourselves, “how long will the rest of the world allow us to write the rules and then exempt ourselves from them?”

In response to questions from the audience, the panelists also discussed the damage done to the American “brand” as a result of US actions in the current conflict, as well as the need to address the conditions that have allowed Al Qaeda to develop. Finally, although all three panelists expressed some pessimism about the current administration and its highly secretive and unaccountable modes of operation, Professor Caron suggested that the world has an “amazing ability to forgive,” and that the UN provides a potential avenue for the US to rebuild its credibility and soft power.

The conference ended with a reception at International House, hosted by the Institute for International Studies.