The Responsibility to Protect:

The Evolution of Intervention

A Thesis Presented by
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Abstract

The United Nations was founded as a forum in which states could resolve their problems diplomatically in order to avoid warfare. As such, the main founding document, The United Nations Charter, stresses the importance of state sovereignty and states' rights. However, the second founding document, The Universal Declaration of Human Rights, stresses individuals' rights. In the late 20th century and early 21st century the dynamics of warfare changed and many conflicts have been caused by the failure or weakening of the state instead of interstate issues. In these instances, states are unable to protect their own citizens and are often the perpetrators of human rights violations against their citizenry. Around the same time, human rights regimes also began to play a more influential role within the institution of the United Nations and many norms have been established including the international community's responsibility to protect the people living within foreign failed states. When enforced, such norms have a tendency of undermining state sovereignty. My thesis focuses on evaluating the Responsibility to Protect doctrine from three theoretical traditions, Utilitarianism, The Just War Tradition, and the Modern Just War tradition. I use Libya and Kosovo as case studies and examine whether the arguments for intervention within the United Nations have been consistent with the doctrine to show that political consciousness regarding humanitarian interventions is undergoing a transition.

Preface and Acknowledgements

I first came across the idea of the Responsibility to Protect in Professor Allan Stam's Human Security class. The class discussed all of the factors that led to vulnerable populations in today's world. I was intrigued by the idea that the nature of conflict has shifted in the 21st century and that the international community is attempting to react to these grave injustices in the form of the Responsibility to Protect. Like all cynics, I believed that the doctrine would not amount to much beyond rhetoric, but after seeing the way the United Nations took action in Libya, I stand corrected. Thus my argument changed to say that the Responsibility to Protect has entered political consciousness and holds a place in international relations.

After spending months studying the Responsibility to Protect doctrine and the international community's response to it, I have a learned a few things. I learned that many people have spent a lot of time studying the doctrine and have produced various conclusions. After my time with the doctrine I have come to realize that ultimately the doctrine calls for committing to the idea that people deserve to be protected and defended simply by virtue of their humanity. The underlying concept is that people have a responsibility towards one another that transcends notions of ethnicity and nationality. At its most basic level, the doctrine is about compassion. In writing this thesis, I have learned that people are inclined to depend on and help one another as circumstance requires. That being said, I would like to acknowledge certain people without whom this thesis would not have been possible.

First and foremost, I would like to dedicate the entire project to my parents. Words cannot to do justice to the support and perspective you have given me in the months leading up to this thesis's completion—leave alone the unfaltering encouragement you have offered me in the preceding twenty-one years. I would like to thank my adviser, Professor Allan Stam, for his enthusiasm towards the idea when I first proposed it to him and then his encouragement and motivation as I worked my way through

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Introduction

In 1998, as violence raged in Kosovo and Serbian police and military forces clashed with civilian militant groups in Kosovo, United Nations Secretary General Kofi Annan addressed the Ditchley Foundation in London. At the time, the Security Council was failing to take action regarding the ongoing conflict in Kosovo. Annan acknowledged this and made his view explicit when he stated, "[the United Nations'] job is to intervene: to prevent conflict where we can, to put a stop to it when it has broken out, or - when neither of those things is possible - at least to contain it and prevent it from spreading."[1] In this speech he went on to say, "In other words, even national sovereignty can be set aside if it stands in the way of the Security Council's overriding duty to preserve international peace and security."[2]

He explained that this is a break with the traditional view of intervention. "Yet so long as the conflict rages within the borders of a single-state, the old orthodoxy would require us to let it rage. We should leave it to "burn itself out", or perhaps to "fester". (You can choose your own euphemism.) We should leave it even to escalate, regardless of human consequences, at least until the point when its effects begin to spill over into neighboring states, so that it becomes, in the words of so many Security Council resolutions, "a threat to international peace and security."[3] He went to explain that today's conflicts call for a different understanding by saying, "State frontiers, ladies and gentlemen, should no longer be seen as a watertight protection for war criminals or mass murderers."[4]

This speech was given even as NATO began its air raids over Kosovo to protect the Kosovar civilians. The following year, Annan gave another speech to the General Assembly in which he challenged the international community to create an effective response mechanism for cases in which

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[1] Kofi Annan. "Intervention." Ditchley Foundation Lecture XXXV. Ditchley Foundation, London. 27 Mar. 2012. Lecture.
[2] Ibid
[3] Ibid
[4] Ibid

humanitarian intervention is necessary. This speech led to the establishment of the International

Commission on Intervention and State Sovereignty (ICISS), which produced the Responsibility to Protect

doctrine. The doctrine was adopted by the international community when parts of the doctrine were

expressed in the 2005 World Summit outcome document.   The Doctrine itself was heavily relied upon

to justify the 2011 intervention in Libya.

This thesis analyzes theoretical background of the doctrine and specifically considers the

tenets of the doctrine through the lenses of existing war traditions: the Catholic Just War tradition,

Utilitarianism, and the Modern Just War tradition. The Catholic Just War tradition is interesting to

examine in relation to the Responsibility to Protect doctrine, because the doctrine confronts the idea of

state sovereignty just as the Catholic Just War tradition confronted pacifism. St. Augustine, Grotius,

Aquinas, and the other scholars within this tradition had to first say that warfare was legal under certain

conditions and explain why war was necessary before establishing rules of action, just like the

Responsibility to Protect doctrine has to first establish the notion that it is permissible to undermine

state sovereignty in order to protect individuals within those states. Furthermore, the Catholic Just war

tradition established the basis for the morality in war, specifying the cases in which war was justified

and creating guidelines for the procedures in war. The Catholic Just War tradition sanctioned war as a

last resort response and established the just cause threshold, the right intentions clause, the right

authority clause, the proportional means clause, and the reasonable prospects clause. The original

Catholic Just War tradition was state centric, but modern Just War tradition, under the auspices of

James Turner Johnson and Paul Ramsey made the tradition a bit more human centric by focusing on

differentiating between soldiers and noncombatants.

While coming from a different background, utilitarianism also creates a foundation for modern

international law and creates a foundation for the Responsibility to Protect doctrine. Utilitarianism as

established by Jeremy Bentham and defended by John Stuart Mill, calls for the greatest happiness of the

greatest number; thus it is extremely human centric and disregards institutions such as God and the state. The Utilitarian War Principle as established by William Shaw says that war is not only justified but required if going to war will increase the total collective happiness, which is exactly what the Responsibility to Protect Doctrine calls for. Shaw shows that none of the conditions established in the Responsibility to Protect doctrine are supported by the principles of Utilitarianism, but the reasonable prospects of winning holds the most weight in this tradition.

And finally, my thesis analyzes the Responsibility to Protect doctrine from the lens of the Modern Just War tradition as described by Michael Walzer and Michael Doyle. Walzer emphasizes the same conditions as the Catholic Just War tradition, but makes them applicable to a realist political system. He also stresses the Just Cause and Just Conduct within war and especially stresses the protection of noncombatants in war. The tradition itself is human centric and since it is written in the modern context, it justifies humanitarian interventions as long as they meet the requirements specified in the Responsibility to Protect doctrine. Given that modern international law is based on these war traditions and that they support the redefinition of state sovereignty and humanitarian intervention as articulated in the Responsibility to Protect doctrine, the thesis argues that the Responsibility to Protect finds a firm base in existing international law. Finally the thesis will consider the NATO intervention in Kosovo and the United Nations authorized operation in Libya as case studies to see how the Responsibility to Protect is implemented.

The Responsibility to Protect is being considered for ratification by the United Nations, this shows that there has been a shift regarding humanitarian intervention in international politics. The United Nations and member states have shown that they are willing to compromise state sovereignty in order to protect civilians in cases of ethnic cleansing and large scale loss of life. This shift hinges on a redefinition of state sovereignty as a responsibility that states have to their members, rather than a right that states have in relation to other states. The rhetoric used in response to recent cases of

humanitarian crises shows that the international community seems to be accepting this novel understanding of sovereignty. This is a result of the fact that both the nature of conflict and the discourse surrounding it have changed. In the Ditchley speech Annan explained that most wars today are civil wars and that civilians—that is, noncombatants—are the main victims. State sovereignty is no longer at stake, but human populations are more vulnerable than ever. As the international community's focus shifts away from state security to human security, the Responsibility to Protect carries more weight in international politics. It is significant that such a doctrine has gained legitimacy in a world shaped by realist politics.

States today are held accountable by their citizens and each other. States have to justify their actions to the United Nations before their operations can gain legitimacy. UN Member states that have ratified certain United Nations treaties are held accountable for upholding the norms of these treaties. States are pressured to comply with these treaties by their populations who entrust them with the right to govern them. Thus, it is now strategic for state actors to intervene for moral reasons because it gives them credibility domestically as well as in the international arena.

Furthermore failed states, that is, states that have failed to protect the security of their people pose the greatest threat to regional order and stability. There are many potential threats to the surrounding region of a failed state. These include things like large refugee flows that could prove difficult to manage and increased flows of weapons and militants as they find a base of operations in the failed state. The rapid flow of information has made it impossible for the international community to avoid its responsibility to protect as individuals put pressure on their governments to end atrocities in other states. Thus, as the world has become more interdependent and more interconnected, state interests have begun to overlap with humanitarian initiatives and international politics appears to be entering a new stage in its views on responsibility and sovereignty.

Part I

Chapter I: The Responsibility to Protect Doctrine

In 1914, soon after the onset of fighting, British writer H.G. Wells referred to World War I as "the war to end war".[5] Three years later, United States' President Woodrow Wilson used the same phrase to encourage the United States Congress to declare war on Germany and join the world war. He closed this speech by saying, "The world must be made safe for democracy. Its peace must be planted upon the tested foundations of political liberty".[6] According to the speech, Wilson's main goal for entering the war was to create a lasting peace that would prevent future conflicts and large-scale loss of life. In his "Fourteen Points" speech the following year, Wilson laid out several proposals to facilitate this lasting peace including the creation of the League of Nations.[7] However, as Europe prepared for World War II, it quickly became apparent that World War I and the League of Nations had failed to establish a lasting peace. After World War II, a war in which approximately 60 million or 2.5% of the world's population were killed and many more displaced, the international community decided that such a catastrophe had to be prevented at all costs and thus the United Nations was founded in 1945.[8]

The United Nations was founded upon the principle of the sovereign equality of all member nations as a forum for states to settle their international disputes in a peaceful way without resorting to threats or use of force. The organization's main goal was to protect the territorial integrity and political

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[5] Warren W. Wagner (2004). H.G. Wells: Traversing Time. Wesleyan University Press. p. 147. ISBN 9780819567253.

[6] Woodrow Wilson, War Messages, 65th Cong., 1st Sess. Senate Doc. No. 5, Serial No. 7264, Washington, D.C., 1917; pp. 3-8, passim.

[7] Woodrow Wilson. "President Wilson's Fourteen Points." Joint Session of Congress. Washington, D.C. 1 Feb. 2012. Lecture.

[8] Matthew White. "Twentieth Century Atlas - Death Tolls." Twentieth Century Atlas. Twentieth Century Atlas, Feb. 2011. Web. 1 Feb. 2012. <http://necrometrics.com/20c5m.htm>.

independence of all member states.[9] After living through two large scale wars that were provoked by

aggression and territorial aggrandizement, the international community in 1945 was seeking a world

order that would protect state sovereignty. The notion of state sovereignty, tracing back to the Peace of

Westphalia implies territorial integrity, a permanent population, the means to maintain internal and

external order (e.g. police and military forces), and the capacity to enter into relations with other states.

According to the Montevideo Convention on the rights and duties of states, states cannot intervene in

the domestic or foreign relations of other sovereign states. [10]

However, while the United Nations was determined to protect state sovereignty, it also

dedicated itself to preserving human rights. This is made explicit in the Preamble of the United Nations

Charter which begins with, "We the peoples of the United Nations determined . . . 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 . . .".[11] Thus, even as the United Nations established protecting

state sovereignty as its main function, it also placed an emphasis on human rights and placed human

security on equal footing with state security.

Today's international political climate is very different from that in which the United Nations

was founded. Most apparently, there are new security threats. While in the early twentieth century,

most wars were interstate conflicts, in a post-Cold War world most of the conflicts are civil war or

intrastate conflicts. Such internal threats are intensified by easy access to lethal weaponry as a result of

globalization and technological advancement. These highly destructive weapons are made available to

child soldiers and rebel groups in societies where the states have lost their monopoly on violence. The

irony is that while political thinking in the West tends to attribute minimal significance to these civil

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[9] "Charter, United Nations, Chapter I, Purposes and Principles." UN News Center. UN. Web. 29 Mar. 2012.
<http://www.un.org/en/documents/charter/chapter1.shtml>.
[10] "Montevideo Convention (international Agreement [1933])." Encyclopedia Britannica Online. Encyclopedia
Britannica. Web. 1 Feb. 2012. <http://www.britannica.com/EBchecked/topic/390844/Montevideo-Convention>.
[11] "Charter, United Nations, Preamble." UN News Center. UN. Web. 1 Feb. 2012.
<http://www.un.org/en/documents/charter/preamble.shtml>.

conflicts, most of these conflicts are fuelled by Western weaponry and finances. In the wars of the early twentieth century, soldiers made up the majority of casualties; in today's conflicts however, civilians have become increasingly vulnerable during armed conflict. Noncombatants have become the deliberate targets of violence, with increased instances of civilian displacements, systematic rape, and military brutality authorized by the state itself. In a globalized and interdependent world, both state and human security depends on "a framework of stable sovereign entities" and one state's failure can pose a threat to international peace.[12]

It is understood that states are supposed to protect their populations and serve the interests of their populations. When a state can no longer provide order and security it is said to be failing. During the world wars, interstate warfare was the main cause of state failure. Today, most state failures are related to vulnerable populations. There are several types of state failures, the first of which being genocide which the United Nations defines as "any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group children of the group to another group."[13] States can also fail as a result of revolutionary war, in which a group of rebels try to take over control of the government. The third type of failure is caused by ethnic war, which is a conflict between ethnic groups resulting from ethnic nationalism. Adverse regime intransigence, in which a state collapses because a regime refuses to leave office also constitutes a type of failure, as does politicide, where the political class of an ethnicity is targeted as seen in the Rwandan genocide. The final type of state failure is civil

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[12] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 1.16-1.21Ottawa: International Development Research Centre, 2001. Print.
[13] "Convention on Genocide." The Human Rights Web Home Page. United Nations, 9 Dec. 1948. Web. 28 Mar. 2012. <http://www.hrweb.org/legal/genocide.html>.

war. Meanwhile, the main threats to human security are violence, disease, and environmental factors.[14]

Oftentimes, instead of protecting human security, states pose the largest risk to it.

The international community has not developed a consistent standard by which to respond to large scale human rights violations. In 1994, genocide occurred in Rwanda and today the international community is blamed for not acting more forcefully to stop this genocide. United Nations forces were present on the ground and preventive strategies were available, but none were taken. Today the United Nation's inaction is seen as a failure of the international community to defend human rights. The genocide marked a humanitarian crisis in Rwanda while also destabilizing the region. When states fail, neighboring countries are impacted because of their ability to provide militants with bases and the large refugee flows that often ensue. Given their weakened physical condition, these displaced peoples often provoke public health crises due to the challenges that come from dynamics such as overcrowding and a lack of sanitation resources.

In another instance in 1999, significant armed conflict took place when the Kosovo Liberation Army and the Serbian-Yugoslav military forces as the Kosovars sought independence from the Yugoslav Republic of Serbia. By the fall of 1998, over 250,000 Kosovars had been driven from their homes, 50,000 of whom faced death in the approaching winter weather. The United Nations Security Council responded by calling for an immediate cease fire. Meanwhile, NATO began to prepare for limited air strikes in order to provide an incentive for negotiations. Ultimately, fighting resumed in 1999 and NATO forces responded by launching a bombing campaign against Yugoslavia. NATO action in Kosovo is often held up as the exemplar humanitarian intervention. The international community effectively and efficiently responded to a humanitarian crisis, although doing so without Security Council approval.[15]

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[14] Stam, Allan C. "Logic of Ethnic War." Class Lecture for Human Security. University of Michigan Museum of Art, Ann Arbor. 8 Sept. 2010. Lecture.

[15] "Charter, United Nations, Preamble." UN News Center. UN. Web. 1 Feb. 2012. <http://www.un.org/en/documents/charter/preamble.shtml>.

Finally, the case of Bosnia illustrates a different response that also has its setbacks. In 1995, the United Nations authorized a humanitarian intervention and UN Peacekeeping troops created "United Nations Safe Areas" in Srebrenica for civilians seeking shelter. However Dutch peacekeepers that were part of the United Nations Protection Force were unable or unwilling to prevent Serbian forces from killing over 8,000 Bosnian men and boys in a one-week span.[16] In this instance, the United Nations Security Council was able to rally the political support to carry out a humanitarian intervention, but was unable to prevent the massacre.

Seeing the United Nations' failure and/or inability to end these crimes against humanity, Secretary General Kofi Annan told the United Nations in September 1999 that they had to "find common ground in upholding the principles of the Charter, and acting in the defense of our common humanity". He also warned them that "If the collective conscience of humanity . . . cannot find in the United Nations its greatest tribune, there is a grave danger that it will look elsewhere for peace and for justice".[17] In response to this, the Canadian government responded by establishing the International Commission on Intervention and State Sovereignty (ICISS). The Commission's main objective was to reconcile the conflicting goals of state sovereignty and humanitarian interventions. Notably it also aimed to develop an international consensus on appropriate responses to humanitarian crises. The Commission worked to develop this consensus by taking into account the views of affected populations, governments, and intergovernmental and non-governmental organizations. The report that the Commission eventually published, titled, The Responsibility to Protect, proposed the notion that sovereignty was a

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[16] "UN Srebrenica Immunity Questioned." BBC News. BBC, 18 June 2008. Web. 29 Mar. 2012. <http://news.bbc.co.uk/2/hi/europe/7461310.stm>.
[17]Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 1.6 Ottawa: International Development Research Centre, 2001. Print.

responsibility that states had to their people and not simply a right they had in the international community.[18]

As stated earlier, when the United Nations was developed, it asserted its dedication to maintaining world peace by protecting the territorial integrity and political independence of each sovereign state. Meanwhile, the nature of conflict has shifted from interstate war to intrastate struggles; the proportion of civilians harmed in these struggles has also increased between 1945 and today. A *New York Times* article reported that "Civilians have borne the brunt of modern warfare, with 10 civilians dying for every soldier in wars fought since the mid-20th century, compared with 9 soldiers killed for every civilian in World War I, according to a 2001 study by the International Committee of the Red Cross."[19]The United Nations and the international community are now faced with the challenge of preserving the original goal of state sovereignty, while also ensuring the welfare and security of the people living within those states.[20] When states join the United Nations as signatories, they are being inducted as members of the international community, but they are also agreeing to the responsibilities that this membership entails. As such, state sovereignty cannot be questioned or undermined, but it needs to be reinterpreted to include not only control over a specific territory but a responsibility to the people living within that area. The responsibility to protect implies that state authorities are responsible for "protecting the safety and lives of citizens and promoting their welfare". It also implies that the national political authorities are responsible to the citizens and the international community through their United Nations obligations. Finally, the responsibility to protect means that the states are held accountable for their actions by the international community. This reinterpretation is a result of

[18] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 1.7-1.8 Ottawa: International Development Research Centre, 2001. Print.

[19] Tavernise, Sabrina, and Andrew Lehren. "Iraq War Logs Show Grim Portrait of Civilian Deaths." The New York Times: Middle East. The New York Times, 22 Oct. 2010. Web. 28 Mar. 2012. <http://www.nytimes.com/2010/10/23/world/middleeast/23casualties.html?_r=3>.

[20] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 2.12Ottawa: International Development Research Centre, 2001. Print.

increased awareness of human rights norms and the mass media publicizing the effects of humanitarian

crises.[21]

In order to put the responsibility to protect doctrine into practice, justice must be understood as

existing without borders. The international community has made a lot of progress on this front recently,

including the creation of international criminal tribunals in the aftermath of the Sierra Leon civil war and

the Rwanda and Balkan genocides. The International Criminal Court was established to adjudicate cases

of war crimes. The concept of justice without borders has been further promoted by the inclusion of

universal jurisdiction in many treaties. Universal Jurisdiction allows states to claim criminal jurisdiction

over crimes that were committed outside that state, because crimes against humanity are considered

crimes against all members of the world.[22] However, despite all this practice in the international

community, laws are best defended by the judicial systems of sovereign states. The ICISS report states,

"It is only when national systems of justice either cannot or will not act to judge crimes against humanity

that universal jurisdiction and other international options should come into play".[23]

Beyond upholding justice, the responsibility to protect makes sovereign states responsible for

upholding human security. This marks a vital shift from the 1945 understanding of security which

referred to state security. Human security on the other hand calls for the protection of the welfare of

the people living within the states; this includes their physical safety, their economic and social well-

being, respect for their dignity, and protection of their human rights and fundamental freedoms. The

commission report goes on to point out that human security is not at odds with state sovereignty;

instead of focusing on state security through border patrol and arms acquisition, the report promotes

state security through human development with governments providing food, employment, and

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[21] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 2.14-2.15 Ottawa: International Development Research Centre, 2001. Print.
[22] Lyal S. Sunga Individual Responsibility in International Law for Serious Human Rights Violations, Nijhoff (1992) 252 p.
[23] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 2.19-2.20 Ottawa: International Development Research Centre, 2001. Print.

environmental security. Threats to human security—seen as anything that compromises life, health,

livelihood, personal safety, and/or human dignity—can result from external aggression but also from

factors within the country.[24]

The doctrine also calls for a reinterpretation of humanitarian intervention; the debate is no

longer viewed in terms of a "right to intervene", but rather in terms of "the responsibility to protect".

This change in terminology also implies a change in the goals of intervention. First, the responsibility to

protect implies a change in the main actors. The issue is no longer viewed from the point of view of

those considering intervention, but rather from the point of view of the victims. The doctrine states that

the responsibility to protect lies first with the state whose people are affected and only when the state

is unable or unwilling to protect human security or if it is responsible for the violations, the responsibility

falls to the international community. This is because the commission holds the view that domestic

authority has the best ability to prevent problems from turning into humanitarian crises and also has the

best understanding of any given problem and will know how to deal with it in an effective way. Finally,

the responsibility to protect implies not only the responsibility to react when human rights violations are

occurring, but also the responsibility to prevent and the responsibility to rebuild the region after the

violations have stopped.[25]

There are three basic principles included in the responsibility to protect doctrine. The first is the

reinterpretation of state sovereignty. State sovereignty now implies responsibility and the protection of

the people lies primarily with the state. When the state is unwilling or unable to promote human

security, the international community's responsibility to protect takes precedence over the principles of

non-intervention. The legal foundation for the responsibility to protect can be found in "obligations

inherent in the concept of sovereignty; the responsibility of the Security Council, under Article 24 of the

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[24] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 2.21-2.22 Ottawa: International Development Research Centre, 2001. Print.
[25] Ibid., 2.29

UN charter, for the maintenance of international peace and security; specific legal obligations under human rights and human protection declarations, covenants and treaties, international humanitarian laws and national law; the developing practice of states, regional organizations and the Security Council itself". There are three specific responsibilities that the responsibility to protect entails. The first is the responsibility to prevent; this implies addressing both the root and direct causes of conflict or crises threatening human security. The responsibility to prevent is the main priority of the responsibility to protect. Secondly, when prevention has failed, the international community is obligated to respond to humanitarian crises with necessary coercive measures. And finally, the responsibility to rebuild; especially in cases of military intervention, the presence of the international community is necessary in order to reconstruct the region and reconcile the parties in the conflict in order to create lasting peace.[26]

Preventing humanitarian crises is an international responsibility because the failure to prevent upheavals in one state can have major and long lasting repercussions for the entire international community. Prevention can only succeed if it has strong support from the international community. This support may include development assistance to preserve human security and prevent the outbreak of potential conflicts or it may come in the form of support to local human rights and legal initiatives. This support can be offered either in the form of potential incentives or punishments to the state in question. Prevention is a necessary first step in the responsibility to protect because by addressing the root causes of problems, states gain legitimacy for broader international efforts. This credibility is necessary in the event that prevention efforts fail and the international community is required to react and perhaps even intervene. Although prevention is a prerequisite for effective reaction, the main goal of prevention would be to resolve the problem before reaction and armed intervention becomes necessary. In order for preventive measures to be effective, three measures have to be met. Firstly, there has to be an adequate amount of knowledge about the threat to human security and the conflicts

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[26] Ibid.

that could potentially result. Secondly, the effectiveness of policy measures has to be evaluated. And finally, the political will to apply these measures must be garnered.[27]

There are already several mechanisms in place to ensure early warning, so the international community is usually well aware of issues that can lead to humanitarian crises; the bigger issue is developing a means of timely response. Organizations like Human Rights Watch and Amnesty International provide the largest source of early warning information. These organizations began their work by reporting on human rights violations, but in recent years have managed to expand their work to reporting on early warning signals that could potentially lead to large scale violence. However, there are certain elements that undermine the effectiveness of early warning systems, such as a misunderstanding of the interaction of the variables in the root causes of conflict, unreliable models for predicting conflict, as well as the gathering of accurate information itself. One of the biggest problems facing the creation of an effective early warning system is persuading governments to agree to divulge their information to these groups; divulging state information may at the very least compromise the state's own intelligence network. Greater involvement by regional actors is also vital to a functional early warning system. Because each emerging conflict is unique to a certain extent, regional actors usually have a stronger understanding of regional dynamics and norms. They also have an interest in preventing large scale violence to protect regional stability. However, the practice has shown that neighboring states tend to overlook large scale conflict nearby. For these reasons, garnering political will has been the greatest hindrance to the establishment of an effective early warning and timely response system.[28]

There are two basic principles to the responsibility to prevent. The first is 'root cause' prevention; there is a widely held belief that improving the living standards of people can improve human security. Root causes include poverty, political repression, and uneven distribution of resources.

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[27] Ibid., 3.3-3.4, 3.9
[28] Ibid., 3.10-3.11, 3.13, 3.16-3.17

There are several dimensions to root cause prevention. One approach requires addressing the political needs of a given society. These solutions may include democratic institution building, establishing constitutional power sharing, promoting civil society, and establishing freedom of the press. Another necessary approach is poverty alleviation. This includes development assistance, promoting economic growth, permitting greater access to international markets, and encouraging structural reform. Root cause prevention may also entail strengthening legal protections and institutions. This means reducing corruption in law enforcement, strengthening the independence of the judiciary, protecting vulnerable groups and minorities, and aiding local human rights initiatives. Finally, root cause prevention may call for military and security apparatus reforms. This may include providing training for military personnel, systems to reintegrate ex-combatants, and increasing weapons security to prevent proliferation. Secretary-General Annan has said that "every step taken towards reducing poverty and achieving broad based economic growth is a step toward conflict prevention". The Commission notes, however, that developed countries who are working to alleviate the root causes need to be aware of cultural barriers and that they must consider their actions carefully to ensure that they will not have negative affects on the communities that they are trying to help.[29]

The second principle of the responsibility to prevent is 'direct cause' prevention. In cases where root cause prevention fails, the international community must react in a timely fashion to prevent conflicts that could potentially turn into humanitarian crises. On the political and diplomatic front, direct cause prevention would entail the direct involvement of the secretary general and further fact finding missions. This may also include political sanctions, suspension of United Nations membership, and restrictions on travel and assets. In economic terms, direct cause prevention will entail incentives like new funding or investment opportunities as well as more favorable trade terms. Or it may entail threats of trade and economic sanctions, withdrawal of International Monetary Fund or World Bank

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[29]Ibid., 3.19-3.24

support. The commission emphasizes the fact that the international community needs to be certain

that such economic policies will indeed alleviate the situation and not aggravate them. Changes to the

international legal system including the ratification of the International Criminal Court and Universal

Jurisdiction serve as warnings to state dictators that if human security practices are violated, they will be

held accountable.[30]

There are several problems facing the international community in garnering the support

necessary for effective prevention. The first is that applying high levels of political and economic

pressure on these states calls for a large commitment on the part of the international community. And

such punitive measures may result in greater resistance from the perpetrators and may intensify the

conflict and provoke a humanitarian crisis. States with potential conflicts might resist the external

prevention policies, because these policies may be viewed as the first step in intervention and eventual

neocolonialism. Another difficulty with international prevention policies is that in cases of civil war or

revolution, such measures can be seen as giving the victimized group legitimacy over the state. The

solutions offered have to be developed through the understanding that sovereignty and territorial

integrity of the states cannot be undermined.[31]

In instances where root cause and direct prevention fail to avert a humanitarian crisis, the

international community must react immediately. The United Nations was founded on the notion of

non-intervention because this was seen as the most effective way of serving state interests and

preventing conflict. To serve these ends, all states are prohibited from intervening or compromising the

state sovereignty and territorial integrity of other states. This rule protects states, peoples and their

cultures by allowing states to preserve their religious, ethnic, and civilizational differences. The rule also

encourages states to solve their own internal problems before they become large scale conflicts that

threaten the international world order. Non-intervention is a fundamental aspect of preserving the

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[30] Ibid., 3.25-3.31
[31] Ibid., 3.33-3.35

world order; however, even states with the strongest demand for the protection of state sovereignty agree that exceptions should be made and intervention—including military action in foreign countries—is permissible in cases of massacre, genocide, and ethnic cleansing. The international community's task then becomes to define these exceptional circumstances.[32]

In order to ensure that military intervention is seen as an extreme reaction after all other options have been tried and have failed, the commission has created six criteria necessary to justify military intervention. According to the commission's judgment, military intervention is only justifiable when there is just cause for the intervention, meaning that there must be serious harm occurring to humans, such as large scale loss of life which the state is either perpetuating or is unable to prevent or large scale ethnic cleansing. Intervention is justifiable if these catastrophes are occurring or if they are apprehended. There are also four precautionary principles that the situation must meet in order to call for military intervention. The first of these is that the intervening states have the right intention; the main goal of the intervening states must be at all times to halt human suffering. To meet these ends, the commission calls for multilateral interventions, carried out with regional support from neighboring states as well as support from the victims. Military intervention can only be justified when all other non-military options for peace have failed. The intervening states must propose a strategy with the minimum scale, duration, and intensity to counter the human security threat. Finally, there must be a reasonable chance of success in order to justify a military intervention; if these criterion are not met, the effects of an intervention maybe more detrimental than the initial crisis. Military intervention can only be justified when the political will has been garnered and the intervention is being carried out under the authority of the United Nations Security Council. If the Security Council refuses to endorse the intervention, the next recourse would be to gain the authority of the General Assembly and if that, too

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[32] Ibid., 4.11-4.14

fails, the intervention should be led by regional alliances. The last criteria necessary for justifying

intervention is that all established norms of warfare are adhered to during the intervention.[33]

The Just Cause threshold condition was established to limit the exceptions of the non-

intervention principle. There are only two types of circumstances that justify foreign military

intervention. The first is large scale loss of life as a result of state action, state neglect, state inability, or

state failure. The other circumstance which warrants an intervention is an instance of ethnic cleansing,

either by killings, displacement, or systematic rape. If either or both of these threats are felt or

apprehended, the conditions for Just Cause have been met according to the Commission's

understanding. The commission does not consider any human rights violations short of large scale

killing and ethnic cleansing as meeting the Just Cause threshold. As such, instances where peoples in a

state are denied democratic rights as a result of a military coup also do not vindicate military

interventions. The commission stresses that military intervention is still justified in cases of likely large

scale killing; if anticipatory action was not legitimate, the international community would have to wait

until genocide begins before they can take action, thus losing lives that could have been saved.

Furthermore, in deciding whether the just cause threshold has been met, the commission does not

consider whether the crisis is a result of state or non-state actors, because the primary goal is the

protection of civilians. For the same reason, the commission does not consider whether the conflict is

confined within state borders or if it can have larger regional repercussions in determining just cause.

As far as gaining reliable evidence for these crimes against humanity, the commission says, ideally a

universally respected and impartial non-governmental organization would generate a report with the

details of the situation and the state's unsatisfactory response. [34]

The first precautionary criterion is that the intervening states must have the right intention. The

primary purpose of the intervention must always be to alleviate human suffering. Therefore,

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[33] Ibid., 4.15-4.17
[34] Ibid., 4.18-4.29

overthrowing a regime cannot be an aim of the intervention, while destroying the regime's capacity to threaten human security can be. After the intervention, the intervening states may be obligated to occupy the territory until stability returns to the region, but the occupation must be carried out with the eventual goal being returning the territory to the sovereign regime after it has stabilized. In order to guarantee the right intention criterion, the commission encourages multilateral efforts and asks the intervening states to assess whether the intervention is supported by the victims and neighboring states. States will always act to serve their own interests and asserting this interest may be necessary for them to gain the needed domestic support to carry out the intervention; the commission simply wants to undermine each intervening state's interests in order to ensure that human security remains the primary objective of the intervention.[35]

The second precautionary principle is that military intervention be used only as a last resort in responding to humanitarian crises. The responsibility to react can only be used when all means of prevention have been tried and have failed. The commission notes, that every preventive method need not have literally been tried and failed, but that it can be proven that if the method was tried it would be ineffective. If the conflict is a result of a dispute between political parties, before an intervention can be justified, the two parties must be induced to negotiate as ceasefires supervised by international peacekeepers will be more effective than coercive military interventions. Only when compromises and diplomacy have failed can military intervention be justified.[36]

The third precautionary principle is the dedication of proportional means. On this note, the commission's report says, "the scale, duration, and intensity of the planned military intervention should be the minimum necessary to secure the humanitarian objective in question. The means have to be commensurate with the ends, and in line with the magnitude of the original provocation." The commission also reiterates that the impact on the state's political infrastructure should be limited to

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[35] Ibid., 4.33-4.36
[36] Ibid., 4.37-4.38

what is inevitable. For the duration of the intervention, all rules of international human rights law must be strictly observed.[37]

The final precautionary principle is that the intervening states must have reasonable prospects of achieving their objectives. Military intervention can only be justified if it stands a reasonable chance of halting or averting the large scale killing and/or ethnic cleansing. Military intervention cannot be vindicated if protecting the victims would be impossible or if the intervention would only aggravate the situation. The commission acknowledges that this may mean that limited human protection may not be offered if it is believed that intervention can provoke a larger conflict. The commission also acknowledges that this condition makes the permanent five members of the Security Council and other powerful nations within the General Assembly immune to such interventions, because military conflict with any of these nations will inevitably provoke a large scale conflict. While the commission recognizes the double standard of this statement, it claims to be applying the rules on "purely utilitarian grounds" and suggests the use of other coercive measures such as sanctions and diplomatic threats.[38]

The final criterion for military intervention is that the multilateral effort is led by the right authority. According to the commission's report, "the responsibility for protecting the lives and promoting the welfare of citizens lies first and foremost with the sovereign state, secondly with domestic authorities acting in partnership with external actors, and only thirdly with international organizations".[39] Under Chapter VII of the United Nations Charter, the Security Council may take any action short of the use of force to respond to threats to peace and acts of aggression; such actions include sanctions and embargoes. However, the chapter goes on to say that if these measures fail, the Secretary Council may use land, sea, or air forces to "restore international peace and security". Chapter VIII of the Charter recognizes that regional organizations play a role in maintaining security, but it says

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[37] Ibid., 4.39-4.40
[38] Ibid., 4.41-4.43
[39] Ibid., 6.11

that these organizations need Security Council approval before carrying out any military action. However, the commission notes that such authorization can be given retroactively.[40] The United Nations Security Council is "the principle institution for building, consolidating, and using the authority of the international community". Thus the United Nations is responsible for mediating relationships between states and developing new norms; Security Council endorsement transfers legitimacy to any actions taken by the international community. This legitimacy serves as the link between authority and the enforcement of norms. Thus humanitarian intervention that is backed by the United Nations gains political support in the international community, while unilateral humanitarian intervention is viewed as being illegitimate. States that attempt to take action unsanctioned by the United Nations have the potential to compromise the organization's authority and undermine the established norms of international behavior.[41] The commission believes that the Secretary Council is in the best position to decide whether undermining state sovereignty is justified as well as gathering sufficient resources for intervention. Because of this, the commission believes that all proposals for military interventions should be brought before the Security Council; intervening states must seek Security Council authorization before beginning a military intervention. In turn, the Security Council must deal promptly with such requests, seeking adequate verification regarding the circumstances.[42] The Permanent Five members of the United Nations should agree to a code of conduct which specifies that they will not use their veto powers to prevent a humanitarian intervention to prevent large scale loss of life or ethnic cleansing as long as their vital state interests are not jeopardized by the proposed intervention. The commission notes that if the Security Council and the Permanent Five are unable to come to such an understanding and are hindered from responding effectively in cases of large scale killing and ethnic cleansing, the United Nations as a whole ". . . will diminish in significance, stature, and authority". Or as

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[40] Ibid., 6.3-6.5
[41] Ibid., 6.8-6.9
[42] Ibid., 6.14-6.15

Security General Annan warned, "If the collective conscience of humanity . . . cannot find in the United Nations its greatest tribune, there is a grave danger that it will look elsewhere for peace and justice".[43] The commission is saying that if the Security Council fails to carry out its obligations to the world, it will compromise itself as an organization.

However, if the Security Council can only act effectively if the member states are cooperative—this requires generating political will. States may simply be uninterested in the idea of humanitarian intervention. This lack of enthusiasm can be attributed to states being unwilling to bear the financial and military costs of intervention. Many of these states are also anxious about the effects of foreign military intervention on domestic politics.[44] The United Nations has the ability to reconcile the often competing interests of states in international politics; it has political credibility and the administrative impartiality to mediate conflicts. However the Security Council is at the mercy of the member states because it does not have its own military and police forces. This fact also encourages multilateral interventions because it enables the fast accumulation of necessary military resources.[45]

If the Security Council in unable or unwilling to endorse an intervention, the states proposing intervention can seek support from the General Assembly in an Emergency Special Session established under the "Uniting for Peace" procedures, detailed in United Nations Resolution 377 of November 3, 1950. Under these procedures, the General Assembly can issue any recommendations it feels are necessary in order to restore peace and security.[46] This does not give the General Assembly the power to sanction a military intervention, but if enough support can be generated among the General Assembly, the proposed intervention will gain legitimacy and can potentially convince the Security Council to reconsider its decision. However, the commission notes that this is unlikely to happen

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[43]Ibid., 6.21-6.22
[44] Ibid., 6.23
[45] Ibid., 6.26-6.27
[46] "General Assembly Fifth Session." UN.org. United Nations General Assembly. Web. 1 Feb. 2012. <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/059/75/IMG/NR005975.pdf?OpenElement>.

because the Uniting for Peace procedure calls for a two-thirds majority—cultivating this much support in

such a politically charged environment where the Security Council was unable to reach a decision will be

very difficult.[47]

If the General Assembly is also unable or unwilling to act, the responsibility to protect then falls

to the neighboring states in the region in the form of collective intervention. These states are in the

best position to react, because humanitarian crises have direct impacts on nearby states with refugees,

rebel groups, and political tensions crossing state borders. Because these states will be working out of

their own self-interest and because they have an understanding for the culture and the context of the

crisis, regional organizations might even be more effective responders than the United Nations. It is

more controversial, but also possible for such regional organizations to take action in states that are

outside their region, as seen in NATO's action in Kosovo in 1999. Such interventions carried out by

regional groups can be sanctioned by the United Nations retroactively.[48]   Finding the support for such

ad hoc interventions will be very difficult after the Security Council has refused authorization. Secondly,

there is also the fear that interventions carried out by ad hoc groups will not be conducted according to

the precautionary principles. Furthermore, if the support is created and the intervention is successful

and prevents the large scale killing of people, the Security Council's reputation as a protector of world

order will be tarnished.[49]

After an intervention has been carried out, the responsibility to protect entails a responsibility

to rebuild the region. Intervening states should be dedicated to establishing a durable peace by

promoting good governance, improving public health and well-being, and providing the means of

sustainable development. The ultimate goal in these policies should be to return the power to the state.

This commitment to reconstruction and reconciliation will call on a greater investment of funds,

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[47] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 6.29-6.30Ottawa: International Development Research Centre, 2001. Print.
[48] Ibid., 6.31-6.35
[49] Ibid., 6.39-6.40

personnel, and resources from the intervening states. It may also mean staying in the country beyond

the duration of the intervention. However, these investments are necessary in order to completely

rectify the root causes of the conflict. Reconstruction calls for the reparation of infrastructure,

agricultural systems, and buildings. However, the responsibility to rebuild also calls for reconciliation;

whereby adversaries are forced to cooperate in rebuilding the community. Interveners need to

understand that this cooperation is necessary for the sustainable development of a peaceful and

prosperous society.[50]

During this reconstruction, intervening powers need to provide security and protection to all

members of the community, regardless of ethnic origin or former role in the conflict; because all

members of society need to be reintegrated.[51] This is necessary so that political power can be returned

to the people of that community—during intervention, state sovereignty is suspended and the

intervening powers take over in order to create peace and stability. However, this suspension of state

sovereignty is only temporary and state control must eventually be returned to the legitimate officials;

thus reconciliation between the parties is vital.[52] One of the most challenging aspects of reconciliation is

". . . the disarmament, demobilization, and reintegration of local security forces". The commission

believes that this will be the longest part of the process, but the international community is responsible

for its completion. A demobilized soldier who is not successfully reintegrated into society can be

extremely dangerous to the state, as an armed criminal or an armed political opponent. Furthermore,

the new national military and police forces should include members of all the groups involved in the

conflict.[53] Displaced peoples have to be allowed to return; this means removing bureaucratic and

cultural obstacles in property ownership laws. This requires the development of a good judicial

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[50] Ibid., 5.1-5.4
[51] Ibid., 5.8
[52] Ibid., 5.26
[53] Ibid., 5.8-5.11

system.[54] It also depends on the right social and economic conditions—this means that intervening states have to be able to offer access to health and education, eradication of corruption, and promoting good governance and economic regeneration.[55] According to the commission, it is vital that the interveners encourage economic growth and sustainable development. This means that once reconstruction begins, the international community needs to recall all previous sanctions and punitive economic policies; otherwise the root causes of the conflict will reemerge in the resulting poverty.[56] For all these regions, it is necessary that intervening states develop and viable exit strategy before entering the state in the name of humanitarian intervention.

The Responsibility to Protect is the proposed standard for how the international community should respond in cases of genocide, war crimes, crimes against humanity, and ethnic cleansing. The doctrine is still an international norm as it has not been ratified into law yet. In order to see how this doctrine fits in with existing war theory, this thesis will consider the doctrine through the lenses of the Catholic Just War tradition, Utilitarianism, and the Modern Just War tradition and will then look to specific cases of intervention to see the role that the Responsibility to Protect doctrine plays in recent cases of humanitarian interventions.

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[54] Ibid., 5.13
[55] Ibid., 5.15-5.18
[56] Ibid., 5.19

Part II: The Responsibility to Protect through the Lens of Existing War Theory

Introduction:

The Responsibility to Protect Doctrine was born after the Rwanda genocide, when Secretary General Kofi Annan expressed his disappointment with the international community's failure to respond in a consistent way to cases of large scale loss of life and/ or cases of ethnic cleansing. The doctrine establishes clear guidelines for state responses to humanitarian crises. As such, it is viewed as being quite controversial, because it goes as far as saying that United Nations member states are not only allowed, but are expected to intervene when other states are unable or unwilling to protect the security of its residents. The concept of humanitarian intervention has always been problematic for the United Nations because the organization was founded on two documents, the United Nations charter which defines all member states as equal sovereigns and the Universal Declaration of Human Rights, which defines the rights that humans have by virtue of the fact that they are human. Thus, the United Nations has dedicated itself to protecting both state rights and human rights. These goals are often in conflict because since the late 20th century, states are the greatest violators of the human security of their residents. In order to reconcile this conflict, the ICISS decided to redefine the entire notion of sovereignty. According to the doctrine, beyond simply establishing the rights that states have in relation to other states, sovereignty also implies the responsibility that states have to their residents.

The doctrine is currently a norm and is not an international law, but as it gains popularity in the international community and is put into practice in the ongoing situations in the Middle East, it is important to see how this doctrine stands in relation to existing moral philosophy regarding war. In order to understand this, the doctrine will be analyzed through the lenses of the Catholic Just War tradition, Utilitarianism, and the Modern Just War tradition.

The Catholic Just War tradition is based on standards founded in the New Testament and elaborated in the writings of St. Augustine in the 4th century. Augustine sanctioned war with the condition that it was authorized by the secular rulers, if it had a just cause, and if it was fought with the right intentions. These are three of the necessary preconditions for military intervention set forth in the ICISS report. However, his definition of "just cause" is slightly different from that found in the Responsibility to Protect doctrine. According to Augustine, just cause for war included bringing about a condition of peace, punishing wrong-doers, and/ or promoting good; while the Responsibility to Protect limits just cause to actual or apprehended large scale loss of life with or without genocidal intent and/ or ethnic cleansing. He defined "right intention" as anything that served the just cause. Thomas Aquinas elaborated on Augustine's work in the 13th century, adding that if war met the just cause criteria that any means could be used to achieve peace. [57]

Utilitarianism is most often associated with the works of Jeremy Bentham and John Stuart Mill. The overall philosophy is usually boiled down to the notion of the greatest happiness of the greatest number. They define happiness as "… a matter of experiencing pleasure and lack of pain". Bentham evaluates all potential actions based on their consequences. He claims that laws and rights require the existence of a government, but that people are responsible for respecting the rights of others.[58] Mill adds that people should have the freedom to behave as they like as long as their actions are not harming others—once their actions impact other people, they must be prevented from causing harm. Both philosophers agree that an action is justified in proportion to its ability to produce happiness and are unjustified in proportion to the amount of unhappiness they produce.[59] This can be related to the reasonable proportions clause of the Responsibility to Protect doctrine, because the ICISS acknowledges

[57] Kinsella, David Todd., and Craig L. Carr. The Morality of War: A Reader. Pp. 55-56 Boulder: Lynne Rienner, 2007. Print.

[58] " Bentham, Jeremy [Internet Encyclopedia of Philosophy]." Internet Encyclopedia of Philosophy. N.p., n.d. Web. 25 Jan. 2012. <http://www.iep.utm.edu/bentham/>.

[59] " Mill, John Stuart [Internet Encyclopedia of Philosophy]." Internet Encyclopedia of Philosophy. N.p., n.d. Web. 25 Jan. 2012. <http://www.iep.utm.edu/milljs/#SH2d

that a failed military intervention could be more dangerous than the ongoing human rights violations and therefore insists that there are reasonable prospects of success before authorizing military interventions.

Finally modern Just War theory is attributed to Michael Walzer and Michael Doyle. Their work might be most relevant to a discussion of the Responsibility to Protect doctrine because in his book, *Just and Unjust Wars*, Walzer outlines all the scenarios of violent conflict and provides historical examples. He also gives cases of civil war and humanitarian intervention. His basic conclusion is that for a war to be justified, it needs to have a just cause and it needs to be carried out in a just way. These conditions are also explicitly stated in the Responsibility to Protect doctrine.

By looking at each tradition in greater detail, it becomes obvious that the Responsibility to Protect doctrine has a moral foundation in each of the traditions. Furthermore, each tradition has a unique way of defining the role and limits of sovereignty which have influenced the definition presented in the ICISS report.

Chapter II: The Catholic Just War Tradition

St. Augustine of Hippo is seen as the "primary architect" of the Catholic Just War tradition.[60] Augustine lived from 354-430 C.E. and played a major role in merging the Greek philosophical tradition with the Judeo-Christian tradition.[61] The Romans were coming out of the tradition of the Greek city-states and maintained the same war culture, most often associated with the military state of Sparta. The Greek city-states originally unified to order to increase their military strength. Herodotus quotes, "With all Greece united, we form a powerful body of fighting men and we become a match for the

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[60] Ramsey, Paul. Just War Theory. Ed. Jean Bethke Elshtain. New York: New York UP, 1992. Print.
[61] Mendelson, Michael. "Saint Augustine (Stanford Encyclopedia of Philosophy)." Stanford Encyclopedia of Philosophy. Web. 31 Jan. 2012. <http://plato.stanford.edu/entries/augustine/>.

invaders. . ."[62] Thus Greece and then Rome were founded on the idea of state preservation and a

culture of revenge which glorified military prowess. Meanwhile Christianity called for peace and

revoked capital punishment. In the beginning the Christians were living within the Roman Empire and

did not face major persecution. However, when the Roman Empire became hostile to Christians, the

tension between pacifism and military intervention became apparent in the scriptures. Augustine's

writing on war, *The City of God,* is in response to this tension. In this book, he states that military service

and God are not incompatible, but rather obligatory. He also promotes allegiance to the state as a

moral obligation. The religious justification for his views is that Christians are obligated to create a

better peace. This "better peace" rationale was seen in the World Wars when politicians believed that a

large scale war could produce a sustainable world order and prevent future wars. Writers today

sometimes state that the standards for war set in Just War Theory lie somewhere in between realism,

which completely disregards morality and ethics in war and pacifism, which suggests that war is never

morally justified.[63]

The very emergence of a Church-endorsed Just War theory is a significant historical

development that may carry some weight in the dispute over the Responsibility to Protect doctrine. Just

as states today are prohibited by the Charter of the United Nations and subsequent international law

from undermining the sovereignty of other states, Christians in the first century were prohibited from

carrying out any acts of violence, even in self-defense. The fact that the church was able to evolve from

this stance to justifying war in certain cases is a major leap.

Historian Robert Clouse writes that the early church saw an incompatibility between love and

killing and thus the Christians of the first century were prohibited from joining the Roman Army.[64] In his

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[62] Robin Waterfield. P. 460 Herodotus: The Histories. Oxford: Oxford UP, 1998. Print.

[63] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.

[64] Charles, J. Daryl. "Pacifists, Patriots, or Both?: Second Thoughts on Pre-Constantinian Early-Christian Attitudes toward Soldiering and War." Logos: A Journal of Catholic Thought and Culture 13.2 (2010): 17-55. Print.

article, *Pacifists, Patriots, or Both?* Daryl Charles writes, ". . . military service and warfare were condemned from the beginning because of early Christians' aversion to violence and bloodshed . . .".[65]The early church's view on warfare and violence is grounded in several events that occurred while the church was being founded. The first and most common citation for the prohibition of violence is the Sermon on the Mount, in which Jesus called for love and nonviolence. Based on Matthew's interpretation, Jesus rejected the idea of capital punishment and instead encouraged Christians to "turn the other cheek". In this sermon, Jesus called upon the Christians to be peacemakers. According to this interpretation, Jesus was calling Christians to an avowal of nonviolence and nonresistance. The Early Church condemned violence as seen in the fact that military service and warfare was discouraged because of the Christian dedication to love.[66]

Tertullian was an early Christian writer living in Carthage, a colony of the Roman Empire. In his early writings, he presents the inherent contradiction in Christians serving in the Roman Military. He explains that because the Roman army would be under the authority of the Emperor, the soldiers would be making sacrifices for the emperor. According to the rulings, Christians are only allowed to make personal sacrifices in the name of Christ. Sacrifices made in the name of another authority constitute idolatry. To prove this, he cites Exodus 23:13, "One cannot be due to two masters, God and Caesar". Following this same reasoning, he also states that participating in civil service also goes against the tenants of Christianity. Furthermore, as the Church and the Empire became more intertwined in the early fourth century, these writers saw the Church as falling from its original purity and compromising its ethics.[67] According to Clouse, "Thoughtful Christians were not pleased with the blurring of distinctions

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[65] Charles, J. Daryl. "Pacifists, Patriots, or Both?: Second Thoughts on Pre-Constantinian Early-Christian Attitudes toward Soldiering and War." Logos: A Journal of Catholic Thought and Culture 13.2 (2010): 17-55. Print.
[66] Ibid.
[67] Ibid.

between the Church and the world. These people condemned participation in warfare and urged

believers to wage a spiritual conflict rather than a carnal one".[68]

The main catalyst to the Church switching its stance and justifying warfare and participation in

the army came with Emperor Constantine making Christianity the official religion of the Roman Empire

following the first Council of Nicaea in 325. According to the story, Emperor Constantine had a vision in

which he was saw a crucifix and was told to mark his army with the cross. For most Christians at the

time, the fact that the empire was no longer persecuting them gave the state legitimacy over the

church, because it was more powerful and no longer oppressing them. Meanwhile, the empire assumed

that the Church would become a part of the state and would no longer constitute a hostile minority

population.[69]

This marks the first point at which the state and the Church merge with each other. Before this

point, any involvement with the state was rejected by the early Christian writers. In order to justify the

merger, the first Pope of the Church, Clement asserts ". . . that the state has been entrusted by God with

sovereignty, power, and honor and that for this reason Christians should be subject to it."[70] With this

statement, Clement reconciles secular political authority with religion. Up to this point, Christianity had

prohibited political and military participation in state affairs because it was seen as giving authority to a

being other than God. By saying that the state was given its powers by God, Clement makes civil

participation not only permissible, but obligatory. Christians could now serve God by serving their

country—essentially if they denied the state's authority, they were denying God, because God gave the

authority to the state. This is the first time the principle of rule by divine right is stated. Thus because

Christians can now serve God by serving the state, Christians from this point on were obligated to be

responsible members of the community, this includes serving in the military and civil service.

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[68] Ibid.

[69] Gorry, Jonathon. "Ploughshares into Swords? St. Augustine's Ethics of Political Violence." Religion Compass 5.12 (2011): 753-62. Print.

[70] Ibid.

Once Christians were allowed to be involved in the political life of the state, they were inevitably involved in the political violence that the state partook in. This is what St. Augustine was responding to half a century after Christianity became the Roman Empire's official religion. Augustine was working under two assumptions. The first as stated earlier is that violence was inevitable and the second being that ". . . God had assigned a special divine role for political authorities".[71] Both of these are justified in Paul's argument when he says, "It is the clear and unambiguous teaching of the New Testament that the authorities exist for one purpose, and that is to preserve the moral-social order. . . And because all authority inheres in and is on loan from the Sovereign Creator, the necessity of a moral and just application of force should be beyond controversy".[72] Augustine was writing during the time of absolute monarchies who believed they had a divine right to rule. Thus, because state rulers are given the right to rule directly from God, if they believe violence is necessary to serve the common good, everyone is obligated to serve the state.

Augustine says that the cause of violence is not politics, but rather humanity's sinful nature. A just war is waged so that peace is returned to the region and guilty parties are brought to justice. In his article, *"Ploughshares into swords",* Jonathan Gorry states that Augustine presupposes that it is the state's responsibility to minimize sin, organized political power itself being sinless. ". . . The state is a necessary bulwark to restrain sin. Sin is thus something that can be mitigated—but never vanquished— by reason and rational government. . . Organised political power itself, however, is strangely immune from this taint".[73] Thus the state exists to serve people and dole out as much justice as possible in this world. The state has the divinely ordained right to protect and interpret justice. Furthermore, with this

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[71] Ibid.

[72] Charles, J. Daryl. "Pacifists, Patriots, or Both?: Second Thoughts on Pre-Constantinian Early-Christian Attitudes toward Soldiering and War." Logos: A Journal of Catholic Thought and Culture 13.2 (2010): 17-55. Print.

[73] Gorry, Jonathon. "Ploughshares into Swords? St. Augustine's Ethics of Political Violence." Religion Compass 5.12 (2011): 753-62. Print.

rationale, Augustine simultaneously justifies both warfare when necessary and obligates individual Christians to obey political authority.[74]

According to St. Augustine, "War was morally justified if it was declared by the appropriate secular authority, if it had a just cause, and if it was fought with rightful intentions".[75] He defines just cause as anything that brings about a condition of peace, punishes wrongdoers, and/or promotes good—that is, the main objective of war has to be the establishment of peace, order, and justice.[76] To Augustine, in order for an action to be carried out with the right intention, at least one of the definitions of just cause must be the main objective of the action.[77] In *The City of God,* Augustine writes, "For joy and peace are desired alike of all men. The Warrior would but conquer and war's aim is nothing but glorious peace".[78] Augustine goes on to explain that the goal of war is peace; peace is the objective of all military operations and establishing this peace is also the limit of warfare.[79] So far, Augustine has established that war for the sake of peace is justified; however war is only just in so far as it establishes a better peace. Augustine does not condone war for conquest and says that once peace is established, war activity is no longer justified.

Later, Augustine says, "For stronger are the bands that bind man unto society and peace with all that are peaceable. The worst men of all do fight for their fellow's quietness, and would (if it lay in their power) reduce all into a distinct form of state, drawn by themselves, whereof they would be the heads, which could never be, but by a coherence either through fear or love".[80] Here, Augustine is criticizing wars of conquest and wars of subjugation because they will not create a society based on love and

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[74] Ibid.

[75] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.

[76] Gorry, Jonathon. "Ploughshares into Swords? St. Augustine's Ethics of Political Violence." Religion Compass 5.12 (2011): 753-62. Print.

[77] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.

[78] St. Augustine. The Morality of War: A Reader. P. 63 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.

[79] Ibid

[80] Ibid., 65

peace. Furthermore he says that such wars are a manifestation of "perverse pride" and a desire to imitate God, both of which are disapproved of by Catholic tradition. Furthermore such subjugation would be a denial of the Christian ideal that everyone is equal under God because they are dominating and oppressing other peoples beneath their authority as opposed to treating them as equals under God's authority. Augustine accuses the perpetrators of such wars as denying the peace of God and establishing an unjust peace instead.

The Responsibility to Protect doctrine does not explicitly contradict any of the standards for war established by Augustine. Augustine says that in order for a war to be just it has to be declared by the proper secular authority. Similarly, the Responsibility to Protect doctrine includes a proper authority section which states that humanitarian interventions must be authorized by the United Nations Security Council and the Secretary General. With their requirements for authority, both Augustine and the ICISS wanted to ensure that the resource necessary for war could be gathered and that the intervention would be a multilateral effort. Augustine also sets Just Cause and Rightful intentions as necessary preconditions to war. According to Augustine, a Just Cause is anything that establishes peace, justice, and order. This includes protecting innocent people, revenging loss of property, and punishing aggressive states. The ICISS says that military intervention is necessary in order to ensure human security, the underlying reasoning being that the negative effects of human vulnerability can impact regional and international peace and order. Thus both Augustine and the ICISS justify war in cases where it is necessary to restore peace. Both also call for right intentions. Augustine defines these as anything done in the name of the just cause and the Responsibility to Protect doctrine ensures this by insisting that interventions are carried out multilaterally. The fact that he specifies the cases in which military action is justified, shows that in Augustine's tradition, war is meant to be limited, just as the ICISS report emphasizes the responsibility to prevent and justifies intervention only when these measures have failed. The doctrine also explicitly states that economic sanctions and diplomatic

measures should be the first stage of intervention when prevention fails. Furthermore, just like

Augustine, the Responsibility to Protect Doctrine establishes the responsibility to rebuild. When a

military intervention is sanctioned, the states must have an exit strategy so that foreign powers do not

have the opportunity to use the intervention as a means of occupation. The Responsibility to Protect

doctrine furthermore tries to prevent the intervention from turning into occupation or neocolonialism

by calling for multilateral interventions rather than single-state action. By requiring interstate

cooperation, the doctrine tries to undermine each state's self-interest.

When Augustine discusses punishing wrong-doers and promoting good, he is talking about

states that have been victimized by foreign powers. Meanwhile, the subject of the Responsibility to

Protect doctrine is the rulers of foreign states that have aggressed against or failed to protect their own

residents. However, this view is not a major digression from Augustine's stance because Augustine was

justifying war in order to restore peace. He was writing in a time period when interstate conflict was the

largest threat to peace, while today intrastate conflicts pose a more frequent threat to peace and

international order. To Augustine, a war could only be just if it was proclaimed by the appropriate

secular authority. The reasons he gives for this is that only such authorities have the ability to gather

the resources needed to carry out a just war. This is in full agreement with the standards set in the

Responsibility to Protect doctrine, which requires both proper authority and proportional means.

After St. Augustine, the next major contribution to Catholic Just War theory came from St.

Thomas Aquinas who lived from 1225 to 1274 in Paris. While Augustine was responding to hostilities

being carried out by the Roman Empire, Aquinas was responding to a debate between supporters of

reason and supporters of faith. This debate was reawakened in the western world during Aquinas's time

with the emergence of the Latin translation of Aristotle's *Corpus.*[81]

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[81] McInerny, Ralph, and John O'Callaghan. "Saint Thomas Aquinas (Stanford Encyclopedia of Philosophy)." Stanford Encyclopedia of Philosophy. Web. 31 Jan. 2012. <http://plato.stanford.edu/entries/aquinas/>.

Aquinas accepted Augustine's claim that in certain cases war was justified in Christianity and thus his personal work goes one step further and focuses on the methods and operations of warfare. Aquinas based his just war policies on the belief that the laws of war and the laws that govern nations ". . . are rooted in the eternal wisdom of God and in the order of creation" while Augustine based his policies on the idea that people must obey the secular authority who were given sovereignty by god.[82] Aquinas places a stronger focus on the common good rather than divine right. Aquinas begins his explanation of Natural Law by explaining that there are no existing eternal laws since, according to Christianity, God is the only eternal being and no law could be placed upon Him. Aquinas defines a law as ". . . a dictate of practical reason emanating from a ruler who governs a perfect community".[83] He goes onto say that divine law is the only eternal law, because this is the law which governs the universe. In his next section Aquinas deals with the idea of a natural law. He begins by explaining that man is free; because people are ruled by their reason and will, they are not automatically directed to a natural end the way animals are. Because humans are ruled by their reason, their lives are less determined by laws. However, he says that because everything in the universe is assessed in relation to divine law, which governs the whole universe, everyone is subject to the eternal law to some extent. He then states that this subjugation, however mild, is what drives human inclinations to its proper ends. Thus, because humans are reasonable, according to Aquinas, their reason will lead them to make the right decisions in accordance with the eternal law. Aquinas defines the natural law as the interaction of human reason and the eternal law. He calls this the natural law because reason is based on ". . . principles that are known naturally. . .".[84] This natural reason is in constant discord with the "natural appetite", and all human actions must be governed by the natural law and undermine the natural appetite. Aquinas claims to base his just war theory on the dictates of the natural law.

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[82] From Summa Theologica 1-2, Q. 91, trans. Fathers of English Dominican Province. Arthur Frank Holmes. P. 92 War and Christian Ethics. Grand Rapids: Baker Book House, 1975. Print.
[83] Ibid., 93
[84] Ibid., 95

Aquinas based his just war theory on Augustine's work and accepted all of Augustine's premises and definitions, but with an added focus on the way in which a war was carried out. He asserted ". . . that is a war qualified as just, all means could be used to bring it to a desirable conclusion".[85] He stated that a state authority can use any means necessary as long as they were carrying the war out with right intentions, meaning in order to punish wrong doers and/ or promote good. In *Summa Theologiae*, Aquinas begins by listing the conditions necessary for a just war. Like Augustine, he says that three criteria have to be met. First, the war needs the approval of the prince under whose command the war will be waged. Like Augustine, Aquinas said that war can't be carried out by a private person because they will not be able to gather the public will as effectively as the secular ruler. However, he goes further to say that a just war cannot be carried out by an individual, because they can seek their rights in court, even from their superiors. He goes further, to say "Rather, since the core of the commonwealth is entrusted to princes, it pertains to them to protect the commonwealth of the city or kingdom or province subject to them".[86]

The next criterion that needs to be met in order for a war to be just is that the people against whom war is to be waged need to have done something wrong in order to deserve the war. In other words, there needs to be a just cause in order for the war to be morally just. According to Aquinas, "A just war is customarily defined as one which avenges injuries, as when a nation or state deserves to be punished because it has neglected either to put right the wrongs done by its people or to restore what it has unjustly seized".[87] These are no different than the conditions that St. Augustine set for a just war.

Like Augustine, Aquinas also insists that princes must have a right intention. In *Summa Theologiae*, he says that "Third, it is required that those who wage war should have a righteous

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[85] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.
[86] Thomas Aquinas. The Morality of War: A Reader. P. 66 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.
[87] Ibid

intention: that is, they should intend either to promote a good cause or avert an evil".[88] This is the same definition that both St. Augustine and the ICISS doctrine use to define right intention as well. However, Aquinas goes further to say that not only are these wars justified, but they are also admirable. He says, "Those wars which are waged not out of greed or cruelty, but with the object of securing peace by coercing the wicked and helping the good, are regarded as peaceful," because a just war is carried out in order to establish peace.[89] Aquinas says that a right intention is the most important precondition for a just war; he goes as far as saying that even if a war has a just cause and is promoted by the right authority, it is illegitimate if the intentions are wrong. In such cases where war is justified, failing to carry it out is an evil in itself, while although war is tragic, its horrors can be redeemed by bringing peace to both sides.[90]

However, like Augustine before him, Aquinas took a very limiting view on war. In general, he believed that war was not justified except in the cases of avenging an injury or promoting good. By setting so many stipulations on just war, they limit the use of war to minimize the horrors incurred; thus the ends only justify the means when war is the only way for a more sustainable peace to be established.   He limited justified war to states and did not sanction conflict between groups of people within states. His explanation being that wholesale defense of a state is more important than defense of individuals because the state is responsible for many groups. He also explains that wars are only justified in that they serve the common good. When states are at war, their ideas of the common good are also in conflict. The common good in a community is going to be "limited" and serving the good of one group over another may be harmful to the common good of mankind, according to Aquinas.[91]

Aquinas adds to Augustine's work by stating that anything is legal in a justified war. He states that ambushes and deception are legal in warfare. He even states that sovereignty can be undermined

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[88] Ibid
[89] Ibid
[90] Tooke, Joan D. The Just War in Aquinas and Grotius. P. 23London: S. P. C. K, 1965. Print.
[91] Ibid., 177

if necessary. He says, ". . . if the health of the whole body requires the removal of some member,

perhaps because it is diseased or causing the corruption of other members, it will be both praiseworthy

and wholesome for it to be cut away".[92] This is in accordance with Secretary General Kofi Annan's

redefinition of the concept of state sovereignty. In a speech that Kofi Annan gave in 1999 to the General

Assembly, he said "State sovereignty is being redefined by the forces of globalization and international

cooperation". Annan thus began his speech by explaining that today's world is interconnected and the

problems effecting one state can negatively impact others. "These parallel developments demand that

we think anew --about how the United Nations responds to the political, human rights and humanitarian

crises affecting so much of the world; about the means employed by the international community in

situations of need . . .".[93] Thus he says that because a violation of human rights in one place can have far

reaching consequences, it is the United Nations' duty to intervene and put an end to the damage,

undermining state sovereignty if necessary.

As with Augustine's work, the Responsibility to Protect doctrine finds a firm foundation in

Aquinas's work. The Just Cause threshold is emphasized in both Catholic Just War theory and the

Responsibility to Protect as is the call for proper authority. Both Augustine and Aquinas add the proper

authority clause to ensure that the necessary support and resources are available for the war. This is

also required by the Responsibility to Protect doctrine's requirement for proportional means in cases of

military interventions. Both Aquinas and the Responsibility to Protect doctrine emphasize the fact that

war should only be used as a means of establishing a better peace. One major difference between

Aquinas's work and the Responsibility to Protect doctrine however is that Aquinas states that in a just

war any action is acceptable, while the Responsibility to Protect doctrine insists that all human rights

norms as established in the Geneva Accords are adhered to in cases of military interventions. In the

Responsibility to Protect doctrine, the ICISS states ". . . the rules of engagement for a military

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[92] Ibid., 68
[93] Annan, Kofi. "Two Concepts of Sovereignty." The Economist (US) 18 Sept. 1999. Print.

intervention must reflect a stringent observance of international law, and international humanitarian

law in particular. They should include an acknowledgement that certain types of arms, and particularly

those which are banned under international agreements, may not be used".[94] Aquinas states that the

sovereignty of states can be undermined in order to preserve the peace and order of the international

community. According to the doctrine, regional states can paralyze the existing government when they

are unwilling or unable to protect their people; however the doctrine insists that such actions can only

be taken with the intention of eventually returning sovereignty to the rightful party once peace has

been established. Aquinas states that only the person responsible for preserving order has the right to

carry out such actions; in today's world this authority and responsibility is given to the Secretary General

and the Security Council.

Even more interesting, Aquinas uses the same definition of sovereignty as that propagated in

the Responsibility to Protect doctrine. He says, "Those in power, whether sovereign or judge, have the

responsibility of defending the common good of their subjects against both internal and external

enemies".[95] The Responsibility to Protect doctrine says that sovereignty not only implies the rights and

authority that states have in the international community and over their residents, but also insists that

states have a responsibility to protect the basic human rights of their residents.

In her book, *The Just War in Aquinas and Grotius*, Joan D. Tooke points out the flaws in

Aquinas's argument and says, "Indeed, Aquinas's most serious omissions were that he did not deal with

the question of arbitration . . . and that he did not relate the question of warfare to that of the

international community, to the world, or even to Christendom".[96] Later in the book, she says that "He

omitted to state that war could only be just if it were a last resort, and that arbitration should be sought

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[94] Evans, Gareth J., and Mohamed Sahnoun. The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty. 7.28 Ottawa: International Development Research Centre, 2001. Print.
[95] Tooke, Joan D. The Just War in Aquinas and Grotius. P. 22 London: S. P. C. K, 1965. Print.
[96] Ibid., 27

at all costs".[97]   Tooke's book was written in a very different historical context than the one in which

Aquinas wrote, but if her suggestions were added, her assertions would have offered even more support

for the Responsibility to Protect doctrine because the doctrine emphasizes the responsibility to prevent

first and only when that fails can intervention be carried out. Even once intervention is deemed

necessary, military activity can only be used as a last resort reaction and must be limited to proportional

means. Tooke also stresses the globalized nature of warfare, which may not have been apparent in

Aquinas's time. However, Aquinas does discuss the international community because he explains that

men have an obligation to their own state, but also to other people in other nations, even if these men

could be his potential enemy. He states that this responsibility that Christians have towards mankind

needs to override all other national and political interests.

Francisco de Vitoria was the next major contributor to the Catholic Just War Theory. He lived in

16th century Spain. He is most often remembered for his work regarding the rights of the Native

Americans in their conflict with the Spanish colonists.[98] Vitoria addressed the question of whether or

not the Spanish had the right to rule over the Native Americans and whether or not the natives had the

right to use violence to protect themselves against Spanish aggression and massive abuses. This is an

interesting case because the Christian conquistadors has used to the fact that the Native Americans

were "infidels" to justify taking their property. Vitoria rejected this view and instead argued that the

Native Americans had ownership of their land and could not be undermined.[99] He added to the works

of Augustine and Aquinas, but also called for some reassessment. He expanded the categories for just

cause to include, self-defense, reclaiming lost territory, avenge previous injustices, punish wrong doers,

and protect themselves from tyrants who may threaten them. However, he added the extra stipulation

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[97] Ibid., 170

[98] Hamilton, Bernice M. "Francisco De Vitoria (Spanish Theologian) -- Britannica Online Encyclopedia." Encyclopedia - Britannica Online Encyclopedia. Web. 01 Feb. 2012.
<http://www.britannica.com/EBchecked/topic/631267/Francisco-de-Vitoria>.

[99] Knutsen, Torbjørn P. 67-68 L. A History of International Relations Theory. Manchester: Manchester UP, 1997. Print.

that not every instance of these wrongs justified war because the horrors of war may outweigh the costs

of these injustices. He insisted that the evil done in war should not outweigh the injustices that justify it.

He was the first scholar in the Catholic Just War tradition to state that offensive wars or wars responding

to a threat are justified, thus he justified preventive and preemptive wars. [100]

To justify offensive wars and wars to avenge a previous wrong, Vitoria says, "Since there can be

no doubt that in a defensive war force may be employed to repel force, this is also proved with regard

to an offensive war, that is, a war where we are not only defending ourselves or seeking to repossess

ourselves of property, but also where we are trying to avenge ourselves for some wrong done to us".[101]

He states that war may be necessary in some cases, because a defensive war cannot be successful

unless if some punitive measures are taken against aggressive states. If such actions are not taken, the

state will have no fear in making a second attack. He cites Augustine and says that the end goal of war is

to establish a lasting peace and this cannot be established if states are only able to defend themselves

after they have been attacked; it is sometimes necessary for states to follow their defensive strategies

with offensive strategies to show states that aggressive behavior will not be tolerated.[102]

However, Vitoria differs from Augustine and Aquinas in that he believes anyone has the right to

carry out war in order to defend themselves and that they are justified in doing so even if they do not

have the proper authority from a secular leader because ". . . force may be repelled by force".[103]   Thus

he also claims that "Every state has the authority to declare and to make war".[104] Where his

predecessors claimed that the state held divinely bestowed authority, Vitoria claimed that the state held

certain rights because its members held these rights—this view was later accepted by Hobbes and other

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[100] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.
[101] Francisco de Vitoria. The Morality of War: A Reader. P. 66 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.
[102] Ibid., 71
[103] Ibid., 71
[104] Ibid., 71

enlightenment philosophers who believed in the idea of a "social contract" between the members of a state and the government. That being said however, he also lists several instances which would not justify war; according to Vitoria, extension of empire does not justify war, neither does a difference in religion, nor personal glory. The only justification for war according to Vitoria is a wrong received and prevention of such wrongs from reoccurring.

Like Aquinas, he believed that once a war was justified everything was lawful in order to defend the public will and protect the state. Because he allowed war to be so brutal, he insisted that war could only be resorted to in instances of grave injustices. He also explains that innocent people cannot be injured in war. He explains that the basis for just war is that a state has committed a crime and is therefore guilty, so the goal of the war is to punish and incapacitate the guilty party, so innocent civilians need to be left uninjured. According to Vitoria, it is forgivable if it is inevitable, but the state declaring war must ensure that the damages of the war will not be worse than the initial transgression. The war must be carried out within limits and once the war has been successfully completed, the guilty state must be treated with humility.

Just like his predecessors, Vitoria offers support to the Responsibility to Protect doctrine. They all insist that military intervention must only be used as a last resort. He does not insist on proper authority the way the other scholars and the doctrine does, but this may be because he was writing to defend the rights of indigenous people who were facing colonialism—telling them that they could declare war as small groups of people if they felt it necessary. This notion is brought up in the 18th century in Thomas Jefferson's Declaration of Independence and Thomas Paine's Rights of Man. Nor does Vitoria explicitly insist on proportional means, but he does insist on reasonable prospects in a sense when he stresses that the war cannot cause greater evil than the initial crime. He makes an argument for offensive and preventive wars to be added to the Catholic Just War tradition, in cases where punishing the guilty states will be the only way to restore peace. The Responsibility to Protect

includes a similar stipulation in that the international community is expected to react to both actual

threats and perceived threats. Any action taken against a perceived threat will be an act of preventive

warfare.

Vitoria's work was followed by Hugo Grotius in the seventeenth century in Holland. Grotius was

writing during the age of European colonialism in Asia and the Americas. He agrees with his

predecessors in that he believed that peace was the "natural state" for people and that they must do

whatever is necessary to establish it. He claimed that disputes over rights are the main cause of war.

Grotius said that when their rights are threatened, states not only have the right to go to war to defend

their rights, but they are allowed to use war to punish states that have violated their rights in the past.

Grotius and his predecessors all belong to the "Natural Law tradition". They believe that sovereign

states have rights simply because they are sovereign states. Modern international law is also based on

this thinking, but it is also influenced by positivism which defines customary practice and treaty

formation. The problem that Augustine, Aquinas, Vitoria, and Grotius all faced was that there was no

third party international arbiter or judge to determine when war was justified. This lacuna is addressed

by later positivist theorists.[105]

While his predecessors treated the government and the subjects as one entity, the state,

Grotius begins to make a distinction between the two. However, he gives most of the power to

government, going as far as saying, ". . . the sovereign has a greater right over the property of his

subjects, where the public good is concerned, than the owners themselves have".[106] This is because he

is writing under the assumption that the state authorities will always be serving the common good of

their people. He also states that the independence of a people from a tyrannical government or the

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[105] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.

[106] Hugo Grotius. The Morality of War: A Reader. P. 81 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.

independence of colonized states do not always justify war; he states that peoples do not have a natural

right to do this all the time.[107]

Like his predecessors, Grotius was concerned with the just cause; "For in some cases motives of

interest operate distinctly from motives of justice. . ."[108] He also limited just cause to defense of the

state, compensation for previous wrongs, and/ or punishment of aggressive states. He summarized all

of these and said that a just cause for war is an injury, whether actual or perceived that threatens the

people of a state or their property with danger. Grotius stipulates that a neighbor becoming too

powerful does not justify an offensive war; in cases of such uncertain fears, Grotius says that the only

actions states can take are defensive measures.[109] Grotius also states that even if a state believes its

rights have been violated, if it cannot produce the evidence, it is not justified in declaring war, because

he does not have the right to ask another to give up its possessions without proof.[110] According to

Grotius, in the case of the rights of one subject being violated, the state is not obligated to declare war,

unless if it can be done without inconveniencing a greater number of people.[111] Unlike Aquinas, Grotius

explicitly calls for arbitration as a preliminary step before war is declared. He goes as far as suggesting

that without an effort at arbitration the war will be unjust. In *The Rights of War and Peace*, Grotius

states, "The first step, which an aggressor ought to take, should be an offer of indemnity to the injured

party, by the arbitration of some independent and disinterested state. And if this mediation be rejected,

then his war assumes the character of a just war . . ."[112] He also says, "In cases likely to lead to war, if

one side agrees to arbitration, it is wicked to fight".[113]

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[107] Ibid., 84
[108] Ibid., 82
[109]Ibid., 83
[110] Ibid., 85
[111] Ibid., 86
[112] Ibid., 83
[113] Tooke, Joan D. The Just War in Aquinas and Grotius. P. 220 London: S. P. C. K, 1965. Print.

Like the other Catholic Just War writers, Grotius insists that a right intention is necessary at the beginning of the war, because during the war the aggressors' intentions may change and they may be driven by unlawful interests.[114] He says that when governing officials are debating whether or not to go to war or how to operate once war has been declared they must decide in favor of the option that will bring peace as effectively and efficiently as possible because war is a very serious matter in which the innocent suffer along with the guilty.[115] Furthermore he says that "Anyone who undertakes a war should be sure that he has strength as much as—or even more than—justice on his side, and the wars which may not or ought not to be avoided are rare".[116]

Grotius acknowledged the fact that wars often involved more than two states being locked in conflict; therefore he addressed the issue of alliances in writing. He states that the same reasons that justify participation in a war also sanction helping others who are involved in a war. However, he places a condition by saying, "But whether any one presides over a household, or a state, the first and most necessary care is the support of his dependents or subjects. . . ".[117] Grotius further stipulates that no one is bound to give assistance of protection if there will be eminent danger, because the protection of self and the state should be of greater concern than the welfare of other individuals and states.[118] Because each state will inevitably have its own interests and motives while intervening, the Responsibility to Protect doctrine calls for multilateral efforts because cooperation will require states to compromise some of their personal objectives.

According to Tooke, "[Grotius] emphasized that even when we have a right to fight a just war, it is mostly more pious to give up our rights for it is particularly suitable for Christians to sacrifice even

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[114]Ibid., 84
[115] Ibid., 85
[116] Tooke, Joan D. The Just War in Aquinas and Grotius. P. 220 London: S. P. C. K, 1965. Print.
[117]Hugo Grotius. The Morality of War: A Reader. P. 86 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.
[118] Ibid., 87

their lives in order to further the lives and salvation of others".[119]   This is shown in the fact that he insisted on arbitration and compromise as a necessary first step before military action. He also states that even when a just cause exists, wars are only truly justified when they can save more lives than would be saved if war was not carried out— this condition calls for a means of measuring utility.[120] However, according to Tooke, "Grotius did not think the law of nature prohibited war unconditionally, but only those wars which are in conflict with society and attempt to remove human rights".[121] Grotius thus explicitly justifies war in the name of human security. That being said, his main goal though is to limit warfare.[122] Because Grotius justifies war mainly in the name of self-defense, if a state goes to war to right an injustice but attacks innocent civilians in the process, these civilians have the right to defend themselves, using force if necessary. According to Tooke, "At every turn however, he showed care to preserve the right of the individual".[123]

The Responsibility to Protect doctrine resembles Grotius's work in several key aspects. His explanation of Just Cause is weaker than that which the Responsibility to Protect doctrine calls for, because he is still concerned with state actors and wrongs done to the state, while the doctrine is concerned with wrongs done to individuals or groups of individuals. But the basic principle is similar. Like Grotius, the Responsibility to Protect doctrine also calls for appropriate evidence; neither Grotius nor the ICISS sanction war or military interventions without proper evidence. Both require a threshold— in order for a military intervention to be justified according to the Responsibility to Protect doctrine, there has to be the threat of large scale loss of life or ethnic cleansing, because the loss of a few lives while still tragic is less costly than a war. Grotius states the same principle when he says that states are not obligated to go to war on behalf of a single individual, unless if it can be done without

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[119] Tooke, Joan D. The Just War in Aquinas and Grotius. P. 204 London: S. P. C. K, 1965. Print.
[120] Ibid., 210
[121] Ibid., 212
[122] Ibid., 219
[123] Ibid., 204

inconveniencing a greater number of people. When wrongs have been incurred and war is justified, both the ICISS and Grotius first require efforts at arbitration and compromise before military activity can be sanctioned. The Responsibility to Protect doctrine authorizes military intervention only when all other strategies have failed and Grotius says that in Christianity forgiveness and surrendering one's rights are more noble than carrying out a punishment. Like Grotius, the ICISS insists that intervening states only carry out military operations with the right intentions. The ICISS uses institutional mechanisms such as insisting on multilateral efforts in order to ensure that state interests do not undermine the original purpose of the intervention and Grotius stresses that the intention must be determined before the war to prevent personal interests from becoming involved in the duration of the war.

The biggest difference between Grotius and the Responsibility to Protect doctrine is that while the ICISS sees sovereignty as a responsibility that states have to provide for and protect their residents, Grotius saw it as a right that states have over their subjects. He goes as far as saying that states have rights over their subjects' property, but it is understood that whatever action states take, they are doing so to protect the larger population. The Responsibility to Protect doctrine is human-centric and is focused on protecting individuals; Grotius was writing in a state-centric time period, but still prioritized individuals in his war tradition. He reconciles the two by insisting that state sovereigns consider the best interests of their subjects before rushing into a war to defend an ally and in the way that he justified wars to protect human rights and human security. To Grotius human rights violations went against the natural law.

In the late seventeenth century, Grotius was followed by German jurist Samuel von Pufendorf. His writing is a response to the post-Westphalian Europe in which he was raised. Despite that fact that his writing is secular in nature, Pufendorf is included in this tradition because his work is heavily

influenced by Grotius and Aquinas.[124] Like the others, he believes that war is permitted by the laws of

nature as long as the one waging war is doing so only to establish peace. Like Grotius, Pufendorf says

that if someone who is trying to avenge an injury believes that going to war will only lead to more

violence; it is more just and more praiseworthy for them to refuse to punish the state.[125]

However, he is more adamant in explaining that states have to defend and protect their citizens

than his predecessors were. He says in his work, *On the law of War*, "Now among those whom we not

only rightly can but should defend, are our subjects; and this is not only because they are a part as it

were, of the government, but also because it was to enjoy such defense that free men of their own

accord set up governments or submitted to them . . .".[126] That being said, however, like Grotius, he says

that it is only appropriate for a state to go to war on behalf of individual citizens if this can be

accomplished without harming more citizens in the process. This is because according to Pufendorf, the

government needs to be concerned with the well-being of the majority of the citizens rather than just a

fraction of its citizenry. [127] In alignment with this same principle and in accordance with Grotius,

Pufendorf insists that when a government promises aid to another state, it is only justified under the

assumption that giving this aid will not prevent it from serving its citizens.[128] To Pufendorf, a state's

main responsibility was protecting and providing for its citizens.

None of the premises of the Responsibility to Protect doctrine contradicts the principles that

Pufendorf advocates in his writings. Furthermore, he begins to define sovereignty as a responsibility

that states have to their citizens which is the most basic foundation of the Responsibility to Protect

doctrine. He also addresses the case of interventions and providing aid to other states or individuals in

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[124] Seidler, Michael. "Pufendorf's Moral and Political Philosophy (Stanford Encyclopedia of Philosophy)." Stanford Encyclopedia of Philosophy. Web. 01 Feb. 2012. <http://plato.stanford.edu/entries/pufendorf-moral/>.
[125] Samuel Pufendorf. The Morality of War: A Reader. P. 88-89 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.
[126] Ibid., 91
[127] Ibid., 91
[128] Ibid., 91

other states, but say that states cannot offer themselves as arbitrators because personal interest will always be at play and this could provide an excuse for states to go to war. Therefore, an injury done to another party can only justify war when the injured party calls for aid. This way, any action, military or otherwise, taken will be only serving the needs of the injured party.[129] Ideally the Responsibility to Protect doctrine calls for third party organizations to publish information regarding human security conditions in other countries and all activity requires Security Council authorization before it can be considered legal.

The 20th century's World Wars marked a turning point in the nature of conflict leading to the creation of the United Nations. In previous centuries, the conflicts were results of colonial conflicts, civil wars, dictatorships, failed governments, and intrastate warfare. As the nature of warfare changed, the Catholic Just War theory also evolved. Paul Ramsey is at the forefront of contemporary Catholic Just War theory; he has published several books between 1950 and 1988. The Catholic Just War theory examined thus far focused primarily on the *jus ad bellum*, the set of criteria used to determine whether declaring war was justified and the *jus in bello*, which is the set of criteria used to determine the legality of specific actions in war. Ramsey focused on the second one, specifying the further principles of discrimination and proportionality. As Ramsey uses the terms, discrimination refers to protecting noncombatants in modern warfare and proportionality refers to a balance between the means of war and the ends.[130] Like the other Catholic Just War writers, Ramsey's argument is founded on the principles of Christian ethics; he uses Christian love to reconcile previous Catholic Just War writings and secular thought on war.[131] Ramsey says that integrating secular Just War principles into Christian ethics was simply an adaptation to the modern world as Christians came to realize that in order to serve the needs of mankind, humans had to create an organized social and political life. In his article, *Just War in*

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[129] Ibid., 92
[130] Just War in the Thought of Paul Ramsey. James T. Johnson. The Journal of Religious Ethics. Vol. 19, No. 2, Special Focus Issue: The Ethics of Paul Ramsey (Fall, 1991), pp. 183-207
[131] Ibid.

the Thought of Paul Ramsey, James Johnson writes that it is from this obligation that war was justified,

not to protect the self but to protect the neighbor. This defense is a manifestation of Christian love, but

this same principle of love establishes limits in warfare and prohibits the killing of innocent civilians.

Based on Christian ethics according to Ambrose, Christians are obligated to protect their neighbors, but

since the assailant is also a member of the community for whom Christ died, only the least amount of

necessary force is allowed. According to Ramsey, people are obligated to defend even when someone

else is the recipient of the attack; people are obligated to be responsible for and protect all of their

neighbors. The basic argument that Ramsey makes is that love for one's neighbor makes defending

them obligatory, but this same love limits the use of violence against the belligerent neighbor. To

Ramsey, the question was not whether or not to use force, but how to end an injustice most effectively.

Discrimination as Ramsey defines it is an absolute requirement of Christian love. A war

becomes immoral when the protection of noncombatants cannot be offered. Ramsey says that they

should limit the use of force to the minimum necessary to accomplish the moral causes of the war.[132] In

his book, *The Just War: Force and Political Responsibility,* Ramsey writes, "When the choice must be

made between the perpetrator of injustice and the many victims of it, the latter may and should be

preferred—even if effectively to do so would require the use of armed force against some evil

power".[133] The term "evil power" being used to refer to a state that disrupts the peace and order

according to Ramsey. Thus, Ramsey says that military intervention is justified in order to protect large

numbers of civilians. However, Ramsey also says that since humanitarian intervention is carried out in

order to save innocent lives and to stop the perpetrators of such actions, interveners will never be

justified in killing other equally innocent peoples in order to get to the enemy's forces.[134] According to

Ramsey, "The same considerations which justify killing the bearer of hostile force by the same stroke

[132] Ibid.
[133] Paul Ramsey. P. 143 The Just War: Force and Political Responsibility. Lanham, MD: Rowman & Littlefield, 2002. Print.
[134] Ibid.

prohibit noncombatants from ever being directly attacked with deliberate intent".[135] To Ramsey, the

justification of war serves two purposes, to make sure that was is pursued when necessary and to limit

the damages of warfare; thus, limiting the use of power in warfare is necessary in order to abolish war.

Ramsey's contribution to the Catholic Just War tradition was that he formalized the responsibility to

protect. According to this, members of states are obligated to protect other people from injustices

simply by virtue of their common humanity. This is the basis of the ICISS's Responsibility to Protect

doctrine. Furthermore, he focuses on just and unjust actions after a war has been sanctioned. He

stresses that noncombatants be protected and that only proportional means are used to react to the

injustice. Previously, the proportional means clause was used to set a minimum amount of war

resources necessary to carry out the war successfully, but Ramsey and the Responsibility to Protect

doctrine use the term to limit the violence during war and ensure the protection of noncombatants.

In conclusion, the basic Catholic Just war theory as established by Augustine in the 5th century

set the basis for the Responsibility to Protect doctrine. Overtime, the Catholic Just War tradition

evolved as the writers responded to different political landscapes through the same ideals of Christian

ethics. The consistent features of the theory are that war should be avoided and used only as a last

resort, but if it is inevitable, then it can be justified. In order for war to be justified, it needs to have a

just cause, which usually refers to addressing injuries and injustices. Additionally, it needs to be carried

out in a limited and effective way with the intention always being to restore peace. These basic

principles also form the foundation of the Responsibility to Protect doctrine. Although the Catholic Just

War tradition was mostly addressing cases of interstate belligerence, the same principles apply and

justify humanitarian interventions.

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[135] Ibid., 144

Chapter III: Utilitarianism

Aside from the Catholic Just War theory, western international law is based on the principles of

Utilitarianism. Jeremy Bentham is accredited with developing the philosophy in his work, *Principles of*

Morals and Legislation, which was published in the late 18th century in England. He was born into a

wealthy aristocratic British family and was aware of the ongoing American bid for independence. When

the American colonies drafted the Declaration of Independence, Bentham was one of the writers hired

to author a rebuttal—his essay, *Short Review of the Declaration*, which mocked the Declaration's

political philosophy was published in a pamphlet that was distributed throughout the colonies. It should

be noted, however, that he called the American bid for independence "rational," but did not find their

reasons effective.[136] When his blueprints for a prison building were rejected by the British government,

Bentham believed the king and other elites conspired and acted upon their own interests. This sense of

injustice, based on the idea that a few people were able to undermine public interest, influenced a lot of

his beliefs about ethical behavior.

According to Macalester College Philosophy professor Henry West, Utilitarianism was developed

in relations to two ideas: ethical hedonism and psychological hedonism. The term hedonism comes

from the Greek word, "*hedone*", which refers to pleasure. Ethical Hedonism, according to West, is the

idea that, "pleasure and pain are the criteria, the production of which makes acts right or wrong."

Meanwhile, Psychological Hedonism is ". . . the theory that pleasure and pain are the ultimate

motivational forces determining actions". West argues that Utilitarianism makes sense when

psychological hedonism is seen as the foundation of ethical hedonism.[137]

Bentham begins his work by stating that, "Nature has placed mankind under the governance of

two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well

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[136] David Armitage. P. 79. The Declaration of Independence: A Global History. Cambridge, MA: Harvard UP, 2007.
Print.
[137] Henry West. P.20. Mill's Utilitarianism: A Reader's Guide. London: Continuum, 2007. Print.

as to determine what we shall do".[138]   This marks a severe shift in thinking from the Catholic Just War

tradition which was based on the idea that human actions and decisions should be determined by a

dedication to God. Bentham goes further to say, "On the one hand the standard of right and wrong, on

the other the chain of causes and effects, are fastened to their throne. They govern us in all we do, in all

we say, in all we think: every effort we can makes to throw off our subjections, will serve but to

demonstrate and confirm it".[139] Thus, Bentham explicitly states that it is not god that humans worship,

but rather a standard of right and wrong.

    According to Bentham, the principle of utility is a way to measure the value of each action or

decision. He says, "By the principle of Utility is meant that principle which approves or disapproves of

every action whatsoever, according to the tendency which it appears to have to augment or diminish

the happiness of the party whose interest is in question: or, what is the same thing in other words, to

promote or to oppose that happiness".[140] The principle justifies actions that increase happiness and

prohibit actions that diminish happiness. Bentham says that this principle applies to every action taken

by individuals as well as ". . . every measure of government".[141]

    After he defined the Principle of Utility which is later given the name, "the greatest pleasure

principle", Bentham goes on to explain how the principle is expanded to apply to governments. First,

Bentham begins by defining a community. According to Bentham, "The community is a fictitious body,

composed of the individual persons who are considered as constituting as it were its members. The

interest of the community then is, what?—the sum of the interests of the several members who

compose it".[142] Next, Bentham defines the term "interest". According to Bentham, "A thing is said to

promote the interest, or to be for the interest, of an individual, when it tends to add to the sum total of

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[138] Jeremy Bentham. P.1. An introduction to the principles of morals and legislation. Oxford: The Clarendon press. 1876
[139]Ibid
[140] Ibid., 2
[141] Ibid., 2
[142] Ibid., 3

his pleasures: or, what comes to the same thing, to diminish the sum total of his pains".[143] Thus all

actions should be taken in the interest of the individual, which means the objective of all actions should

be to increase pleasure and diminish pain. When extended to government, Bentham says, "A measure

of government (which is but a particular kind of action, performed by a particular person or persons)

may be said to be conformable to or dictated by the principle of utility, when in like manner the

tendency which it has to augment the happiness of the community is greater than any which it has to

diminish it".[144] Thus, according to Bentham governments are meant to take actions that will result in

the greatest increase of pleasure of the greatest number of its members.

The most important result of this principle is that it provides a clear criterion for right and

wrong. According to Bentham, "Of an action that is conformable to the principle of utility, one may

always say that it is one that ought to be done, or at least that it is not one that ought not to be done.

One may say also, that it is right it should be done; or at least that it is not wrong it should be done: that

it is a right action; at least that it is not a wrong action. When thus interpreted, the words ought and

right and wrong and others of that stamp have a meaning: when otherwise they have none".[145] Thus

the standard for whether an action is right or wrong or justified or unjustified is determined by whether

or not the action will increase pleasure. Bentham concludes his explanation of the Principle of Utility by

explaining that it does not contradict the concept of natural law found in the Catholic Just War tradition.

He says, "By the natural constitution of the human frame, on most occasions of their lives, men in

general embrace this principle, without thinking of it: if not for the ordering of their own actions, yet for

the trying of their own actions, as well as of those of other men".[146] Thus, just as Aquinas explained that

reason will lead men to make the decisions that are sanctioned by God, Bentham claims that when

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[143] Ibid., 3
[144] Ibid., 3
[145] Ibid., 4
[146] Ibid.,4

individuals use their reason to make decisions, they are naturally guided by the greatest pleasure principle.

Since Bentham intended for Utilitarianism to be used as a means of measurement, in the fourth chapter of his book, he stipulates a rubric by which the utility of any act can be weighed. He begins this chapter by explaining, "Pleasures, then and the avoidance of pains, are the ends which the legislator has in view: it behooves him therefore to understand their value. Pleasures and pains are the instruments he has to work with: it behooves him therefore to understand their force, which is again, in other words, their value".[147] The legislator's main objective is to increase the pleasure of the members of his community, therefore, it is necessary that policy makers understand how to calculate pleasures and pains, because there are several factors that need to be taken into consideration.

The first premise that Bentham lays out is that, "To a person considered by himself, the value of a pleasure or pain considered by itself, will be greater or less, according to the four following circumstances: 1. Its intensity. 2. Its duration. 3. Its certainty or uncertainty. 4. Its propinquity or remoteness".[148] When an individual is considering an action that will affect mostly himself, he needs to consider the impact that the action will have; how intense and long lasting the effect will be as well as how close the effect is and the likelihood of the impact actually occurring. Bentham adds further conditions for actions that are being considered for their ability to lead to other actions. These conditions are, ". . . 5. Its fecundity or the chance it has of being followed by sensations of the same kind: that is, pleasures, if it be a pleasure: pains, if it be a pain. 6. Its purity, or the chance it has of not being followed by sensations of the opposite kind: that is, pains if it be a pleasure: pleasures if it be a

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[147] Ibid., 29
[148] Ibid., 29

pain".[149] The final factor that Bentham explicates is ". . . 7. Its extent; that is, the number of persons to whom it extends; or (in other words) who are affected by it".[150]

In conclusion, Bentham explains how all these factors come together to give the value of an action. According to Bentham, the first step in the process is to add up the values of the pleasures on one side and the pains on the other. If the pleasures side is heavier, the respective action is good as far as the individual is concerned and should be carried out; if there are more pains associated with the act then it is wrong and should be avoided. Then, one must find the sum of the degrees of the good act in relation to each individual who will be affected by it. Likewise, one must find the sum of the degrees of pain that a bad action will inflict on all the individuals who will be affected by it. These sums will tell you whether the action will provide greater pleasure or greater pain to the community as a whole and the individual members within it.[151]

West emphasizes a related stance that Bentham takes, "It is possible for an agent to choose an immediate pleasure that results in a loss of greater pleasure in the future or that results in greater pain in the future. A prudent person will forego on immediate pleasure for greater pleasures later on or to avoid greater pain in the future".[152]

Later on, Bentham considers intentions of actions and recognizes the fact that any action can have several consequences. Thus, he says, "First, the, the intention or will may regard either of two objects: 1. the act itself: or, 2. its consequences".[153] He then goes into more detail and explains several scenarios. According to Bentham, often the act may be intentional without the consequences. In the second scenario, the consequences of the act may also be intentional even though there may be some unintentional stages in the act or in its consequences. However, in this case, Bentham specifies, "But

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[149] Ibid., 30
[150] Ibid., 30
[151] Ibid., 31
[152] Henry West P. 20. Mill's Utilitarianism: A Reader's Guide. London: Continuum, 2007. Print.
[153] Jeremy Bentham. P.82. An introduction to the principles of morals and legislation. Oxford: The Clarendon press. 1876

the consequences of an act cannot be intentional, without the act's being itself intentional in at least the

first stage. If the act be not intentional in the first stage, it is no act of yours: there is accordingly no

intention on your part to produce the consequences: that is to say, the individual consequences".[154]

According to Bentham, "Second. A consequence, when it is intentional, may either be directly so

or only obliquely".[155] If both the act and the consequence are intentional, then the consequence is

directly intentional. However, the consequence is only obliquely intentional when the actor considers

the consequence and is aware that it might occur but it does not constitute a link ". . . in the chain of

causes by which the person was determined to do the act".[156] The third role intention can play in the

utilitarian principle is that "An incident, which is directly intentional, may either be ultimately so, or only

mediately".[157] This means that if the act was intentional and the consequence was also an intended

outcome, the consequence is ultimately intentional when it is the final link in the chain of intended

outcomes—meaning that the particular consequence was the ultimate objective. On the other hand, a

consequence will only be mediately intentional when there is some other consequence which forms the

final link in the chain. Intention can also be involved in such a way that, "When an incident is directly

intentional, it may either be exclusively so, or inexclusively".[158] A consequence is exclusively intentional

when it is the only incident that could have served that purpose and it is the only result being sought by

the action. The consequence is "inexclusively intentional" when there are other factors for which the

act is carried out. The fifth role that intention can play is that, "When an incident is inexclusively

intentional, it may be either conjunctively so, disjunctively, or indiscriminately".[159] The consequence is

conjunctively intentional with another incident when the original intention was to produce both

incidents. A consequence is disjunctively intentional when the original intention was to produce either

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[154] Ibid., 83
[155] Ibid., 84
[156] Ibid., 84
[157] Ibid., 84
[158] Ibid., 85
[159] Ibid., 85

one or the other with no preference between the two. The sixth category states that a consequence is indiscriminately intentional when the original intention was to produce either one or the other indifferently or both, with no preference for either outcome. And lastly, "When two incidents are disjunctively intentional, they may be so with or without preference".[160] The consequences are preferentially intentional, when the actor is hoping for one outcome over the other. The intended consequences are without preference when the intention is to produce either one outcome or the other impartially.

Bentham stipulates a few other criteria regarding intentionality. He says, "it is to be observed, that any act may be unintentional in any stage or stages of it, though intentional in the preceding: and, on the other hand, it may be intentional in any stage or stages of it, and yet unintentional in the succeeding".[161] The Catholic Just War theorists also understood that this could happen and therefore required that in order for a prince to declare war, he must establish and declare the intentions of the war from the onset and he must ensure that all subsequent actions serve only these intentions. He also clarifies that ". . . the effects of an intention to do such or such an act, are the same objects which we have been speaking of under the appellation of its consequences: and the causes of intention are called motives".[162]

With this definition in mind, then, according to Bentham, an individual's intention will be judged as being good or bad based on either the consequences of the act or the motives behind the act. However, Bentham does state that, ". . . the goodness or badness of the consequences depend upon the circumstances".[163] Furthermore, he says that acts and their consequences are results of the will interacting with understanding, while circumstances are products of the understanding only. Thus

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[160] Ibid., 85
[161] Ibid., 87
[162] Ibid., 88
[163]Ibid., 88

regarding circumstances, the only options that individuals have is to be either aware or unaware of them.

University of North Carolina philosophy professor Gerald Postema said of Utilitarianism, "As an evaluative principle, it set out the ultimate grounds of the rightness of action and offered the ultimate court of appeal for moral and political disputes. As a decision principle, it was meant to guide the deliberations and decisions of all moral and political disputes. As a decision principle, it was meant to guide the deliberations and decisions of all moral agents. . .".[164] According to Postema, Bentham has two key insights to offer. The first is the idea that the basic aim of morality is to promote the overall good of the community and the second is that pleasure and pain are alone wholly good or bad in themselves respectively. Postema goes on to say, "Joining this important hedonism with universal consequentialism yields the view that what moral agents ought to do, or what is right for them to do, is that which promotes the overall happiness of people impartially considered".[165]

Seen in this light, the principle of Utilitarianism goes straight to the heart of the Responsibility to Protect doctrine. In his speech to the General Assembly, one of Annan's main concerns was the fact that the international community has failed to respond in consistent ways. He said, "If the new commitment to intervention in the face of extreme suffering is to retain the support of the world's peoples, it must be –and be seen to be-- fairly and consistently applied, irrespective of region or nation. Humanity, after all, is indivisible".[166] Thus he is calling for the principles of Utilitarianism to be applied impartially internationally. As West explained, it is more prudent to forego an immediate pleasure or even take a small amount of pain in the present in return for greater pleasures later on or to avoid greater pain in the future. This is in concordance with the Responsibility to Protect doctrine which calls for immediate prevention and then a quick response, because the longer the violations are allowed to

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[164] Postema, Gerald. "Bentham's Utilitarianism." The Blackwell Guide to Mill's Utilitarianism. By Henry R. West. Malden, Mass. [u.a.: Blackwell, 2006. 26-43. Print.
[165] Ibid.
[166] Annan, Kofi. "Two Concepts of Sovereignty." The Economist (US) 18 Sept. 1999. Print.

persist, the more prevalent they become and the more difficult they will be to alleviate. Bentham

defines the role of government as to serve the public interest or to ensure the greatest happiness of the

greatest number of its members. This is the same way that the Responsibility to Protect doctrine

defines sovereignty. Furthermore, the doctrine states that when the government is unable or unwilling

to do so, it becomes the responsibility of the international community to protect the human security of

these individuals. In such instances, sovereignty may have to be compromised in order to provide the

greatest happiness to the greatest number of individuals. Likewise, it is the United Nations'

responsibility to take actions that maximize happiness for the greatest number. However, each

particular instance will have to be assessed along the standard established by Bentham. Just like

Bentham, the Responsibility to Protect Doctrine also calls for the right intention. To Bentham the right

intention should be to maximize happiness in any given circumstance and to the ICISS the right intention

should be to prevent suffering. Both Bentham and the ICISS recognize that individuals and states have

their own interests that can interact with the intentions that justified the intervention. The

Responsibility to Protect doctrine aims to undermine the effects of individual interests by calling for

multilateral interventions endorsed by the United Nations Security Council rather than unilateral efforts.

The other prominent Utilitarian scholar is John Stuart Mill. Born in 1806, Mill was almost 60

years younger than Bentham, but grew up heavily influenced by him because Bentham was a close

family friend. Mill accepted almost all of Bentham's principles with a stronger emphasis on the

responsibilities of a liberal government. According to Mill, ". . . the Greatest Happiness Principle, holds

that actions are right in proportion as they tend to promote happiness, wrong as they tend to produce

the reverse of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness,

pain, and the privation of pleasure".[167]

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[167] John Stuart Mill., Jeremy Bentham, John Austin, and Mary Warnock. P. 257 Utilitarianism ; On Liberty ; Essay on Bentham: Together with Selected Writings of Jeremy Bentham and John Austin. London: Collins., 1979. Print.

Mill makes the argument that because humans are more developed than animals, it is harder to make humans happy—they are harder to satisfy. Mill takes this argument further to say, "it is quite compatible with the principle of utility to recognize the fact, that some kinds of pleasure are more desirable and more valuable than others. It would be absurd that while, in estimating all other things, quality is considered as well as quantity, the estimation of pleasures should be supposed to depend on quantity alone".[168] This adds a third dimension to Bentham's calculation of pleasure which only included the amount of happiness that each person receives and the number of people. In Mill's view, if there are two options and most of the people who have experience or knowledge in the matter prefer one to the other, it should be accepted as the desirable pleasure. If almost all of the individuals prefer an action, despite knowing that it may come with great pain, it can be assumed that the happiness associated with this choice is of a greater quality.

However, where Mill truly goes beyond the work of Bentham is when he considers alleviating pain. He says, "yet no one whose opinion deserves a moment's consideration can doubt that most of the great positive evils of the world are in themselves removable, and will, if human affairs continue to improve, be in the end reduced within narrow limits".[169] Thus not only do governments have the responsibility to provide the greatest happiness to the greatest numbers of their members, but they also have the responsibility to alleviate pain and suffering, since it is in their power to do so. He goes on to say, "All the grand sources, in short, of human suffering are in a great degree, many of them almost entirely, conquerable by human care and effort; and though their removal is grievously slow . . .every mind sufficiently intelligent and generous to bear a part, however small and inconspicuous, in the endeavor, will draw a noble enjoyment from the contest itself. . .".[170] Mill is saying that there is pleasure to be gained for those who make the effort to alleviate the pain of fellow humans.

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[168] Ibid., 258-259
[169] Ibid., 206
[170] Ibid., 266

Mill also argues that it is possible for people to survive without pleasures as many are forced to do so because of poverty or other ailments, but it also ". . .often has to be done voluntarily by the hero or the martyr, for the sake of something which he prizes more than his individual happiness".[171] He goes on to say, "All the honour to those who can abnegate for themselves the present enjoyment of life when by such renunciation they contribute worthily to increase the amount of happiness in the world; but he who does it, or professes to do it, for any other purpose, is no more deserving of admiration than the ascetic mounted on his pillar".[172] Thus, like Bentham and the Responsibility to Protect doctrine, Mill insists that sacrifice is only justified in cases where it can increase the happiness in the world. Similar actions carried out in the name of other intentions are not justified. Mill says, "The Utilitarian morality does recognize in human beings the power of sacrificing their own greatest good for the good of others. It only refuses to admit that the sacrifice is itself a good. A sacrifice which does not increase, or tend to increase, the sum total of happiness, it considers as wasted".[173] Thus wars, which inherently require sacrifice, are only justified according to Utilitarianism when they increase the happiness in the world. Furthermore, Mill says that when an individual or a state is considering their own happiness and the happiness of others, they must be impartial and base their decision on the quantitative measures of happiness and act in such a way that the happiness of the greatest number will be maximized.

Mill concludes his explanation of the principles of Utility by saying that "the great majority of good actions are intended not for the benefit of the world, but for that of individuals, of which the good of the world is made up; and the thoughts of the most virtuous men need not on these occasions travel beyond the particular persons concerned, except so far as is necessary to assure himself that in benefiting them he is not violating the rights, that is, the legitimate and authorized expectations, of

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[171] Ibid., 267
[172] Ibid., 267
[173] Ibid., 268

anyone else".[174] Thus, Mill suggests that the best way for states to increase the world's happiness is by increasing the happiness of their own members who are members of the world; often in serving their state's own interests they will be serving the world's interests as well. This point is also reminiscent of the Responsibility to Protect doctrine which calls upon states to protect the individuals living in nearby failed states because a vulnerable population can be dangerous to neighboring states.

Mill's other arguments are also in accordance to the Responsibility to Protect doctrine. Firstly, Mill, like the Responsibility to Protect doctrine, makes the claim that humans by virtue of the fact they are human have a right to desire basic dignities. More significant, however, is the fact that Mill like the ICISS says that most of the world's problems—all of the things that make states and humans vulnerable—can be alleviated with help from the international community. However, like the ICISS, Mill also acknowledges that alleviating pain will take a lot of time and a lot of dedication from other states, but he says that such effort will increase the happiness both of those putting in the effort and those receiving the aid. And lastly, like Bentham and the Responsibility to Protect doctrine, Mill sets "right intention" as a precondition for taking action. He says that sacrifices are only justified when they are made in the name of increasing the happiness of the greatest number of people.

Thus in the face of large scale loss of life and/ or ethnic cleansing, intervention is justified by utilitarian principles as long as such action will alleviate more pain than it will create in the process. States are called to protect the individuals within states because by doing so, they will be increasing the world's total happiness. Thus, since the goal is to increase the world's total happiness they need to consider their own interests in relation to the effect that the action will have. The Responsibility to Protect doctrine tries to incorporate this concept by requiring the proper authority; by having the United Nations endorse the intervention by a vote in Security Council, it is understood that the action will benefit the greatest number of people in the world. Since war has the potential to cause more pain

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[174] Ibid., 270

and suffering, the Responsibility to Protect doctrine insists that military intervention be used as a last resort and that all human rights laws regarding warfare are adhered to.

However, utilitarian theory has rarely been used to address the issue of war. According to San Jose State University Philosophy professor, William Shaw, "most contemporary writers on the ethics of war, whether philosophers or not, implicitly work within the just war tradition broadly understood, even when they challenge or revise some of its precepts".[175] He explains that the main reason for this is that natural law theorists and Catholic thinkers played a major role ". . . in sustaining, developing and elaborating just war ideas over the years".[176]

In an attempt to remedy this, Shaw developed his own theory, the Utilitarian War Principle, or the UWP, which proposes a war tradition based on utilitarian principles. According to Shaw, "Consequentialism entails that it is morally right for a state to wage war if and only if no other course of action would have better results . . . Utilitarianism entails [this as well], but because utilitarians believe that individual welfare or well-being is the only thing that is valuable for its own sake, they would refine [the consequentialist view] by replacing "have better results" with "result in greater well-being"".[177] Thus the Utilitarian War Principle reads: "It is morally right for a state to wage war if and only if no other course of action available to it would result in greater expected well-being; otherwise, waging war is wrong".[178] However, Shaw adds an ancillary to the principle by stating that, "It is not only morally right, but also morally required, for a state to wage war if and only if its waging war would result in greater expected well-being than would anything else it could do."[179] Thus, just as the Catholic Just War tradition progressed from debating whether or not it was legal or Christians to partake in warfare to claiming that in certain cases Christians were obligated to go to war, utilitarian theory shifts from

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[175] William H. Shaw (2011). Utilitarianism and Recourse to War. Utilitas, 23 , pp 380-401 doi:10.1017/S0953820811000276
[176] Ibid.
[177] Ibid.
[178] Ibid.
[179] Ibid.

limiting the cases in which states are justified in declaring war to saying that in cases where war is

justified states are required to carry out this war to increase the greatest happiness of the greatest

number.

However, as with the other just war traditions, the Utilitarian War Principle specifies the

conditions in which war is justified. According to Shaw, "UWP requires not only that the benefits of a

contemplated war outweigh its costs, but also that nothing else a state could do would bring about a

better outcome with more well-being, or to be more precise, an outcome with greater expected well-

being".[180] The Utilitarian War Principle is meant to be universal and should consider the interests of

everyone in the world equally, beyond simply considering the interests of the nation or members of the

nation considering war. It should also take into consideration the well-being of future people—Shaw

goes as far as saying that the principle calls for consideration of the interests of all feeling beings, not

just humans. It should be noted that the UWP uses the term, "waging war" rather than "going to war",

because according to Shaw war is not a one-time decision; the objectives and the means of war can

change throughout the process. Shaw emphasizes this by saying that, ". . . that a war is justified at time

t does not entail that it is morally justified at time t+x".[181] While this has been noted by the Just War

tradition as well, it holds special weight in the Utilitarian principle because the benefits that have to

outweigh the costs usually lie far in the future and are less certain, while the costs of warfare are usually

felt immediately and widely. Thus, when considering likely outcomes, if it is uncertain that a proposed

war will satisfy the Utilitarian War Principle, it is best to err on the side of caution and avoid the war,

according to Shaw. Shaw points out that there are three characteristics that almost all wars in history

have had in common. "First, in deciding to wage war states typically neglect or discount the

consequences for other peoples. Justifications for war rarely take a universalistic form or, when they do

the universalism is spurious and what is thought to be good for one side (or for its rulers or for a

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[180] Ibid.
[181] Ibid.

dominant class) is presumed to be thereby good for humanity as a whole".[182] Thus, the overall human

cost is rarely taken into consideration. "Second and relatedly, arguments for war have frequently been

conducted in terms that, if they do not ignore consequences altogether, focus on consequences that

have little or nothing to do with how well or poorly the lives of individual people go (for example, when

wars are fought to defend national honor or fulfill the destiny of a people)".[183] Shaw goes onto say that

this stands in opposition to the Utilitarian War Principle which is ultimately concerned with the

consequences the war will have on individuals. Shaw's next observation refers to the concept of long

term benefits and short-term costs; he says, "Third, it is uncommon for either side to have thought

through in any detailed or serious way, the probable gains and losses of fighting".[184] Both sides

generally believe the stakes of not going to war are high and that the benefits of fighting the war

outweigh the costs incurred during the war.

   After making these observations, Shaw goes on to further elaborate the conditions of the

Utilitarian War Principle. He says that the welfare consequences or the individual happiness

consequences are so great that they render all non-welfare consequences irrelevant. Thus, state

sovereignty can be undermined if it will result in greater pleasure for a greater number of people. He

says, "Common-sense morality would balk, I believe, at the proposition that fighting a war can be right

even when the overall results of fighting would be worse than not fighting. . . And if well-being is

understood broadly enough to encompass goods like liberty and self-determination that are essential to

human flourishing—as Mill and almost all contemporary Utilitarians believe—then most people, I

submit, will find UWP intuitively correct as well".[185] Thus, human security and the factors that make

states immune to failure are considered welfare or pleasure consequences that are worth fighting for.

However, he later specifies that these measurements regarding consequences must be empirically

[182] Ibid.
[183] Ibid.
[184] Ibid.
[185] Ibid.

grounded and must be differentiated from propaganda and emotional appeals—the only thing that

should be considered is the likely outcomes of the real situations that are faced in order to avoid

"baseless assertions about the greater good".[186]

Shaw does admit that more work is needed to determine what wellbeing and pleasure mean

and how they are measured. He says that there is a lot left to learn about biological, social, and

psychological factors and their effects on wellbeing and pleasure, but he says, ". . . when it comes to

questions of war. . . subtle questions of wellbeing are rarely involved: the relevant evils and good are

gross and unmistakable".[187] He also said, "Utilitarians long ago gave up belief in anything like Bentham's

hedonic calculus. They tend, like Mill, to take a broad view of the things that are important for human

flourishing, such as respect for individual autonomy and the upholding of basic rights".[188] Thus, the

costs in war are clearly visible, but if the war is fought to provide things that increase "human

flourishing," the benefits carry greater weight. Shaw adds the further disclaimer that, "Even if we could

assess correctly the goodness or badness of various outcomes. . ., our knowledge of the future is

inevitably tenuous and imperfect, especially insofar as it involves anticipating how others will respond to

what we do".[189] He goes on to admit that "To be sure, there is probably no war of which it can be truly

said that (viewed as a whole) it was a welfare-maximizing event or series of events".[190]

Thus, Shaw shows that in certain cases, when the potential pleasure is greater than the

expected costs, war is not only justified by utilitarianism, but is required. In doing so, he also shows that

pacifism is incompatible with utilitarianism. However, on this point, he clarifies that, ". . .UWP requires

us to focus on concrete norms and benefits to real people. It does not bias ethical analysis toward

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[186] Ibid.
[187] Ibid.
[188] Ibid.
[189] Ibid.
[190] Ibid.

war".[191] Like the just war tradition then, the Utilitarian War Principle offers a limited justification for war—Shaw says that the basic principles of the two traditions are extremely similar although the logical bases might be different. Shaw says, "For all practical purposes, however, the two are close to extensively equivalent for it is difficult to envision real-world scenarios in which a war condemned by the one would be approved by the other, and vice versa".[192]

According to Shaw, the just cause condition set forth in the Just War tradition is in concordance with the Utilitarian War Principle. Shaw says, "In adhering to the just cause principle we run little danger of failing to fight wars that UWP says we should fight, and by restricting ahead of time, in this way, those situations in which we may permissibly entertain the possibility of waging war, we reduce the risk of going to war based on an erroneous belief that doing so maximizes expected well-being".[193] Shaw goes as far as saying that the principles set forth in the just war tradition offer a practical framework in which to analyze the morality of the proposed war. These conditions also address a wide variety of issues that affect whether or not the proposed war is justified by the Utilitarian War Principle.

The principles of the Responsibility to Protect doctrine are also met and justified by the Utilitarian War Principle. The Responsibility to Protect doctrine calls for military intervention only as a last resort when prevention and negotiations have failed, as does the Utilitarian War Principle. Both the doctrine and the UWP call for proportional resources being allocated to the intervention and both require a reasonable prospect of success because this is the only way to minimize costs and pain. And both propositions call for maintaining right intentions in military actions. Finally and most importantly, like the Responsibility to Protect doctrine, the Utilitarian War Principle puts humans at the center of the discourse; the utility of military action is assessed in terms of the pleasure and pain that the individuals

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[191] Ibid.
[192] Ibid.
[193] Ibid.

will incur. Furthermore, the Utilitarian War Principle is based on the principle of guaranteeing security

to the humans within the state and does not refer to state security.

Chapter IV: Modern Just War Theory

Modern international law is also determined by realist political thought. Morgenthau explains

that there are six principles of political realism. It is important to understand these principles in order to

understand the political atmosphere in which the Responsibility to Protect doctrine is making its debut.

Morgenthau's first point is that "Political realism believes that politics, like society in general, is

governed by objective laws that have their roots in human nature".[194] He argues that "For realism,

theory consists in ascertaining facts and giving them meaning through reason".[195] The theory itself

emphasizes rational and objective reasoning. Thus when making a foreign policy decision, the realist

statesman will consider what the rational alternatives are under the given circumstances and decide

from among these alternatives.[196]

Next, he defines the statesman's objectives. Morgenthau says that "we assume that statesmen

think and act in terms of interest defined as power, and the evidence of history bears that assumption

out".[197] This assumption provides a framework through which to consider the decisions that the

statesmen made and the theory is based on the decisions they made and the ensuing consequences. By

defining interest in terms of state power, realism undermines the influence of individual motives and

ideological preferences in the actions pursued by state actors. Morgenthau claims that state power is

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[194] Hans Morgenthau, Kenneth Joachim, Winfred Thompson, and W. David. Clinton. Politics among Nations.
Boston, MA: McGraw-Hill Higher Education, 2006. 4-12. Print.
[195] Ibid.
[196] Ibid.
[197] Ibid.

the most rational explanation for behavior because motives tends to be assessed in terms of emotions

and interests and are often misconstrued and misrepresented.[198]

The third principle of political realism, as explained by Morgenthau is that "Realism assumes

that its key concept of interest defined as power is an objective category which is universally valid, but it

does not endow that concept with a meaning that is fixed once and for all".[199] He notes that human

actions have always been and will continue to be determined by interest, however, the particular

interests pursued will vary given the political and cultural climate of the time. Thus, the definition of

"power" also varies through time. Morgenthau also points out that realism does not insist on the nation

state as the only actor in international relations; today nation states are the primary actors, but that is a

product of history and not necessarily a permanent feature of the political world.

According to Morgenthau, the fourth principle of realism is that "political realism is aware of the

moral significance of political action. It is also aware of the ineluctable tension between the moral

command and the requirement of successful political action. And it is unwilling to gloss over and

obliterate that tension and thus to obfuscate the moral and the political issue by making it appear as

though the stark facts of politics were morally more satisfying than they actually are, and the moral law

less exacting than it actually is".[200] Realist politicians understand that when weighing their alternatives,

the alternative that best serves their interests may stand in opposition to universal morality. Realist

political theory holds that statesmen should not take universal moral principles into account when

making their decisions. Realist politics gives the most credence to "prudence-the weighing of the

consequences of alternative political actions".[201] This is based on the assumption that "Ethics in the

abstract judges action by its conformity with the moral law; political ethics judges action by its political

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[198] Ibid.
[199] Ibid.
[200] Ibid.
[201] Ibid.

consequences".[202] Thus, it is understood that realist politics have a different objective than the code of universal morality.

Morgenthau's fifth principle of Realism is that "political realism refuses to identify the moral aspirations of a particular nation with the moral laws that govern the universe".[203] Morgenthau explains this by saying, "All nations are tempted—and few have been able to resist the temptation for long—to clothe their own particular aspirations in actions in the moral purposes of the universe".[204] It is impossible to objectively claim that a certain action is "good or evil in the relations between nations".[205] However, he does note that nations are subject to the universal moral law, even though their relations with other nations are not subject to these laws. This is why it is necessary to determine actions in terms of state interest or power—it will prevent nations from framing their decisions in terms of morality and other subjective measures. Morgenthau believes that with each nation serving its own interests, every nation will find justice because the actions of every nation can be judged in the same way and once this judgment is made and nations' interests are known, states can protect each other's interests while simultaneously pursuing their own. Furthermore, Morgenthau believes that in behaving in such a way, universal morality will also be respected. He says, "Moderation in policy cannot fail to reflect the moderation of moral judgment".[206]

In his sixth principle of realism, Morgenthau articulates the difference between political realism and other schools of thought. He says, "Intellectually, the political realist maintains the autonomy of the political sphere, as the economist, the lawyer, the moralist maintain theirs. He thinks in terms of interest defined as power. . .".[207] According to Morgenthau, the defining feature of political realism is that realists isolate politics from all other factors when making their decisions. Morgenthau says, "The

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[202] Ibid.
[203] Ibid.
[204] Ibid.
[205] Ibid.
[206] Ibid.
[207] Ibid.

political realist is not unaware of the existence and relevance of standards of thought other than political ones. As a political realist, he cannot but subordinate these other standards to those of politics. And he parts company with other schools when they impose standards of thought appropriate to other spheres upon the political sphere".[208] Thus, to the realist all factors aside from political actions and their consequences are irrelevant and these actions and consequences are assessed in terms of the state's interests or power.

As explained earlier, modern international law is based on the principles of realism and most of today's politicians can be categorized as realist statesmen. This fact has a very direct impact on the Responsibility to Protect doctrine. The Realist school of thought creates a world in which state actors pursue their own interests. According to Morgenthau's definition of interest, each state is seeking to preserve and/or increase its own power in international politics. Realist thought takes states and state actors as the main subject and disregards the principles of morality and other standards. Even the United Nations, which is often viewed as a bastion of liberal ideals tends to reflect realist beliefs as its primary goal is to preserve the territorial integrity of states and protect them from external aggression in order to prevent large scale war. The United Nations recognizes that states' main objective is gaining power. However, the United Nations is a necessary actor in realist politics, because it provides an arena in which states can work out their conflicts without resorting to violence. In effect, it offers a solution to the cooperation problem because without the United Nations, states would hold no rights and their only recourse would be war. Realists believe that the safest world is the one in which states are most secure. The Responsibility to Protect doctrine emerges in this political atmosphere and tries to shift the focus from state security to human security. According to the ICISS, the greatest threat to states is no longer external aggression, but rather state failure due to internal factors. Most of the factors that lead to state failure result from a failure to preserve human security. The Responsibility to Protect doctrine is

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[208] Ibid.

based on the understanding that the safest world is the one in which humans are the most secure. The

ICISS understood that they were making this proposal in a realist world and thus framed the

Responsibility to Protect in a way that conforms to realist political thought.

When Kofi Annan first pushed for the Responsibility to Protect doctrine, he called for a

redefinition of the notion of sovereignty. According to Realist thinkers, sovereignty entails all of the

rights that states have in relation to other states. However, since the United Nations is founded to

protect the rights of both states and individuals, Annan and his supporters had to define sovereignty in

such a way that in order for states to have rights in relation to other states, they had a responsibility to

protect their citizens and residents. Thus, according to Annan, it is no longer the case that the sovereign

has rights that cannot be trespassed by other states and unrestrained monopoly of force within the

state; sovereignty now refers to the government's responsibility to serve the nation. In the event that

this responsibility is abdicated, states lose the rights they held in relation to other states. This seems like

a difficult proposition to reconcile with realpolitik thinking, but the United Nations, which is led by

realist thinkers like Ban Ki Moon, has endorsed the doctrine and thus the member states have had to

accept it as well. This does not contradict Morgenthau's position, once the frame of reference is shifted.

Morgenthau's notions of realism can be applied to individual states, once they are applied to the United

Nations and the system of states—that is, once realist thinkers are in charge of humanity, so to speak—

the notions highlighted in the Responsbility to Protect serves their interests most effectively.

The Responsibility to Protect doctrine states that in cases of large scale human rights violations,

states are required to prevent conflict, and if that fails, to react and stop the violations and then to

rebuild the region and return sovereignty to the legitimate authorities. The ICISS explains that taking

these actions will be in the best interest of these states because when a state collapses, the entire

region becomes more unstable. Furthermore, Morgenthau emphasized the fact that a state's pursuit of

power will take different forms and will require different actions depending on the unique historical and

cultural context. In this sense, Morgenthau was justified when he said that the world will be more just

when states pursue their own interests, because according to Morgenthau, when states pursue their

own interests, they protect individuals and vulnerable populations. Looking at the Just War tradition,

one sees that in this particular case, both universal morality and realism would lead to the same action

albeit for different objectives—the moralists, because protecting peoples and preventing conflict is an

obligation and the realists, because ensuring human security will increase state security. Thus, the

Responsibility to Protect Doctrine can be seen as a product of realist thought interacting with the

current political climate.

In his work *Just and Unjust Wars*, Michael Walzer considers the moral issues surrounding armed

conflict. His book is essentially a restatement or readjustment of the Catholic Just War tradition.

However, he is writing with realism and modern warfare as his point of reference. As such, the first

chapter of his book is called, "Against Realism". The book overall and this chapter specifically focuses on

the reasons for going to war as well as the conduct during war. While Walzer begins with the view that

realists claim to behave in rational and predictable ways that maximize their own benefit without

considering the moral judgments of human conduct. Walzer suggests that the international community

is structured in such a way that statesmen must behave according to the norms of realism in order to

preserve their state. He explains that while Realism may be necessary in certain political situations, it

may not be the most effective measure of justification regarding warfare because war rarely conforms

to the original plan. Walzer says, "War is recalcitrant to this sort of theoretical control—a quality it

shares with every other human activity, but which it seems to possess to an especially intense

degree".[209] Thus war cannot be controlled by the rules of realism or morality, but someone is

responsible for the war because it is a thought out human action. The men and women who are

involved in war are not only the victims, but also the participants. Thus Walzer says, ". . . soldiers and

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[209] Michael Walzer. Just and Unjust Wars: A Moral Argument with Historical Illustrations. New York: Basic, 1977. 14. Print.

statesmen ought to know the dangers of cruelty and injustice and worry about them and take steps to

avoid them".[210] So, according to Walzer, the way a war is carried out is determined by the individuals'

decisions. Walzer also stresses, ". . . that the moral reality of is not fixed by the actual activities of

soldiers but by the opinions of mankind", retrospectively.[211]

Like the Catholic Just War theorists before him, Walzer focuses on moral conduct in war. He

explains the logic of war as "reciprocal action," in which both states increase hostility and aggression

and neither side is guilty, because the side that attacks first is seen as behaving preemptively and the

side that reacts is acting defensively. Furthermore, with each attack the ruthlessness of the attacks

increases as well.[212] As hostilities continue, the damage and instability increases and there is an

increasing human cost. Walzer says, "Hence the peculiar horror of war: it is a social practice in which

force is used by and against men as loyal or constrained members of states and not as individuals who

chose their own enterprises and activities".[213] By showing that the individual soldiers are engaged in war

not because they want to be, but because they have been ordered to, Walzer presents them as victims

of the war. However, he goes on to say, "But the greater number by far of those who suffer in war have

made no comparable choice".[214] The fact that a greater number of civilians are negatively affected by

the war even though they made no decision to be involved in it is a tragedy according to Walzer and he

says that it is important that a distinction is made between soldiers and noncombatants. However,

although he makes this distinction he also says that it is not the primary measure of moral conduct,

because according to Walzer, war in itself is tyrannical and both the soldiers and the noncombatants are

its victims. He says, "For in one sense at least, soldiers in battle and non-participating civilians are not so

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[210] Ibid., 16
[211] Ibid., 15
[212] Ibid., 23
[213] Ibid., 30
[214] Ibid., 30

different: the soldiers would almost certainly be non-participants if they could".[215] In the way that

Walzer frames this argument, it is obvious that he is a taking a human centric stance.

However, he does acknowledge that the rules and norms of warfare are state-centric. He says,

"During the past 100 years, these rights and obligations have been specified in treaties and agreements,

written into international law . . . initially, this stipulation was not based upon any notion of the equality

of soldiers but upon the equality of sovereign states, which claimed for themselves the same right to

fight (right to make war) that individual soldiers more obviously possess".[216] Although Walzer sees

soldiers as pawns of war, he believes that they too have moral and obligations and rights. But since

international laws were codified in terms of realist politics, these rights and obligations were given to

states or more practically, statesmen who were believed to act in the best interests of the nation. By

framing the argument in this way, Walzer redefines war. He says, "War is a legal condition which

equally permits two or more groups to carry on a conflict by armed force. It is also, and for our

purposes more importantly, a moral condition involving the same permissiveness, not in fact at the level

of sovereign states, but at the level of armies and individual soldiers".[217]

Walzer begins his book by pointing out the flaws or incomplete nature of realist political thought

when applied to war. He explains that the rules of realism cannot be properly practiced in war, because

war is impacted by several individual and perhaps irrational, decisions. Realism undermines individual

decisions in war, because it is focused on state actors and assumes that statesmen will behave rationally

in the nation's best interests. This is in accordance with the human-centric view of the Responsibility to

Protect doctrine—according to the doctrine the main players are the individuals and the sovereign

states are only there to protect them. Walzer's main break with the realist tradition however, is that he

does not use state sovereignty as a measure of ethics; rather he uses individuals as his reference point.

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[215] Ibid., 30
[216] Ibid., 40
[217] Ibid., 41

In doing so, Walzer also breaks away from previous Just War thinking which called for a distinction to be made between soldiers and non-combatants; to Walzer all individuals involved in war are war's victims, regardless of their role and allegiance. The Responsibility to Protect Doctrine also agrees with this evaluation, because it establishes the reasonable prospects clause in order to ensure that human casualties on all sides are minimized, to the point where if it is believed that an intervention will only result in interveners losing their lives without being able to save the lives of the people on whose behalf they are intervening, the intervention is not justified. This illustrates the fact that both Walzer and the Responsibility to Protect doctrine see all human life as carrying equal value, just as in international law all sovereign states are considered equal.

The idea that all human life carries equal weight is also incorporated into Terry Nardin's work *The Moral Basis of Humanitarian Intervention*. His argument shifts the frame of the argument away from the idea of morality in opposition to realism and instead "Nardin draws attention to a "common morality" undergirding relations between all human beings, as distinct from the morality shared by members of particular communities".[218] Accepting this belief, Nardin believes that "when the behavior of a state transgresses the limits of this common morality—for example, when genocide against a minority group is unleashed—state sovereignty provides no moral barrier to armed intervention by outsiders to rescue the regime's victims".[219] Nardin goes as far as suggesting that, "Indeed, if states, collectively or individually, can intervene at acceptable costs, our common morality obligates this action".[220] This view is also held by the Utilitarian War Principle.

Nardin begins his essay by saying, "Humanitarian intervention is usually discussed as an exception to the nonintervention principle. According to this principle, states are forbidden to exercise

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[218] Kinsella, David Todd., and Craig L. Carr. Introduction. The Morality of War: A Reader. Boulder: Lynne Rienner, 2007. 55-58. Print.187-190
[219] Ibid.
[220] Ibid.

their authority, and certainly to use force, within the jurisdiction of other states".[221] This principle is

supported by the United States Charter, which allows states to defend themselves from external attack,

but does not allow states to compromise the territorial integrity and political independence of other

states. When taken together, these principles prohibit intervention, including humanitarian

intervention. The early Catholic Just War scholars said that two of the cases in which war is justified is

when a state is attempting to avenge a former wrong and/ or to prevent a wrong from occurring.

Extrapolating from this claim, Nardin says, "Rulers, these moralists agreed, have a right and sometimes a

duty to enforce certain laws beyond their realms. Some of these belong to the "law of nations" (ius

gentium), understood not as international law but as general principles of law recognized in many

different communities. This law of nations is an inductively established body of norms common to all or

most peoples".[222] This is Nardin's definition of "Common Morality" which humans are entitled to

because they are human and not because they belong to a particular community. Nardin assesses

humanitarian intervention through the lens of this common morality. He says, "To get to the idea of

humanitarian intervention, we must shift our attention from wrongs done by one community to another

to those done by a government to its own subjects, either directly or by permitting mistreatment. And if

the justification of war is to prevent or punish wrongdoing, it is not hard to make this shift".[223] The only

modification required to make the shift is accepting the notion that actions need to be taken to prevent

or avenge wrongs done to any peoples and not simply people who belong to a certain state. This is a

break from original Catholic Just War theory in that, "Grotius's "thin" or minimal morality requires

human beings to refrain from injuring one another but does not require that they help one another".[224]

Grotius's views are based on the belief that humans are inherently self-preserving and because this is

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[221] Terry Nardin. The Morality of War: A Reader. P. 196 Ed. David Todd. Kinsella and Craig L. Carr. Boulder: Lynne Rienner, 2007. Print.
[222] Ibid., 197
[223] Ibid., 197
[224] Ibid., 197

natural, they cannot be blamed for being self-preserving and in fact have a right to be. In modern international law, this right is extended to artificial entities, like states which also coexist in a condition of nature. Thus, the natural law does not require individuals or states to protect one another, but it does legalize such an intervention and this holds regardless of which groups the victims identify themselves with. Grotius is in agreement with this last point as well, according to Nardin. He begins by refuting the notion that a government cannot legally wage war to defend people who are outside the government's jurisdiction. He says, "If we accept this view, Grotius argues, no sovereign state would be able to punish another for harming him or his subjects. The right to punish is based not on civil power but on the law of nature, which existed before there were civil societies".[225] This is also the point at which the Catholic Just War tradition intersects with realist political thought, because both believe that the highest enforcing power is the sovereign ruler of each state. Nardin explains this by saying that, "Because in the state of nature unpunished violations of natural law by on sovereign harm every other sovereign by undermining natural law, any sovereign can punish such violations" and it would be in the state's best interests to do so.[226] From this, Nardin draws his conclusion that because every sovereign has the right to punish another sovereign for harming individuals, every sovereign in the international community is justified in carrying out humanitarian intervention in specific cases.

Aside from state sovereignty, the other argument made for nonintervention is that the victims need to defend themselves. According to Mill, they must struggle to win their own freedom and must suffer the consequences if they fail to achieve it. They must achieve it themselves, without foreign assistance, because it is only with self-determination that peoples are truly free, according to Mill.[227] Nardin counters this argument by explaining that, "Morally speaking, it is the act of oppression, not a

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[225] Ibid., 198
[226] Ibid., 198
[227] Ibid., 199

request for assistance that justifies an intervention".[228] International lawyers today tend to agree with

Mill. International law also states that when states are legally allowed to intervene to prevent large

scale loss of life, they are only justified in carrying it out with the consensus of the international

community.

Nardin then goes on to clarify the notion of the "common morality". He says "the principles of

common morality—like those that prohibit murder and deliberate harm to innocents and teach

friendship, cooperation and fairness—are basic to civilized life and are in fact recognized in most

communities and traditions. This broad recognition is of immense practical importance, for it means

that in appealing to common morality, the moralist is appealing to principles whose authority has

already been granted, implicitly if not explicitly, by a great many people".[229] Thus these principles can

be accepted as being almost universal and moralists can claim that they should be universally applied.

Nardin explains that common morality is based on the concept of respect—everyone is entitled to this

respect simply by being human. Thus, using force without good reason violates this respect and the

violators lose their claim to respect—this is why murder is wrong, but self-defense is justified. According

to Nardin, "To respect other human beings as rational agents means not only that we must not interfere

with their freedom but also that we should assist them in achieving their ends".[230] However, he

emphasizes the fact that in attempting to help others, states are prohibited from doing wrong for their

sake and are only required to act within their capacity. This means that defending other peoples should

not cause a state to make itself or other parties besides the guilty party more vulnerable. It is most

natural that all states consider their own self-preservation first and foremost.

Nardin then goes on to specify the cases in which humanitarian intervention is permissible. He

says, "but usually only the gravest violations, like genocide and ethnic cleansing, are held to justify

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[228] Ibid., 199
[229] Ibid., 200
[230] Ibid., 201

armed intervention. Such acts affect the lives of many people and the fate of entire communities. In

the classic phrase, they "shock the conscience of mankind"".[231] The sovereign authority is given certain

rights within a state, because it is responsible for bringing humans together as a nation. Thus citizens

obey the laws specified by the state, because it is maintaining order and security in the region for them.

Such a state has the right to noninterference from external actors. Thus, common morality also

recognizes that it is important for states to have rights to its independence and its boundaries, but the

same principles which grant the state these rights also justify humanitarian intervention. If a

government is violating the rights of its subjects, other states can defend those rights, using force if

necessary. He emphasizes the fact that the nonintervention principle does not grant a state the right to

violate the rights of its subjects. However, any force that is used for this purpose must comply with the

established laws of war and must distinguish between soldiers and noncombatants.

Nardin bases his justification of humanitarian intervention on the notion of a common morality,

that people are granted certain rights simply by being human and that if these rights are violated, other

states can intervene to end the violation. To Nardin, state sovereignty does not give a state the right to

violate the rights of their citizens. This is in accordance with the Responsibility to Protect doctrine which

redefines state sovereignty as a responsibility that governments have to protecting their subjects.

When the state is unable or unwilling to protect its members or in cases where it is the perpetrator, the

responsibility to protect falls to the international community or other states in the region. Like Nardin,

the Responsibility to Protect doctrine is human-centric and states that individuals have the right to be

protected simply because they are human.   Furthermore, the conditions that Nardin establishes when

carrying out humanitarian intervention—that states must adhere to the established rules of war and

that they must only intervene if they have a reasonable prospects of winning and if they can allocate the

necessary resources without making themselves vulnerable—are all specified in the Responsibility to

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[231] Ibid., 202

Protect doctrine's conditions for justifying military intervention. Thus, the Responsibility to Protect finds

a strong foundation in Common Morality.

Michael Walzer dedicates a section of his book to humanitarian interventions as well. He states,

"Both individuals and states can rightfully defend themselves against violence that is imminent but not

actual, they can fire the first shots if they know themselves about to be attacked . . . In most legal

accounts however, it is severely restricted".[232] Thus, Walzer is accepting the assumption that self-

defense is morally justified, while pre-emptive war and intervention are more questionable. He explains

that such severe limitations are necessary because of the realities of war, "it is inevitable, of course, that

political calculations will sometimes go wrong; so will moral choices; there is no such thing as a perfect

society".[233] Thus, because so many things can go wrong, in certain cases, it may be best to leave the

situation alone. However, he goes on to explain that in certain cases, intervention can be allowed.

According to Walzer, "the line between legitimate and illegitimate first strikes is not going to be

drawn at the point of imminent attack, but at the point of sufficient threat. That phrase is necessarily

vague. I mean it to cover three things: a manifest intent to injure, a degree of active participation that

makes that intent a positive danger, and a general situation in which waiting, or doing anything other

than fighting greatly magnifies the risk".[234] Thus Walzer says that military intervention can be justified

only if it is being used as a last resort and says that military action should only be used when diplomacy

has failed, but intervention can still be successful. Walzer explains that it is the same principles that

protect state sovereignty that require state sovereignty to be compromised in certain situations—the

protection of individuals in a certain region. He says, "The word [intervention] is not defined as a

criminal activity, and though the practice of intervening often threatens the territorial integrity and

political independence of invaded states, it can sometimes be justified. It is more important to stress at

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[232] Michael Walzer. Just and Unjust Wars: A Moral Argument with Historical Illustrations. New York: Basic, 1977. 74. Print.
[233] Ibid., 80
[234] Ibid., 81

the outset, however, that it always has to be justified".[235]   He also explains that the restrictions on

armed humanitarian interventions should be especially high, not only because of the destruction that

war causes, ". . . but also because it is thought that the citizens of a sovereign state have a right, insofar

as they are to be coerced and ravaged at all, to suffer only at one another's hands".[236] Thus Walzer

states that humanitarian intervention should only be carried out in situations where the war will not

bring harm to civilians because if there are going to be civilian casualties either way, they might as well

occur at the hands of members of the same nation.

Walzer then goes onto explain and counter John Stuart Mill's essay, *A Few Words on Non-Intervention*. In this essay, Mill stresses the importance of self-determination and says that nations

possess self-determination even if they struggle and fail to establish a free society. The existing regime

is still self-determined; according to Mill, the only time a state is deprived of self-determination is when

a government is established by foreign powers. Thus a free society established by foreigners is less

independent than a self-determined totalitarian government. Mill also argues that political freedom

cannot be established by foreign armies because these freedoms are based on individual virtue.

According to Mill, the only situation in which armies could establish this virtue would be when they

inspire an active resistance in which locals fight for self-determination against the existing sovereign.

Mill says, "The (internal) freedom of a political community can be won only by the members of that

community".[237] Regarding Mill's argument, Walzer says, "It has to be stressed that there is no right to

be protected against the consequences of domestic failure, even against a bloody repression".[238] Thus,

according to Mill, there is no justification for humanitarian intervention. Walzer says, "These are the

truths expressed by the legal doctrine of sovereignty, which defines the liberty of states as their

independence from foreign control and coercion. In fact, of course, not every independent state is free,

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[235] Ibid., 86
[236] Ibid., 86
[237] Ibid., 88
[238] Ibid., 88

but the recognition of sovereignty is the only way we have of establishing an arena within which

freedom can be fought for and (sometimes) won".[239] Although states may not be free and although

they may violate the rights of their subjects, international relations is founded on the principle of state

sovereignty.

However, Walzer disagrees with Mill and says that there are three situations in which the

territorial integrity and political independence of a state can be compromised. In all of these situations,

state sovereignty does not serve the purpose for which it was given to the state by the international

community. The first case that Walzer suggests is "when a particular set of boundaries clearly contains

two or more political communities, one of which is already engaged in a large scale military struggle for

independence; that is, when what is at issue is secession or "national liberation"".[240] The second

situation that Walzer describes is "when the boundaries have already been crossed by the armies of a

foreign power, even if the crossing has been called for by one of the parties in a civil war, that is, when

what is at issue is counter-intervention".[241] The final scenario that Walzer includes is "When the

violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-

determination or "arduous struggle" seem cynical and irrelevant, that is, in cases of enslavement or

massacre".[242] Thus, according to Walzer, foreign powers are justified in carrying out armed

interventions in states when a group is engaged in an independence movement, when the state's border

have been crossed by a different foreign power, and/ or in cases of large scale human rights violations.

Walzer emphasizes the fact that armed intervention is only justified if it is the exception to the rule and

only in cases where it is absolutely necessary and all other means have failed. It is for this reason that

Walzer insists that ". . . intervening states must demonstrate that their own case is radically different

from what we take to be the general run of cases, where the liberty or prospective liberty of citizens is

[239] Ibid., 89
[240] Ibid., 90
[241] Ibid., 90
[242] Ibid., 90

best served if foreigners offer them only moral support".[243] From this, it is obvious that Walzer takes a

restrictive view on humanitarian intervention. Walzer says that in deciding whether or not to intervene,

the state will naturally consider the costs and benefits to itself, but it must also consider the threats it

will pose to the population that it is trying to protect as well as to anyone else who will be affected by

the action. Walzer says, "An intervention is not just if it subjects third parties to terrible risks: the

subjection cancels the justice".[244] Walzer clarifies that in considering third party rights, intervening

states should not allow the local political interests of great powers to dictate the decision to intervene.

It is vital that intervening powers prevent this from occurring because according to Walzer, "As soon as

one outside power violates the norms of neutrality and nonintervention, however, the way is open for

other powers to do so".[245] Walzer fears that humanitarian intervention can easily turn into instances of

neocolonialism. For these reasons, Walzer insists that there must be reasonable prospects of winning

for an intervention to be justified.

Walzer explains that military intervention is justified in cases of gross human rights violations

because "If the dominant forces within a state are engaged in massive violations of human rights, the

appeal to self-determination in the Millian sense of self-help is not very attractive. That appeal has to

do with the freedom of the community taken as a whole; it has no force when what is at stake is the

bare survival or the minimal liberty of (some substantial number of) its members".[246] It is clear that

Walzer also takes a human-centric definition of state sovereignty. He is arguing that if the state is

harming its populations, there is no reason to protect its sovereignty.

While Walzer does say that humanitarian intervention can be justified in certain cases, he also

says, ". . . clear examples of what is called "humanitarian intervention" are very rare. Indeed, I have not

found any, but only mixed cases where the humanitarian motive is one among several. States don't

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[243] Ibid., 91
[244] Ibid., 95
[245] Ibid., 97
[246] Ibid., 101

send their soldiers into other states, it seems, only in order to save lives. The lives of foreigners don't

weigh that heavily in the scales of domestic decision-making".[247] Walzer also explains that when

intervening on behalf of people, the intervening state is involving itself in the goals of these peoples. He

says that while the intervening state is not obligated to achieve these objectives for the people, they are

also not allowed to hinder their achievement. Walzer says, "The people are oppressed, presumably,

because they sought some end—religious toleration, national freedom, or whatever—unacceptable to

their oppressors. One cannot intervene on their behalf and against their ends".[248] By stating these two

principles, Walzer is emphasizing the need for a right intention to be maintained throughout the entire

operation and that all actions in the military intervention serve these intentions, therefore he

discourages unilateral action which tends to result in a dominant power occupying a weaker power.

However, while he discourages unilateral action, he does not insist on waiting for United Nations

consensus, because it has proved ineffective in the past even when all other conditions were met to

justify humanitarian intervention. Walzer says, "Any state capable of stopping the slaughter has a right,

at least, to try to do so".[249] In summary, Walzer says, "Humanitarian intervention is justified when it is a

response (with reasonable expectations of success) to acts "that shock the moral conscience of

mankind"".[250]

       Thus, just like the Responsibility to Protect doctrine, Walzer justifies humanitarian intervention

in the cases of mass murder and/ or ethnic cleansing. However, he includes other scenarios in which

humanitarian intervention will be justified, such as counter intervention and civil war, which the ICISS

does not consider as reason for intervention. His justifications for humanitarian intervention are based

on the same definition of state sovereignty that the Responsibility to Protect doctrine is based on.

Walzer explains that the objective of sovereignty is that individuals and states can defend themselves

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[247] Ibid., 102
[248] Ibid., 102
[249] Ibid., 108
[250] Ibid., 107

against violence. Thus, both the Responsibility to Protect and Walzer assume that individuals have a

right to human security and define sovereignty in terms of responsibility. Walzer also suggests the same

conditions for military interventions propagated by the Responsibility to Protect doctrine. Both call for

reasonable prospects for success. Walzer says that the intervening states have to prove that the

benefits of intervening outweigh the costs. Furthermore, military intervention has to be a last resort;

the benefit of military intervention must be significantly higher than not doing anything. Like the

Responsibility to Protect doctrine, Walzer calls for intervening states to maintain right intentions

throughout the operation. He emphasizes the fact that interveners cannot hinder the objectives of the

individuals on whose behalf they are intervening. To ensure that this does not occur, both Walzer and

the Responsibility to Protect doctrine call for multilateral efforts.

Part III: The Responsibility to Protect and Political Consciousness

Introduction:

Seeing the position of war and humanitarian intervention evolve since the fourth century shows that there is no timeless notion of what constitutes justified war. Prior to the Catholic Just War tradition, warfare in itself was illegal and Christians were prohibited from participating in the army. It was a major break with tradition for scholars like St. Augustine and Thomas Aquinas to say that war was not only justified but obligatory in certain instances. From a 21st century point of view, war seems almost like a natural occurrence—to know that at one point war needed to be justified and given limited legitimacy shows that there is no eternal convention of war. The overlapping of Christian scholars' arguments for war with the world's shift towards a secular rule by princes shows that thoughts regarding war and the authority to engage in war vary depending on the current political climate. The scholars of the Catholic Just War tradition defined it in terms of serving god by serving the state. Thus, the Catholic Just War tradition gradually shifted away from pacifism and towards secular authority simultaneously.

The Utilitarian thinkers who followed them framed their arguments for intervention and war in terms of morality. They were not simply breaking away from pacifism; rather they considered reasons for war in terms of number of people who would be affected by the operation and the amount of happiness that could be brought to each. They were not concerned about answering to a diety, but more concerned about the well-being of humanity.

The world of the 20th century saw two massive wars fought in the name of the political independence and the territorial integrity of states. This was a very different world than the one in which the Catholic Just War writers were thinking. This was instead a world of state actors and

nationalism and the means to carry out total war. The notions of Balance of Power and Realism were

developed in this political climate and the United Nations was established in order to prevent wars of

territorial aggrandizement. States became members of the United Nations because it was in their best

interests to do so. The United Nations provided a forum for states to solve their conflicts by diplomatic

means and prevent war. Participation in such intergovernmental organizations served the realist ideals

of the states.

By the 21st century, the atmosphere of international politics had shifted remarkably.

The internet and free market system had produced an extremely interconnected world, a world in which

state politics had two layers: the international and the domestic. This is a world in which state

sovereignty is accepted as a given as the stakes of warfare have increased dramatically. However, it is

also a world with alienated and vulnerable populations who pose a major threat to the international

system. These groups tend to resort to asymmetric warfare, guerilla warfare, and terrorism. Human

vulnerability makes states weaker and in turn failed states make humans more vulnerable. Recently,

intrastate conflicts have been more prevalent than interstate conflicts.

In his 1999 speech to the Security Council regarding state sovereignty, Kofi Annan

explains that the international community needs to transition from thinking in terms of sovereignty as a

right that states have in relation to other states to an understanding of sovereignty as a responsibility

that state authorities have to their people. His speech was a response to the international community's

reaction to the genocides in Rwanda, Somalia, and Kosovo. He accused the international community of

failing to respond in effective and consistent ways. His call for change resulted in the ICISS document on

the Responsibility to Protect. However, simply drafting a doctrine is very different from its prescriptive

claims of action becoming an accepted norm of behavior among members of the international

community.

In order to see how the Responsibility to Protect plays out in reality, this thesis will consider two case studies. The first case study will focus on the NATO action in Kosovo which was ongoing as Annan delivered his speech to the Security Council, but before the ICISS published their report or the 2005 World Summit which included the Responsibility to Protect in its outcome document. The second case study will consider the 2011 United Nations authorized operation in Libya. It will focus on the rhetoric used by the United Nations, regional groups, and states in their arguments for and against intervention. Noting the differences between these two operations will show the whether the objectives of the Responsibility to Protect doctrine have entered the consciousness of the international community.

Chapter V: Kosovo, 1998-1999

One of the main examples of intervention that Kofi Annan kept referring to in his speech that provoked the Commission to draft the Responsibility to Protect doctrine was the NATO intervention in Kosovo during the year 1999. This is a particularly interesting example because today it seen as a successful humanitarian intervention, however at the time, NATO was acting without—and perhaps even against—Security Council approval. This intervention occurred before the Responsibility to Protect doctrine was drafted, but aside from Right Authority, it does meet most of the conditions of the Responsibility to Protect. The United Nations did eventually retroactively approve NATO's operation; however, the intervention appeared to be representing Western interests rather than the international community's. The incident overall provoked Annan to comment that the international community had failed to react to modern humanitarian crises in a consistent and reliable manner.

The 1999 crisis in Kosovo traces back to the early 1980's when Josip Tito, the Yugoslavian dictator died. Yugoslavia was a federation of 6 republics united under Tito's leadership.

This included, the Socialist Republic of Bosnia and Herzegovina, the Socialist Republic of Croatia, the Socialist Republic of Macedonia, the Socialist Republic of Montenegro, the Socialist Republic of Slovenia, and the Socialist Republic of Serbia which included the provinces of Kosovo and Vojvodina. Of these, Serbia was the largest state, but the Serbian ethnic group did not constitute a majority. Each state contained a mix of ethnic groups and all members of these states held equal rights under Tito. Following his death, economic and ethnic tensions flared up simultaneously in the region.[251] The oil and debt crisis that followed Tito's death destabilized the union of states and increased the income disparity between northern and southern Yugoslavia. The ensuing economic crisis created the need for economic and political reform. The Serbs pushed for greater centralization to use state power to redistribute wealth from the northern republics to the southern ones. Meanwhile, the Slovenes and the Croats wanted greater decentralization and less market regulation. They believed that such an economic reform would offer an opportunity to reduce government intervention. Thus, several Yugoslav states the states involved had conflicting goals.[252]

In his book, *Balkan Ghosts: A Journey through History*, Robert Kaplan discusses his travels through Yugoslavia and particularly his interaction with Milovan Djilas, one of Tito's wartime lieutenants in the Yugoslav struggle against the Nazis. According to the book, Djilas had told Kaplan in 1981, "[the Yugoslav system] was built only for Tito to manage. Now that Tito is gone and our economic situation becomes critical, there will be a tendency for greater centralization of power. But this centralization will not succeed because it will run up against ethnic-political power bases in the republics. This is not classical nationalism but a more dangerous, bureaucratic nationalism built on economic self-interest. This is how the Yugoslav system will begin to collapse."[253]

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[251] Infoplease. Infoplease. Web. 25 Mar. 2012. <http://www.infoplease.com/spot/yugotimeline1.html>.
[252]Stam, Allan C. "Logic of Ethnic War." Class Lecture for Human Security. University of Michigan Museum of Art, Ann Arbor. 25 Oct. 2010. Lecture.
[253] Kaplan, Robert D. Balkan Ghosts: A Journey through History. P. 75 New York: St. Martin's, 1993. Print.

Slobodan Milosevic used Kosovo as an opportunity to seize power in the region and manipulated the nationalist sentiment that was sweeping through Yugoslavia to mobilize power and support for his goals."[254] He used this nationalist fervor furthermore in order to install puppet leaders in Vojvodine, Montenegro, and Kosovo. He captured four of the eight votes and won the collective presidency, thus Serbia was likely to prevail in the wider Yugoslavian struggle over political and economic reform. However, Djilas had told Kaplan that, "Milosevic's authoritarianism in Serbia is provoking real separation. Remember what Hegel said, that history repeats itself as tragedy and farce. What I mean to say is that when Yugoslavia disintegrates this time around, the outside world will not intervene as it did in 1914. . .".[255] Djilas also recounts, "In December 1989, Slovenia and Croatia were experiencing peaceful transitions to democratic rule, and even here in Serbia—so Byzantine, so Orthodox, so Eastern—the breath of liberalization was unmistakable."[256] However, in this meeting in 1981, he did also say, "Milosevic still has possibilities. . . The liberalization you see has a bad cause. It is the consequence of national competition between Serbia and the other republics. Eventually Yugoslavia might be like the British Commonwealth, a loose federation of trading nations. But first, I am afraid, there will be national wars and rebellions. There is such strong hate here." [257]

And this is precisely what happened. Soon after the economic reform began to occur, by the fall of 1989, Slovenia prepared for independence. Because of its large ethnic majority, it was able to pass a constitutional amendment that denied the Federal Yugoslavian government authority in the region. In response to this, Milosevic suspended economic relations with Slovenia. Despite these efforts, Slovenia and then Croatia made their bids for independence and achieved it fairly peacefully because of their

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[254] Stam, Allan C. "Logic of Ethnic War." Class Lecture for Human Security. University of Michigan Museum of Art, Ann Arbor. 25 Oct. 2010. Lecture.

[255] Kaplan, Robert D. Balkan Ghosts: A Journey through History. P. 75-76 New York: St. Martin's, 1993. Print.

[256] Ibid.

[257] Ibid.

ethnic majorities. When Bosnia attempted something similar however, ethnic war broke out. In the late

1980's ethnic Albanians in Kosovo tried to gain their independence from Serbia.[258]

Milosevic responded to these calls by pressuring the Kosovo Assembly to approve the abolition

of the province's autonomous status.[259] The following year, Serbia dissolved the Kosovo assembly and

ethnic Albanian legislators in the province declare independence. By 1991, "Tens of thousands of ethnic

Albanians in Kosovo lose their jobs. Separatists, in a secret referendum, proclaim the Republic of

Kosovo, which is recognized by Albania."[260] The following year, when Serbian authorities refuse Kosovar

bids for self-determination, "In defiance of Serbian authorities, ethnic Albanians elect writer Ibrahim

Rugova as president of the self-proclaimed republic and set up a provincial assembly. Serbia declares

the election to be illegal."[261] Once denied diplomatic means, the Kosovars resorted to violence and in

1996, the Kosovo Liberation Army (KLA) claimed responsibility for a number of bombings and attacks

against Serbian police and state officials, and Albanians loyal to Serbia."[262] In 1997, both Serbian and

KLA violence increased, with KLA attacks on police stations and raids on refugee camps. In September,

Serbian police crush Albanian student demonstrations in September.

The following year, violence escalated rapidly in the Kosovar villages. Between February and

March, "Serbian police conduct a series of raids in the Drenica region of Kosovo. Houses are burned,

villages emptied, and dozens of ethnic Albanians killed. Street clashes erupted as tens of thousands

protested in the Kosovo capital of Pristina. Disregarding Western calls for compromise, Kosovo Albanian

leader Rugova demands outright independence."[263] This act is important to note because it shows that

even before the Responsibility to Protect doctrine, state officials and regional organizations understood

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[258] Stam, Allan C. "Logic of Ethnic War." Class Lecture for Human Security. University of Michigan Museum of Art, Ann Arbor. 25 Oct. 2010. Lecture.
[259] "Kosovo: Timeline of Important Events 1989-1999. USIA." HLSS. University of Western England, 16 Apr. 2004. Web. 25 Mar. 2012. <http://www.ess.uwe.ac.uk/kosovo/Kosovo-chronology3.htm>.
[260] Ibid.
[261] Ibid.
[262] Ibid.
[263] Ibid.

the importance of intervening diplomatically first in order to prevent the violence from escalating.

However, neither party complied with these diplomatic efforts. In April, "95 percent of Serbs voted

against international mediation in Kosovo. The Contact Group for the former Yugoslavia, with the

exception of Russia, agreed to impose new sanctions against Yugoslavia."[264] This seems to have been

effective, because by May of 1998, Milosvec invited Rugova for peace talks. However, even as

negotiations began in Pristina, fighting intensified.[265] On June 23, United States' envoy Richard

Holbrooke met with Milosevic in Belgrade to urge an end to the conflict. In these talks, "Holbrooke

warn[ed] the Serb leader that NATO air strikes are inevitable if his army continues its clampdown.

"What's left of your country will implode," Holbrooke [said]."[266] The following day, he met with

commanders of the ethnic Albanian commanders in the village of Junik. This unilateral diplomatic

intervention and threats on behalf of the United States provoked Security Council concern. UN

Secretary General Kofi Annan cautioned NATO that it must seek a Security Council mandate for any

military intervention.

According to an article published by the BBC on June 26, 1998, "The United Nations Secretary-

General, Kofi Annan, speaking in Britain, has said he is confident the Security Council will not be slow to

assume what he called its grave responsibility if peaceful efforts to stop the violence in Kosovo fail."[267]

This shows that Annan accepted the doctrine's notion that the right authority to authorize such

intervention is the Security Council and that he also believed that military intervention should only be

used as a last resort. However, the difference in rhetoric can easily be gauged; the international

community was not working with the assumption that the responsibility to protect individuals was

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[264] Ibid.
[265] Ibid.
[266] Waller, Douglas. "Mission Impossible: An inside Look at How Richard Holbrooke Tries to Halt the Ethnic Bloodshed in Kosovo." CNN. Cable News Network, 6 July 1998. Web. 25 Mar. 2012. <http://www.cnn.com/ALLPOLITICS/1998/06/29/time/holbrooke.html>.
[267] "World: Europe Annan Says Security Council Will Act If Kosovo Peace Efforts Fail." BBC News. BBC, 26 June 1998. Web. 25 Mar. 2012. <http://news.bbc.co.uk/2/hi/europe/121117.stm>.

inherently theirs. It appears instead, as though the Security Council would be hesitatingly willing to

carry out such an action, but their main objective in doing so would be to prevent other groups from

intervening unilaterally and causing greater political instability in the region. According to the article, ". .

. Mr. Annan stressed that only the Security Council has the authority to decide on military

intervention."[268] The article concludes by commenting on Annan's statements, "Correspondents say this

is a clear reference to the position of the United States, which maintains that NATO has the authority to

intervene if an internal conflict presents a risk to international peace."[269] The position of NATO and the

US as well as that of the Security Council show that none of the parties involved were framing their

arguments in terms of the individuals involved. Both were offering realist, state-centric explanations for

their respective decisions.

Despite Holbrooke's initial attempts and the possibility of intervention, the violence continued

into the summer of 1998. "On July 6, the US Charge d'Affaires in Belgrade and his Russian counterpart

launch the Kosovo Diplomatic Observer Mission (KOM) to report on freedom of movement and security

conditions throughout Kosovo."[270]

The situation intensified and finally in August, the United Nations issues Resolution 1160 which

calls for a ceasefire after the Serbian military takes the KLA stronghold of Junik following a month-long

offensive. The following month, "John Shattuck, assistant secretary of state for democracy and human

rights, and former Senator Bob Dole delivered a stern warning to Milosevic concerning prisoners and

refugees in Kosovo."[271] According to a New York Times article published on September 8, 1998,

"President Slobodan Milosevic of Yugoslavia has promised to allow International Red Cross

representatives to visit detained ethnic Albanian guerillas in Kosovo, Senior American envoys said

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[268] Ibid.
[269] Ibid.
[270] "Kosovo: Timeline of Important Events 1989-1999. USIA." HLSS. University of Western England, 16 Apr. 2004. Web. 25 Mar. 2012. <http://www.ess.uwe.ac.uk/kosovo/Kosovo-chronology3.htm>.
[271] Ibid.

today."[272] The article reported, "The Assistant Secretary of State for Democracy and Human Rights, John

Shattuck and former Senator Bob Dole delivered a stern warning to Mr. Milosevic today about the

prisoners and refugees in the Serbian province of Kosovo".[273] While the warning itself is significant,

what is more notable is the fact that "Mr. Dole accused the police officers and troops of "waging war

against civilians for political purposes. He described a "humanitarian catastrophe in the making" before

adding, "Slobodan Milosevic says it will not happen, but if it does, the repercussions will be dramatic."[274]

The language of the responsibility to protect doctrine is detectable in Dole's statement. He says that the

state parties who have monopoly over the use of force within a state are using that power not to

protect their people but are rather endangering them. The state as a result forfeited its responsibility to

protect its civilians. He also recognizes the fact that if such humanitarian crises go ignored the situation

will rapidly deteriorate into a crisis which even intervention will not be able to rectify.

Following these statements, the UN Security Council approved Resolution 1199 to replace

March's Resolution 1160. The Resolution ". . . demands a cessation of hostilities and warns that,

"should the measures demanded in this resolution . . . not be taken . . . additional measures to maintain

or restore peace and stability in the region" will be considered."[275] The Resolution, which was ratified

on September 23, 1998, began by stating that the Security Council is "Gravely concerned at the recent

intense fighting in Kosovo and in particular the excessive and indiscriminate use of force by Serbian

Security forces and the Yugoslav Army which have resulted in numerous civilian casualties and,

according to the estimate of the Secretary General, the displacement of over 230,000 persons from their

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[272] "Serb Leader Pledges to Allow Red Cross to See Seized Rebels." The New York Times. The New York Times, 8 Sept. 1998. Web. 25 Mar. 2012. <http://www.nytimes.com/1998/09/08/world/serb-leader-pledges-to-allow-red-cross-to-see-seized-rebels.html>.
[273] Ibid.
[274] Ibid.
[275] "Kosovo: Timeline of Important Events 1989-1999. USIA." HLSS. University of Western England, 16 Apr. 2004. Web. 25 Mar. 2012. <http://www.ess.uwe.ac.uk/kosovo/Kosovo-chronology3.htm>.

homes."[276] The Resolution went on to say that the Security Council is "condemning all acts of violence

by any party, as well as terrorism in pursuit of political goals by any group or individual, and all external

support for such activities in Kosovo, including the supply of arms and training for terrorist activities in

Kosovo."[277] The Resolution also said that the Security Council is "Deeply concerned by the rapid

deterioration in the humanitarian situation, throughout Kosovo, alarmed at the impending humanitarian

catastrophe as described in the report of the Secretary General, and emphasizing the need to prevent

this from happening."[278] And finally, the resolution "Demands that all parties, groups and individuals

immediately cease hostilities and maintain a ceasefire in Kosovo, Federal Republic of Yugoslavia, which

would enhance the prospects for a meaningful dialogue between the authorities of the Federal Republic

of Yugoslavia and the Kosovo Albanian leadership and reduce the risks of a humanitarian

catastrophe."[279] The ceasefire is also framed in the same mindset as the Responsibility to Protect

doctrine by emphasizing the importance of reconciliation and repatriation. This is especially vital in

cases where ethnic tensions can be provoked because in such situations, a foreign intervention could

result in a large scale ethnic war once peacekeeping troops have withdrawn. On September 24, one day

after the Resolution was ratified, NATO formally approved plans for the intervention in Kosovo,

including plans for air strikes in addition to maintaining and monitoring the ceasefire if one were to be

reached. According to the press release, NATO's Activation Warning (ACT WARN) was issued for both a

limited air operation and a phased air campaign in Kosovo. The press release said, "The ACT WARN will

take NATO to an increased level of preparedness. In particular, the ACT WARN will allow NATO

commanders to identify the assets required for those NATO operations."[280] However, in the statement,

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[276] "Security Council Resolution 1199 (1998) on the Situation in Kosovo (FRY)." UN News Center. UN, 23 Sept. 1998. Web. 25 Mar. 2012. <http://www.un.org/peace/kosovo/98sc1199.htm>.
[277] Ibid.
[278] Ibid.
[279] Ibid.
[280] "NATO Press Statement, 24 Sept. 1998, Vilamoura, Portugal." NATO. NATO, 24 Sept. 1998. Web. 25 Mar. 2012. <http://www.nato.int/docu/pr/1998/p980924e.htm>.

the NATO Secretary-General also said, "Let me stress that the use of force will require further decisions

by the North Atlantic Council. But today's decision is an important political signal of NATO's readiness to

use force, if it becomes necessary to do so."[281] The Secretary-General concluded by saying, "Finally, let

me express the strong support of all Allies for firm Resolution that was adopted in New York last night by

the Security Council. The resolution makes it clear what President Milosevic must do: he must stop his

repressive actions against the population; he must seek a political solution to the Kosovo crisis based on

negotiations, as must the Kosovar Albanians; and he must take immediate steps to alleviate the

humanitarian situation. The Resolution and today's decision by NATO underline the unity of the

international community and our resolve to find a solution to the Kosovo crisis."[282]

However, even NATO mobilization was not enough to end the violence. On September 29,

1998, "The UN High Commissioner for Refugees announces . . . that as many as 200,000 civilians have

been displaced within Kosovo since fighting began in February."[283] In October of 1998, US President Bill

Clinton announced that Milosevic had committed to comply fully with the Security Council's Ceasefire

Resolution. NATO agreed to delay their decision regarding the air strikes by 96 hours. Yet again,

violence continued and Yugoslavia expelled William Walker, the head of the Kosovo Diplomatic Observer

Mission. In an article that was published by the BBC on January 19, 1999, two of NATO's most senior

officials, Generals Wesley Clark and Klaus Naumann, were dispatched to Belgrade following Walker's

expulsion and further incidents of massacre. According to the article, Clark told Milosevic, "The plans

that were made in October are very much alive. Most of the forces are poised and ready should they be

called on today. The others are only a few hours away and so this is a very real possibility."[284] Meanwhile

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[281] Ibid.

[282] Ibid.

[283] "Kosovo: Timeline of Important Events 1989-1999. USIA." HLSS. University of Western England, 16 Apr. 2004. Web. 25 Mar. 2012. <http://www.ess.uwe.ac.uk/kosovo/Kosovo-chronology3.htm>.

[284] "World: Europe Milosevic given Nato Warning." BBC News. BBC, 19 Jan. 1999. Web. 25 Mar. 2012. <http://news.bbc.co.uk/2/hi/europe/257856.stm>.

the United States' Holbrooke and Madeleine Albright also issued warnings of air strikes if Milosevic failed to prevent the attacks on civilians.

Ten days after this meeting, NATO issued an ultimatum to both sides. A New York Times article that was published on January 29, 1999 reported that "The ultimatum that NATO is due to hand both sides in the Kosovo conflict this week could be the last chance to prevent a full-scale war. Tomorrow NATO is likely to endorse a plan to bomb Serbian targets if the Serbian leader, Slobodan Milosevic, does not cease hostilities in Kosovo and agree to an interim peace plan in two weeks. If the ethnic guerillas do not sign the plan, NATO will impose an arm's blockade".[285] The articles also noted that at the time, "Peace still remains agonizingly distant, but it may be closer now that the West, with some support from Russia, has come up with the right balance of diplomacy and force."[286] The article summarized the events of the previous year as well by saying, "Under threats of NATO bombs, Mr. Milosevic reached an agreement with the American envoy Richard Holbrooke last October to stop the killing of civilians, allow war crimes investigators into Kosovo, pull back his troops and cooperate with international monitors and humanitarian groups. He has violated all these promises."[287]

By the first week of February 1999, peace talks had begun and on February 23rd, "both sides conditionally agreed on greater autonomy in Kosovo. The ethnic Albanians agreed in principle to sign the political accord but wanted to return home and further corroborate before fully accepting the agreement. The Serbs continued to have reservations about signing an agreement and about the use of NATO forces in Kosovo. Both sides agreed to meet again in France on March 15 for more negotiations."[288] When the two parties met in Paris the following month, the ethnic Albanian delegation accepted the autonomy deal that had been proposed at the previous meeting. President Clinton

[285] "Ultimatum on Kosovo." The New York Times. The New York Times, 29 Jan. 1999. Web. 26 Mar. 2012. <http://www.nytimes.com/1999/01/29/opinion/ultimatum-on-kosovo.html>.
[286] Ibid.
[287] Ibid.
[288] "Kosovo: Timeline of Important Events 1989-1999. USIA." HLSS. University of Western England, 16 Apr. 2004. Web. 25 Mar. 2012. <http://www.ess.uwe.ac.uk/kosovo/Kosovo-chronology3.htm>.

encouraged Milosevic to agree to the terms as well in order to avoid further conflict and bloodshed. By

March 19th, peace talks are declared a failure when the Serbians refuse to sign and international

monitors prepare to leave the country. Thus, efforts at diplomacy and conflict prevention had failed and

5 days later, on March 24th, NATO air strikes over Yugoslavia began.

Also, on March 24th 1999, Clinton addressed the United States and explained, "We act to protect

thousands of innocent people in Kosovo from a mounting military offensive. We act to prevent a wider

war, to diffuse a powder keg at the heart of Europe that has exploded twice before in this century with

catastrophic results. And we act to stand united with our allies for peace. By acting now, we are

upholding our values, protecting our interests, and advancing the cause of peace."[289] In this speech, he

also stated, "This is not war in the traditional sense. It is an attack by tanks and artillery on a largely

defenseless people whose leaders already have agreed to peace."[290] Thus President Clinton

acknowledged that the nature of conflict had shifted by the end of the 20th century. He goes almost as

far as outlining the Responsibility to Protect, but instead shifted focus and refered back to American

interests. He explained that intervention is a moral imperative but that it is necessitated by American

national interest as well, because "To the south [of Kosovo] are our allies, Greece and Turkey; to the

north, our new democratic allies in central Europe. And all around Kosovo there are other small

countries struggling with their own economic and political challenges, countries that could be

overwhelmed by a large, new wave of refugees from Kosovo. All the ingredients for a major war are

there: ancient grievances, struggling democracies, and in the center of it all a dictator in Serbia who has

done nothing since the cold war ended but start new wars and pour gasoline on the flames of ethnic and

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[289] Clinton, Bill. "Miller Center." Statement on Kosovo (March 24, 1999)-. Miller Center-University of Virginia, 24 Mar. 1999. Web. 26 Mar. 2012. <http://millercenter.org/scripps/archive/speeches/detail/3932>.
[290] Ibid.

religious division."[291] Thus it is apparent that arguments for intervention were still framed in realist

terms and focused on balance of power.

The bombing campaign continued until June of 1999. On June 10, the Security Council adopts

resolution 1244m which "Authorizes Member States and relevant international organizations to

establish the international security presence in Kosovo."[292] The Resolution also "Affirms the need for

the rapid early deployment of effective international civil and security presences to Kosovo, and

demands that the parties cooperate fully in their deployment."[293] This Resolution effectively legitimized

the intervention in the eyes of the Security Council and made the operation an international effort

rather than a US led NATO operation.

Although the arguments for the intervention were not made in human-centric terms as

emphasized by the Responsibility to Protect doctrine, the operation itself adhered to the protocol of the

Responsibility to Protect. Intervention was used as a last resort only when diplomacy proved ineffective.

NATO had reasonable prospects of success, although it was an extremely delicate situation given the

pre-existing ethnic tensions. NATO dedicated the necessary means for the operation to be carried out.

The intervention was given Security Council authorization retroactively, but it was carried out under

NATO authority. The Responsibility to Protect states that in cases where states are unable or unwilling

to protect their members the responsibility first falls to the Security Council and the United Nations, but

if these efforts fail, the responsibility falls to local regional groups and then other regional groups. NATO

was a foreign, regional group; however it had strategic interests in the region and was determined to

restore peace and order. Furthermore, the United States' role and rhetoric in the operation elucidates a

significant evolution in international relations. The US gained credibility by leading the humanitarian

intervention. As seen in Clinton's speech, the intervention also fulfilled the US's strategic interests and

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[291] Ibid.
[292] United Nations. Security Council. Resolution 1244 (1999). United Nations. United Nations, 10 June 1999. Web.
26 Mar. 2012. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N99/172/89/PDF/N9917289.pdf?OpenElement>.
[293] Ibid.

thus, it is apparent that because the international community places such a strong emphasis on credibility, states' moral and strategic interests were overlapping. However, it can also be argued that the use of realist rhetoric allowed more harm to have occurred than what otherwise might have happened.

Chapter VI: Libya, 2011

The second noteworthy instance of intervention worth considering is the 2011 operation in Libya. This case is especially interesting because many of the arguments made in favor of intervention were framed in the language of the Responsibility to Protect and all the nations favoring humanitarian intervention followed the steps indicated in the doctrine. In order to understand the basis of the humanitarian intervention, some background information regarding the country must first be considered.

Libya was originally a part of the Roman Empire and has been invaded on various occasions by unrelated powers. In 1959, Libya was granted independence from Italy. Soon thereafter, in 1959, oil was discovered in the desert region. At the time, the kingdom was ruled by the Senussi Sufi Order and the regime became extremely wealthy with the oil profits. Ten years later, Colonel Gaddafi came to power in a coup in which he overthrew King Idris.[294]   After gaining control, Gaddafi significantly reorganized the government's administrative capacities. According to the BBC's Country Profile, "Ideas put forth in his Green Book aimed to set forth an alternative to both communism and capitalism. Col Gaddafi called the new system a *Jamahiriya*, loosely translated as a "state of the masses"".[295]   The BBC explains that, "In theory, power was held by people's committees in a system to direct democracy,

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[294] "Libya Profile." BBC News. BBC, 03 June 2012. Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/world-africa-13754897>.
[295] Ibid.

without political parties, but in practice, Col Gaddafi's power was absolute, exercised through "revolutionary communities" formed of regime loyalists".[296] Thus, in reality, it was a totalitarian government.

In 1988, the regime received criticism and was sanctioned by the international community after the bombing of the PanAm flight over Lockerbie, Scotland. In 2003, the United Nations lifted sanctions when Libya took responsibility for the bombings before paying compensation, and handing over two suspects, one of whom was indicted for the bombing. After 2003, Libya was rehabilitated into the international community, "But in 2011, the world once again turned against the Libyan government over its use of violence against the popular uprising against the colonel, inspired by the anti-authoritarian protests sweeping through the Arab world".[297]

The Libyan government responded to the protests with violence. In the face of these human rights violations, "The UN Security Council passed a resolution authorizing Nato air strikes to protect civilians. After months of near-stalemate, the rebels stormed into Tripoli August 2011, and several weeks later Col Gaddafi was killed when his last holdout was overrun".[298]

According to the BBC, since the intervention, "The National Transitional Council (NTC) and its interim government now face the formidable challenge of imposing order, disbanding the formal rebel forces, rebuilding the economy, creating functioning institutions and managing the pledged transition to democracy and the rule of law".[299] However, according to the BBC, "Tensions between the emerging government and local militias, ethnic clashes in the remote south and moves in the oil-rich east to re-establish a degree of regional autonomy all threatened to disrupt the timetable for elections in early 2012".[300]

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[296] Ibid.
[297] Ibid.
[298] Ibid.
[299] Ibid.
[300] Ibid.

From the start, the Gaddafi regime's reaction to the protests was disproportional and extremely violent. However, the international community took notice following Gaddafi's speech on the 22 of February 2011. In this speech, he referred to the protestors as "cockroaches" and "rats" and urged his supporters to attack them. He also remarked that "Anyone who took up arms against Libya will be executed. . ."[301] This speech led to both local and international reaction. In this speech, "He also called on his supporters to "cleanse Libya house by house" until the protestors surrendered".[302] In an article that was published on the 23rd of February, "The BBC's Jon Leyne, in eastern Libya, says people there reacted with anger and derision to Col Gaddafi's speech. They fear the veteran leader is out to destroy the country before he is finally deposed".[303] Thus, there is a perceived threat of large scale violence and the imminent threat is credible because Gaddafi explicitly threatened the protestors in his speech. Furthermore, at this point, there was already evidence of large scale murder, as Human Rights Watch said that 300 people had died in the violence. This figure was confirmed by Libya's interior minister who explained that of those 300, 189 of which were civilians and 111 of which were soldiers.[304]

In reaction to this threat and the resulting fear, "The UN Security Council has condemned the Libyan authorities for using force against protestors, calling for those responsible to be held to account", according to the BBC article.[305] The article also reported that "In a statement, the Council demanded an immediate end to the violence and said Libya's rulers had to "address the legitimate demands of the population".[306] The BBC also reported that the Security Council statement came after a day of debate on the uprising in Libya as reports surfaced saying that foreign mercenaries had been attacking civilians

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[301] Plett, Barbara. "Libya Protests: UN Security Council Condemns Crackdown." BBC News. BBC, 23 Feb. 2011. Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/world-middle-east-12548520>.
[302] Ibid.
[303] Ibid.
[304] Ibid.
[305] Ibid.
[306] Ibid.

and warplanes were being used to bomb the protestors.[307] German Chancellor Angela Merkel said that

Col Gaddafi's speech was "very very appalling" and "amounted to [gaddafi] declaring war on his own

people".[308] Thus, in the face of danger, the international community first reminded the Libyan

government of its responsibility to its people and initially reacted diplomatically.

Even more significant is the fact that the Security Council used the language of the

Responsibility to Protect doctrine in issuing its warning to the Gaddafi regime. According to the BBC,

"The council's 15 members said the Libyan government should "meet its responsibility to protect its

population", act with restraint, and respect human rights and international humanitarian law. The

Libyan authorities were also prescribed to hold those people responsible for attacking civilians

accountable, and respect the rights of its citizens to peaceful assembly, freedom of expression and press

freedom, they added".[309]   This statement shows that the Security Council as a whole has endorsed the

new definition of state sovereignty and believes that governments have a responsibility to protect and

provide for their populations.

The Security Council's statement was met with support from other states. Two days before the

Security Council released its statement, the Libyan Deputy Permanent Representative to the United

Nations, Ibrahim Dabbashi called for Col Gaddafi to step down. While he said that the Security Council

statement was a good message to persuade the Libyan authorities to stop the bloodshed, Dabbashi said

that the UN condemnation was not strong enough.[310] According to the BBC, Dabbashi said, "The

Gaddafi statement was just code for his collaborators to start the genocide against the Libyan people. It

just started a few hours ago. I hope the information I get is not accurate but if it is, it will be a real

genocide" (It should be noted however, that the civil war in Libya did not results in genocide).[311] Given

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[307] Ibid.
[308] Ibid.
[309] Ibid.
[310] Ibid.
[311] Ibid.

the circumstances, however, the United Nations behaved according to the protocol of the Responsibility to Protect doctrine which calls for diplomatic efforts to be exhausted before resorting to action against the state. Soon after the Security Council's statement, the Arab League also condemned the Gaddafi regime's "crimes" and suspended the country's membership in the league.[312] The cooperation of the Security Council with regional groups was also in accordance with the Responsibility to Protect doctrine's guidelines. The doctrine believes that regional groups will carry a heavy influence in conflict, because they understand the context and culture better than the international community and can have a more direct impact on the state.

In an another article that was published on the same day, the BBC reported that the Italian foreign minister, Franco Frattini, told newspapers that he feared an immigrant exodus on a "biblical scale" if Col Gaddafi were to be toppled. Additionally Frattini believed that up to 300,000 Libyans would flee.[313] This is important to note because intrastate conflicts usually result in the displacement of large numbers of individuals to neighboring countries. The influx of displaced people puts strain on those governments—which in the case of Libya had also recently undergone revolutions—and increases the overall instability in the region. Meanwhile, French President Nicolas Sarkozy called for the European Union to adopt sanctions and to suspend its ties with Libya.[314] Sarkozy issued this statement just as the French gasoline company, Total, announced that it was suspending its operations in Libya.[315] By this time, Spanish and Italian oil firms had also suspended their operations in the country by this point.[316] In issuing this statement, notable European nations were taking the next step outlined in the Responsibility to Protect doctrine, by insisting that coercive measures such as economic sanctions be used to make the

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[312] Ibid.

[313] Leyne, Jon. "Libya Protests: Pressure Mounts on Isolated Gaddafi." BBC News. BBC, 23 Feb. 2011. Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/world-middle-east-12550719>.

[314] Ibid.

[315] Ibid.

[316] "Libya Unrest Pushes Brent Oil Price to $111 a Barrel." BBC News. BBC, 23 Feb. 2011. Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/business-12548471>.

state comply with demands. These sanctions were very momentous threats because, Libya is the

twelfth largest exporter of oil in the world and the majority of its output goes to Europe. However,

Sarkozy took it a step further and called for harsher sanctions. According to the BBC, Sarkozy is quoted

as saying, "I ask the foreign minister to propose to our European partners the adoption of quick,

concrete sanctions so that all those implicated in the violence know that they will have to assume the

consequences".[317]

On the 26th of February, the United Nations Security Council unanimously passed Resolution

1970 which stated that, "Deploring what it called "the gross and systemic violation of human rights" in

strife-torn Libya, the Security Council this evening demanded an end to the violence and decided to

refer the situation to the International Criminal Court while imposing an arms embargo on the country

and a travel ban and assets freeze on the family of Muammar Al-Qadhafi and certain government

officials".[318] The resolution also called on all member states to assist in returning humanitarian

organizations to Libya and to assist in providing humanitarian aid. The Council also stated that it would

continue to monitor the actions of the Gaddafi regime and would adjust its policies accordingly. Again,

the United Nations was acting according to the Responsibility to Protect doctrine which encourages

action to be taken by the international community as a whole under the auspices of the United Nations.

Furthermore, the language of the resolution shows that it is a human-centric resolution and that its

main objective is protecting individuals.

The Responsibility to Protect is also captured in the comments made by state leaders after the

Resolution was passed. "Following the adoption of the text, Secretary-General Ban Ki-moon welcomed

the Council's "decisive" action. "While it cannot, by itself, end the violence and the repression, it is a

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[317] Ibid.

[318] "In Swift, Decisive Action, Security Council Imposes Tough Measures OnLibyan Regime, Adopting Resolution 1970 in Wake of Crackdown on Protesters." UN News Center. UN, 26 Feb. 2011. Web. 22 Mar. 2012. <http://www.un.org/News/Press/docs/2011/sc10187.doc.htm>.

vital step—a clear expression of the will of a united community of nations," he said".[319] He also said that

he hopes that the Gaddafi regime understands that gross violations basic human rights will not be

tolerated and that those responsible for such violations will be held accountable. The Responsibility to

Protect also calls for perpetrators to be brought to justice in the International Criminal Court.

According to the United Nations' press release regarding the resolution, "Many [Council

members] expressed hope that the resolution was a strong step in affirming the responsibility of States

to protect their people as well as the legitimate role of the Council to step in when states failed to meet

that responsibility".[320] Thus, members of the international community are expressing a desire for the

Responsibility to Protect to be the first endorsement of the Responsibility to Protect doctrine. Gerard

Araud, the representative from France, explicitly stated, "The Resolution recalled the accountability of

each State for the protection of its population and the role of the international community when that

responsibility was not met".[321] According to the press release, "he hoped the vote would open a new

era for the international community as a whole".[322] However, the statement also states, "some

speakers, such as the representatives of Lebanon and the Russian Federation, stressed the importance

of affirming the sovereignty and territorial integrity of Libya".[323] These are legitimate concerns which

the Responsibility to Protect doctrine also acknowledges. Thus, the doctrine insists that all action taken

must be multilateral operations so that no state's personal interests influence work and so that the

action is not an excuse for neocolonialism.

By the end of February, as the sanctions proved futile and the violence and civilian death toll

increased, foreign leaders began to call for Col Gaddafi's resignation. This was a very serious move on

the part of the international community, because UN member states were explicitly stating that the

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[319] Ibid.
[320] Ibid.
[321] Ibid.
[322] Ibid.
[323] Ibid.

sovereign government of Libya was unable and/ or unwilling to protect its people and that that

responsibility should fall into the hands of the international community so that a legitimate authority

that protects the people can be established. According to the BBC, "Speaking at a UN Human Rights

conference in Geneva, US Secretary of State Hillary Clinton said Libya's Col Gaddafi must "go now"".[324]

Clinton's statement came two days after the Security Council resolution imposing sanctions and the

arm's embargo. She accused the Gaddafi regime of employing mercenaries to attack unarmed civilians

and of executing soldiers who refused to shoot at the civilian protestors. According to the BBC, she said,

"Gaddafi and those around him must be held accountable for these acts, which violate international

legal obligations and common decency . . . it is time for Gaddafi to go, now, without further violence or

delay".[325] When asked whether the US would support Gaddafi going into exile, she said, "If violence

could be ended by his leaving . . . it might be a good step but we believe accountability must be obtained

for what he has done".[326] The Responsibility to Protect doctrine also calls for perpetrators to be held

accountable by the International Criminal Court and tribunals so that former party loyalists can be

rehabilitated and tensions can be quelled diplomatically.

By this time, several state leaders agreed with Clinton's view that Col Gaddafi should resign.

According to the BBC, the European Union Foreign Policy Chief Catherine Ashton said "What is going

on—the massive violence against peaceful demonstrators—shocks our conscience".[327] Thus, Ashton is

also using the rhetoric of the Responsibility to Protect doctrine and modern just war theory to support

the international community's action in Libya. Furthermore, British Foreign Secretary said, William

Hague said that Libya had "failed shamefully in its responsibilities to its people".[328] Meanwhile, Kevin

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[324] Muir, Jim. "Libya Unrest: Foreign Ministers Urge End to Violence." BBC News. BBC, 28 Feb. 2011. Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/world-africa-12593481>.
[325] Ibid.
[326] Ibid.
[327] Ibid.
[328] Ibid.

Rudd, the Australian Foreign Secretary called for a no-fly zone to be established over Libya to protect

the protestors and also stated that Gaddafi should leave.

It is also interesting to note that at this time, the spokesperson for the Libyan government,

Moussa Ibrahim denied all allegations of massacres and bombardments against cities. He claimed that

the United Nations Resolution was formulated based on false media reports. In situations where the

international community is taking action towards another state, it is important that all allegations are

true and that states are not reacting to false or biased information.   This is why the Responsibility to

Protect doctrine insists on a third party, non-governmental organization to verify all facts and

understand the situation on the ground. In the case of Libya, the NGO Human Rights Watch was present

and reporting to the United Nations.

During the first week of March, the head of the United Nations World Food Programme, Josette

Stone, reported that food delivery systems in the region were under "deep stress".[329] She was reporting

from the Tunisian border and also said that on a single day, 14,000 people had emigrated from Libya

into Tunisia. Individuals had been emigrating into Tunisia for several weeks, but never in such large

numbers. She explained that if this trend continued, it could create "a very pressured situation".[330] The

United Kingdom also stated that it was prepared to help in the aid effort and the humanitarian

organization Mercy Corps were sending a team to assess how their effort would be most effective. The

team said that the violence and displacement could have a dramatic impact on critical supplies including

the availability of food and water.

Also in the first months after conflict began, Clinton warned US congressional members that

"Libya could become a peaceful democracy or face years of civil war".[331] It is in situations like this—

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[329] "Libya Unrest: UK Prepared for Humanitarian Aid Effort." BBC News. BBC, 03 Jan. 2011. Web. 22 Mar. 2012.
<http://www.bbc.co.uk/news/uk-12605866>.
[330] Ibid.
[331] North, Andrew. "Hillary Clinton: Libya May Become Democracy or Face Civil War." BBC News. BBC, 03 Jan. 2011.
Web. 22 Mar. 2012. <http://www.bbc.co.uk/news/world-us-canada-12611925>.

where sanctions are having no impact—that the Responsibility to Protect doctrine advocates for more coercive threats such as military movement. When Clinton made her statements, US Defense Secretary Robert Gates simultaneously said that "the US was weighing a lot of options and contingencies".[332] Both of these comments came a day after the United States began repositioning warships and military aircrafts in the region. At the Pentagon, Gates insisted that no further decisions had been made regarding Libya, but that the United States military was doing its best to give President Obama "the broadest possible decision space".[333] Troop movement is usually a much stronger threat because it shows that the other state has the ability and will to attack if they are noncompliant.

Meanwhile the US ambassador the United Nations, Susan Rice, said that the US would continue to put pressure on Col Gaddafi until he resigns and allows the Libyan people to determine their own future. Rice said that the US is also working to stabilize oil prices and avert a possible humanitarian crisis.[334] The Responsibility to Protect doctrine calls for continued diplomatic pressure, even as other coercive measures are used. State leaders at this point were seeing that the violence was only increasing in the week after the UN Resolution was passed and many began to push for a no-fly zone to be established over Libya. Around this same time, US military commander in the Middle East, General James Mattis, said, ". . . a no-fly zone would deter Col Gaddafi's regime from bombing demonstrators as they protested against the government".[335] However, according to the BBC, "Defense officials have said the US would have to destroy Libyan air defenses in order to establish and enforce a no-fly zone in the country".[336] Thus, it is apparent that the international community was not looking to incapacitate the country immediately and, instead of aiming for intervention at this point but was trying to make non-military actions effective.

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[332] Ibid.
[333] Ibid.
[334] Ibid.
[335] Ibid.
[336] Ibid.

By mid-March, the situation in Libya was not ameliorating; the leaders of foreign states began to

seriously consider the establishment of a no-fly zone. At the same time, "France became the first

country to formally recognize the Libyan opposition—the Interim Transitional National Council—as

legitimate representatives of the Libyan people on Thursday, pledging to exchange ambassadors with

the country's newly created transitional council in a major diplomatic victory for the Libyan

opposition".[337] The Gaddafi regime had proved that it was unable and unwilling to protect its people,

so the international community granted Libya's sovereignty to another local party. This recognition was

given additional backing by the fact that European Union foreign ministers were meeting with NATO's

defense ministers in Brussels around the same time to consider imposing a no-fly zone over Libya.

The no-fly zone was adopted by the UN Security Council on March 17th in Resolution 1973, a

recall of Resolution 1970. This resolution "Demand[ed] an immediate ceasefire in Libya, including an

end to the current attacks against civilians, which it said might constitute "crimes against humanity", the

Security Council this evening imposed a ban on all flights in the country's airspace—a no-fly zone—and

tightened sanctions on the Qadhafi regime and its supporters".[338] The Resolution was passed by a vote

of ten in favor to none against, with five abstentions. According to the United Nations press release

regarding the intervention, "the Council authorized Member States, acting nationally or through

regional organizations or arrangements, to take all necessary measures to protect civilians under threat

of attack in the country, including Benghazi, while excluding a foreign occupation force of any form on

any part of Libyan territory—requesting them to immediately inform the Secretary-General of such

measures".[339] The Resolution stated that the League of Arab States plays an important role in the

maintenance of peace and security in the region, so the Council asked League Member States to

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[337] Jacinto, Leela. "Rebel Benghazzi to Get Ambassador." France 24 International News 24/7. 11 Mar. 2011. Web. 22 Mar. 2012. <http://www.france24.com/en/20110310-France-NTC-national-transitional-council-embassy-Libya>.
[338] "Security Council Approves 'No-Fly Zone' over Libya, Authorizing 'AllNecessary Measures' to Protect Civilians, by Vote of 10 in Favour with 5Abstentions." UN News Center. UN, 17 Mar. 2011. Web. 22 Mar. 2012. <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm>.
[339] Ibid.

cooperate with other Member States in implementing the no-fly zone.[340]   According the press release,

the Resolution ". . . further demanded that Libyan authorities comply with their obligations under

international law and take measures to protect civilians and meet their basic needs and to ensure the

rapid and unimpeded passage of humanitarian assistance".[341]   The words of this Resolution are also

framed in terms of the Responsibility to Protect. Thus, the Council specified that the flight ban would

not apply to flights whose sole purpose was humanitarian aid. The no-fly zone also entailed that all

states should ban Libyan aircrafts from landing or taking off from their territories, unless previously

approved by the committee established to monitor the sanctions imposed by Resolution 1970.

Resolution 1973 maintained the asset freeze and arm's embargo established in 1973, but detailed more

conditions for inspection of transport suspected to be violating the embargo, requesting states to

coordinate more closely with each other and the Secretary-General.

 According to the press release, the representatives who had voted for the resolution

emphasized the fact that the objective was solely to protect civilians from further harm. They ". . .

agreed that the strong action was made necessary because the Qadhafi regime had not heeded the first

actions of the Council and was on the verge of even greater violence against civilians . . .".[342]   The

representative from the United Kingdom stated that NATO and the Arab League were ready to act in

support of the text.[343]   However, even as widespread support was found for the United Nations action,

some state leaders were still hesitant. Lebanon's representative, Nawaf Salam, ". . . stressed that the

resolution would not have as a consequence occupation of "even an inch" of Libyan territory. He hoped

that the resolution would have a deterrent role and end the Libyan authorities' use of force".[344]

However, he did also say that "Lebanon, agreeing with the League of Arab States, had then called on the

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[340] Ibid.
[341] Ibid.
[342] Ibid.
[343] Ibid.
[344] Ibid.

Security Council to establish measures to protect civilians. The Libyan authorities had lost all their

legitimacy and the resolution was aimed at protecting Libyan civilians".[345] Thus they acknowledged all

of the concerns that the Responsibility to Protect doctrine considered. In this situation, the

international community reacted with haste because they witnessed the situation in Libya deteriorating

each day. They defined state sovereignty in terms of a government's responsibility to protect its

civilians and assumed the responsibility when the state was clearly failing in its responsibility. They took

diplomatic and then economic measures and when both failed, they intervened under the authority of

the United Nations Security Council with the aid of the regional groups, NATO and the Arab League.

Libya declared a ceasefire the day after the resolution was passed, although reports of violence

continued. On March 20th, the United States began the initial bombing campaign against Libya to

incapacitate the nation's air defense systems under the code name Operation Odyssey Dawn.[346]

By March 23rd after further reports of conflict, the no-fly zone was being implemented by NATO,

however there were discussions between the heads of state over who should actually lead the

intervention. According to an article published in The Guardian on the 23rd, "a flotilla of warships has

begun patrolling the Mediterranean under Nato command to blockade attempts by Colonel Muammar

Gaddafi to replenish his combat forces with arms and mercenaries".[347] All of the states were complying

with the Security Council resolution and were putting in an effort to implement the no-fly zone. In

accordance with the Responsibility to Protect doctrine, the no-fly zone was a multilateral effort involving

both state actors and regional organizations acting under the authority of the United Nations. However,

there was some argument regarding who would lead this mission as these groups learned to cooperate

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[345] Ibid.

[346] Kirkpatrick, David, Steven Erlanger, and Elisabeth Bumiller. "Allies Open Air Assault on Qaddafi's Forces in
Libya." The New York Times. New York Times, 19 Mar. 2011. Web. 23 Mar. 2012.
<http://www.nytimes.com/2011/03/20/world/africa/20libya.html?scp=1&sq=operation%20odyssey%20dawn&st=
cse>.

[347]Traynor, Ian, and Nicholas Watt. "Libya No-fly Zone Leadership Squabbles Continue within Nato." The Guardian.
Guardian News and Media, 23 Mar. 2011. Web. 23 Mar. 2012.
<http://www.guardian.co.uk/world/2011/mar/23/libya-no-fly-zone-leadership-squabbles>.

with one another. According to the Guardian, ". . . the attempt at a Nato show of unity in policing a UN

arms embargo was undermined by a third day of squabbling at alliance headquarters in Brussels over

who should be in charge of the air campaign".[348] The article went on to say that "France. . . has

successfully thwarted strong US and British pressure to put Nato at the political helm of the air

campaign overseeing the UN-decreed no-fly zone over Libya. Paris insisted that the governments of the

"coalition of the willing" taking part in the strikes against Gaddafi's military infrastructure would lead

and make the decisions".[349] By insisting that the action is not led by NATO, the French government was

able to involve more regional parties in the action and prevented the operation from having a western-

led appearance. Alain Juppé, the French foreign minister said, "It is important to make clear that the

leadership is not Nato . . . we see this as a UN operation under a UN mandate. It is implemented by a

coalition of European, North American and Arab countries".[350] William Hague, the British Foreign

Minister also insisted that, "A wide range of countries will be invited, particularly from the region. It is

critical that the international community continues to take united and coordinated action in response to

the unfolding crisis. The meeting will form a contact group of nations to take forward this work".[351] The

Responsibility to Protect doctrine understands that states tend to serve their own interests and had

insisted on multilateral efforts in order to undermine the personal interests of each state. These state

leaders are aware that this intervention could easily result in operation leaders serving their own

interests and are thus used caution by trying to include as many actors as possible. French President

Nicolas Sarkozy had already been accused repeatedly of trying to hijack the Libya operations for

domestic political reasons. However, he insisted that handing the political leadership of the campaign

to the NATO alliance would alienate the Arab world. The Guardian reported that "Since France carried

out the first air strikes against Libya at the weekend, the US has been commanding the operations, in

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[348] Ibid.
[349] Ibid.
[350] Ibid.
[351] Ibid.

consultation mainly with the French and the British. President Barack Obama has made it repeatedly

clear, however, that his interest in taking the lead is very short-term and that the best option would be

for Nato to take over. . .".[352] After several phone conversations between Obama, Sarkozy and David

Cameron, the British and US governments insisted that NATO is given "a key role" in the air campaign, a

significant step down from asking the alliance to be given the leadership of the operation.

It should be noted that the United States carried significant weight in these discussions because

it took a lead role in the operation. According to The Guardian article, "Senior European diplomats

argue that there is no "crisis of leadership" yet over the prosecution of the Libyan war effort. But US

impatience to surrender its lead role is exposing big divisions among the Europeans."[353] This is

important to note because, "while Cameron and Sarkozy are the West's leading hawks in the war effort

against Gaddafi, they are seriously split over who should run things."[354] While European nations and the

United Nations to some extent looked to the United States and NATO to lead the operation, both

relinquished the position in order to create a more unified international coalition to protect the Libyan

civilians.

President Obama was aware of the fact that the world was waiting to see how the United States

was going to react to the situation, especially given the fact the ongoing Iraq war was also framed in

terms of the responsibility to protect civilians. In his "Remarks by the President in Address to the Nation

on Libya" issued on March 28, 2011, President Obama said "we've accomplished these objectives

consistent with the pledge that I made to the American people at the outset of our military operations. I

said that America's role would be limited; that we would not put ground troops into Libya; that we

would focus our unique capabilities on the front end of the operation and that we would transfer

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[352] Ibid.
[353] Ibid.
[354] Ibid.

responsibility to our allies and partners."[355] On March 30, NATO had pledged to take over responsibility

from the United States under the code name, Operation Unified Protector. The eventual agreement

was that NATO would oversee the embargo and the no-fly zone, while command of targeting ground

units would remain with coalition forces.[356] He also stated that the United States would continue to be

involved in the effort although not militarily. Instead, the US will focus on providing humanitarian aid to

the Libyan people and will return the Gaddafi regime's frozen assets to the Libyan people. While he

called their efforts successful, he also addressed the issue of self-determination, saying, "the transition

to a legitimate government that is responsive to the Libyan people will be a difficult task. And while the

United States will do our part to help, it will be a task for the international community and –- more

importantly –- a task for the Libyan people themselves."[357] Despite his emphasis on self-determination,

he uses the same language as Kofi Annan to explain that military intervention was imperative. He

explains that if the international community had allowed the violence to continue in Libya, the displaced

people would have immigrated into neighboring countries, both of whom had only recently become

democratic and were fragile governments.   These refugees would have made these states more

vulnerable, increasing the instability in the region. Obama also said, "The writ of the United Nations

Security Council would have been shown to be little more than empty words, crippling that institution's

future credibility to uphold global peace and security. So while I will never minimize the costs involved

in military action, I am convinced that a failure to act in Libya would have carried a far greater price for

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[355] Obama, Barack. "Remarks by the President in Address to the Nation on Libya." The White House. 28 Mar. 2011. Web. 23 Mar. 2012. <http://www.whitehouse.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya>.
[356] "NATO to Police Libya No-fly Zone - Africa - Al Jazeera English." Al Jazeera English. 25 Mar. 2011. Web. 23 Mar. 2012. <http://www.aljazeera.com/news/africa/2011/03/2011324221036894697.html>.
[357] Obama, Barack. "Remarks by the President in Address to the Nation on Libya." The White House. 28 Mar. 2011. Web. 23 Mar. 2012. <http://www.whitehouse.gov/the-press-office/2011/03/28/remarks-president-address-nation-libya>.

America."[358] Like Annan, Obama said that if the international community had failed to react in the face

of such crimes against humanity, the United Nations as a whole would have lost credibility.

NATO's press release regarding the transfer of command was also similar. It said, "As of 25

March 2011 NATO is leading the No-Fly Zone operation over Libya as part of Operation Unified

Protector, the Alliance's response to United Nations Security Resolution (UNSCR)1973."[359] The NATO

report also used the rhetoric of the Responsibility to Protect doctrine, stating that "this is part of NATO's

contribution to the broad international effort to protect the Libyan people from their own government's

violence."[360]

The fighting in Libya continued until October 20,' 2011, when Gaddafi was killed by NATO forces.

Following Gaddafi's death, NATO stated that it would end operations in Libya on October 31st. The new

Libyan government requested that NATO maintain a presence until the end of the year, but on October

27th, the Security Council voted unanimously to end NATO's mandate for military operations in the

region on October 31st.[361] According to an article published by The BBC, "Security Council diplomats told

reporters that the mandate to protect civilians had been accomplished, and any further security

assistance would have to be negotiated separately."[362] This also follows the protocol of the

Responsibility to Protect doctrine which insists that humanitarian intervention cannot turn into a foreign

occupation. Since the end of NATO operations, UK officials have been working to prevent the spread of

weapons from the Gaddafi regime and several states have also pledged military aid.[363]

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[358] Ibid.

[359] NATO. Public Diplomacy Division-Press & Media Section Media Operations Section. NATO No-Fly Zone Over Libya Operation UNIFIED PROTECTOR. North Atlantic Treaty Organization. NATO-OTAN, 25 Mar. 2011. Web. 23 Mar. 2012. <http://www.nato.int/nato_static/assets/pdf/pdf_2011_03/20110325_110325-unified-protector-no-fly-zone.pdf>.

[360] Ibid.

[361] "Libya's Mustafa Abdul Jalil Asks Nato to Stay Longer." BBC News. BBC, 26 Oct. 2011. Web. 23 Mar. 2012. <http://www.bbc.co.uk/news/world-africa-15459473>.

[362] Marcus, Jonathan. "UN Security Council Votes to End Libya Operations." BBC News. BBC, 27 Oct. 2011. Web. 23 Mar. 2012. <http://www.bbc.co.uk/news/world-africa-15481143>.

[363] Ibid.

The 2011 Intervention in Libya is a critical incident in the normalization of the Responsibility to Protect. It is the first time since its adoption in the 2005 World Summit that the Responsibility to Protect has been enacted. The United Nations, regional organizations and state leaders supported the intervention and framed their arguments in terms of the Responsibility to Protect. They also accepted the definition of state sovereignty that forms the basis of the doctrine. They believed that the Libyan government was failing in its responsibility to protect its people and they shouldered the responsibility to protect civilians. In doing so, they followed all of the guidelines of the doctrine. Firstly, they used information gathered by human rights groups to determine that there was a just cause for intervention. They then attempted to prevent the situation from deteriorating by implementing diplomatic and then coercive measures including economic sanctions and military mobilization to threaten intervention. When these efforts failed, the interveners carried out a multilateral military intervention as a last resort under the authority of the United Nations, which according to the doctrine is the proper authority for such operations. They were certain that they had reasonable prospects of winning and together the groups dedicated the proportional means and allocated different tasks to different groups in order to effectively remove a military dictator from the region and end the massacre of Libyan civilians. Authorities handed control of the government to the interim Libyan government and are currently upholding their responsibility to rebuild without occupying the region.

Conclusion:

As illustrated, military action has played a different role in international politics throughout time, depending on the historical context. Today's world carries the legacy of realist thought as member states joined the United Nations in order to protect their sovereignty. However, today's world is also one in which human security needs to be protected by the states and the United Nations accepting this responsibility when the state is unwilling or unable to follow through. There have recently been several incidents of states failing to protect their members and the international community either failing to prevent the casualties or failing to react to the crises in an effective and consistent manner. In response to this phenomenon, Kofi Annan pushed for a formal United Nations protocol on how the international community and particularly the Security Council should react in cases of ethnic cleansing and/ or large scale killing. In response to his speech, the ICISS drafted the Responsibility to Protect Doctrine which was outlined in the first section.

Western International law is founded on and influenced by the Catholic Just War tradition, Utilitarian principles, and Modern war theory. The Responsibility to Protect doctrine is also founded upon the principles underlying these traditions. The doctrine is a direct product of these traditions and thus does not contradict any of the notions set forth in these traditions.

In the 2005 World Summit, all member states adopted the Responsibility to Protect doctrine. This endorsement made the Responsibility to Protect an international norm, meaning it is accepted by the international community and cannot be violated, although it is not officially a law. On April 28, 2006, the United Nations Security Council made its first official reference to the Responsibility to Protect doctrine when it unanimously passed Resolution 1674. With this Resolution, "the Council called upon all parties concerned to ensure that all peace processes, peace agreements and post-conflict recovery and reconstruction planning had regard for the special needs of women and children and included specific measures for the protection of civilians, including (i) the cessation of attacks on civilians, (ii) the facilitation of the provision of humanitarian assistance, (iii) the creation of conditions conducive to the

voluntary, safe, dignified and sustainable return of refugees and internally displaced persons, (iv) the

facilitation of early access to education and training, (v) the re-establishment of the rule of law, and (vi)

the ending of impunity."[364]

The Responsibility to Protect is called upon for the first time in August 2006 when the United

Nations Security Council references Resolution 1674 in its call for the rapid deployment of troops in

Southern Sudan. On January 12th, 2009, United Nations Secretary General Ban Ki-moon addressed the

General Assembly regarding the implementation of the Responsibility to Protect doctrine. In the

conclusion of his report he says, "[the report] underscores the need both for a cross-sectoral approach

and for sharing the burden in a common effort to eliminate, once and for all, the mass atrocity crimes of

genocide, war crimes, ethnic cleansing and crimes against humanity. It offers no miracle cures but finds

reason for hope in the expressed common goal, the solid foundation of the responsibility to protect in

existing international law, and encouraging trends over the past decade and a half towards an aggregate

reduction in the incidence of these horrific crimes."[365] 94 member states spoke in the debate that Ki-

moon's statement provoked and most states were in favor of its adoption. In October 2009, the General

Assembly adopted Resolution 63/308, which states that the General Assembly "Decides to continue its

consideration of the responsibility to protect."[366]

In 2011, the Arab Spring set the stage for the Responsibility to Protect to be implemented.

Although it is easy to classify all of the revolutions occurring in the Middle East as part of the same

process, it is interesting to see that each revolution called for a different reaction from the international

community. Thus far, the only actual military intervention was United Nations operation in Libya. The

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[364] "IMPORTANCE OF PREVENTING CONFLICT THROUGH DEVELOPMENT, DEMOCRACYSTRESSED, AS SECURITY COUNCIL UNANIMOUSLY ADOPTS RESOLUTION 1674 (2006)." UN News Center. UN, 28 Apr. 2006. Web. 27 Mar. 2012. <http://www.un.org/News/Press/docs/2006/sc8710.doc.htm>.
[365] Ki-moon, Ban. "Implementing the Responsibility to Protect: Report of the Secretary General." ResponsibilitytoProtect.org. United Nations General Assembly, 12 Jan. 2009. Web. 27 Mar. 2012. <http://responsibilitytoprotect.org/SGRtoPEng%20(4).pdf>.
[366] "Resolution Adopted by the General Assembly: The Responsibility to Protect." United Nations. United Nations General Assembly, 7 Oct. 2009. Web. 27 Mar. 2012. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/513/38/PDF/N0951338.pdf?OpenElement>.

argument for this intervention was framed in terms of the Responsibility to protect doctrine. It can be argued that Libya was the only situation which met all of the conditions of the Responsibility to Protect because it is the only state in which there were reasonable chances of success due to the diplomatic and military weakness of the Gadafi regime, as opposed to the relative military strength of Syria and Egypt. However, this past year and the fact that states have pushed for intervention in these situations in order to save civilians from their governments show that the concepts of the Responsibility to Protect have entered the consciousness of politicians. President Obama acknowledged it in his Nobel Peace Prize acceptance speech. He is quoted as saying, "More and more, we all confront difficult questions about how to prevent the slaughter of civilians by their own government, or to stop a civil war whose violence and suffering can engulf an entire region. I believe that force can be justified on humanitarian grounds. . . . Inaction tears at our conscience and can lead to more costly intervention later. That's why all responsible nations must embrace the role that militaries with a clear mandate can play to keep the peace."[367] If the doctrine is eventually ratified by the General Assembly, it will be known as "The Obama Doctrine". Thus, even as the Responsibility to Protect attempts to assert itself in a political system that has been shaped by the Catholic Just War system, utilitarianism, and modern war theory, the Responsibility to Protect appears to have become an accepted principle in current international relations.

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