Whatever the morality and law affecting humanitarian space, politics and military capacity ultimately are more important in determining when, where, why, and how to protect and assist affected populations.[77] The 2011 international action in Libya was unusual in that moral, legal, political, and military dimensions came together under the R2P rubric.[78] However shocking to the conscience a particular emergency and however hard or soft the applicable public international law, when political will and a military capacity exist, humanitarian space will open in which war victims will receive relief and protection.

Setting aside for a moment the problems of measuring the costs and benefits, what remains clear is that the transformation of war discussed at the outset of this chapter requires the transformation of humanitarianism. Not everything is new under the sun; but, in many arenas, there is certainly much novelty. While the extent of change in contemporary wars and the wisdom of alternative humanitarian strategies and tactics can be debated, the newness of thinking during the turbulent 1990s and beyond is much less contested. Without it, we would have to respond affirmatively to Fiona Terry's question about humanitarian actions, are we "condemned to repeat"? It is to these essential intellectual developments that we now turn.

CHAPTER FOUR

New Thinking: The Responsibility to Protect

Transformations in the nature of contemporary war and of the accompanying human disasters have also changed ways of thinking about sovereignty and human rights. Here we delve into relatively recent normative efforts to grapple with this fundamental tension, focusing on the ground-breaking work of the International Commission on Intervention and State Sovereignty.

A way to square the circle of state sovereignty and human rights emerged from ICISS's 2001 report, *The Responsibility to Protect*. The immediate stimuli were the divergent reactions – or rather, the nonreactions – by the Security Council to Rwanda and Kosovo. In 1994, intervention was too little and too late to halt or even slow the murder of what may have been as many as 800,000 people in the Great Lakes region of Africa. In 1999, the formidable North Atlantic Treaty Organization finessed the council and waged war, for the first time in its 50 years of existence, in Kosovo. But many observers saw the 78-day bombing effort as being too much and too early, perhaps creating as much suffering as it relieved. In both cases, the Security Council failed to act expeditiously and authorize the use of deadly force to protect vulnerable populations.

These realities prompted convening the commission, but two essential intellectual efforts had broken new ground and provided underpinnings for ICISS's efforts. First is the normative work by Francis M. Deng and Roberta Cohen on the

issue of internally displaced persons. Their conceptualization of "sovereignty as responsibility" lies at the heart of what became known as the "responsibility to protect."[1] Secretary-General Kofi Annan's own use of the bully pulpit is also an essential chapter in the story, and the acknowledgment by the 2005 World Summit (preceded by the work of the High-level Panel on Threats, Challenges and Change) of R2P has reinforced the legitimacy of humanitarian intervention as a policy option. As a result of these normative efforts, the four characteristics of a sovereign state spelled out in the 1933 Montevideo Convention – territory, authority, population, and independence – have been complemented by another: a modicum of respect for human rights.

Optimists view ICISS's *The Responsibility to Protect* as the most comprehensive attempt to date to tackle sovereignty versus intervention, "the international state of the mind," according to former *New York Times* columnist Anthony Lewis.[2] The report is more successful in reconciling the sometimes contradictory political, legal, and moral arguments relating to humanitarian intervention than the Danish and the Dutch government reports in 1999 and 2000 and the 2000 report (sponsored by the Swedish government) of the Independent International Commission on Kosovo.[3] Even bitter opponents like Mohammed Ayoob admit that conditioning sovereignty on human rights and the responsibility to protect has "considerable moral force."[4] We turn first, however, to the intellectual antecedents.

Sovereignty as responsibility

The most reliable indicator of suffering in war zones is usually the number of "refugees" – in the vernacular or according to the text of the 1951 UN Convention on Refugees, exiles who flee across the borders of their country of origin. Physical displacement is prima facie evidence of vulnerability because people who are deprived of their homes, communities, and means of livelihood are unable to resort to traditional coping capacities. With some 175 million living outside their countries of origin, international migration raises numerous problems for states, societies, and international relations more generally.[5] Paradoxically, forced migrants *within* their own countries are often even more vulnerable. Whereas international law entitles refugees to human rights protection and assistance, no such guarantees exist for those who are struggling to overcome an "exodus within borders."[6] Agencies seeking to help persons who have not crossed a border require permission from the very political authorities responsible for their abuse and displacement. If the state causing the problem were not doing so, there would be no need to ask its permission. Helping and protecting internally displaced persons requires at least humanitarian intrusion, if not intervention.

Over the past two decades, the ratio of refugees to internally displaced persons – that is, forced migrants who physically remain within their own countries – has been dramatically reversed. As the first decade of the twenty-first century came to a close, the number of refugees was 15.2 million, whereas the number of IDPs is considerably higher – almost double, depending on who is counting. At the end of 2009, the UNHCR calculated that almost 27.1 million people were internally displaced by conflict.[7] When IDP data were first gathered in 1982, there was one IDP for every ten refugees; at present the ratio is approximately 2:1.

At the outset of the 1990s, the massive number of IDPs and the changing nature of warfare suggested to watchful observers that what had seemed a blemish on the international system was an ugly structural scar. The fastest-growing category of war-affected populations – "orphans of conflict"[8] – had,

and still has, no institutional sponsor or formal international legal framework. At the same time, diminishing refugee populations continue to benefit from well-developed institutional and legal efforts by the UNHCR. Moreover, the anodyne lingo of "internal displacement" fails to convey immense human suffering. IDPs lack food, shelter, and physical and legal security. According to a Centers for Disease Control (CDC) study, they may have death rates 60 times higher than non-displaced populations in their home countries.[9]

In 1992, when the CDC generated that dramatic statistic, UN secretary-general Boutros Boutros-Ghali submitted the first analytical report on IDPs to the UN Commission on Human Rights (CHR) in Geneva. The commission in turn, but not without controversy, approved resolution 1992/73 authorizing him to appoint a representative to explore "views and information from all Governments on the human rights issues related to internally displaced persons, including an examination of existing international human rights, humanitarian and refugee law and standards and their applicability to the protection of and relief assistance to internally displaced persons." Nonetheless, many states were uneasy with this potential intrusion into domestic jurisdiction, while many humanitarian agencies were leery about the likely bureaucratic fallout.

Shortly thereafter, Boutros-Ghali designated Francis M. Deng, a former Sudanese diplomat and a senior fellow at the Brookings Institution, the representative of the secretary-general (RSG) on internally displaced persons. The CHR consistently extended his mandate for two- and three-year terms until July 2004, when Deng's extension ran into UN time limits; he was replaced by Walter Kälin, a Swiss professor whose title became "representative of the secretary-general on the human rights of internally displaced persons." In 2007, and drawing on the relevance of his own work, UN secretary-

general Ban Ki-moon appointed Deng as special adviser on the prevention of genocide.

The first framing efforts pertaining to IDPs began with Deng's early work on Africa and continued with reports from his official country missions.[10] The first full-fledged book on the topic was published in 1993 under his authorship,[11] and this was followed by two authoritative volumes with Roberta Cohen as a co-author and co-editor in 1998.[12] Subsequently, the Norwegian Refugee Council began – with the urging of the Brookings Project on Internal Displacement (PID) headed by Deng and Cohen – to publish what now is the best data about these war victims.[13] And a host of articles and books are now in the academic and policy literatures.[14]

From the outset of his mandate, Deng sought not only to increase information about IDPs and the quality of data about their plight but also to push out the envelope of international law. In addition to being the year of publication of both *Masses in Flight* and *The Forsaken People*, 1998 also marked the publication, following five years of difficult negotiations, of the Guiding Principles on Internal Displacement.[15] This "soft" form of international law – not a convention or treaty but a compilation of generally agreed principles – has been promulgated widely, and now constitutes the point of departure for virtually all public and private efforts. In referring to the Guiding Principles and the accompanying *Manual on Field Practice in Internal Displacement* and *Handbook for Applying the Guiding Principles on Internal Displacement*,[16] a team from Oxford University's Queen Elizabeth House summarized that they "are increasingly used by governments and international and national humanitarian agencies to raise awareness and to guide policy and practice in countries with IDP populations."[17]

Existing norms applicable to this category of forced migrant – prior to and during displacement, as well as during return,

resettlement, and reintegration – are conveniently brought together in a single document that guides political authorities and humanitarians. The process leading to the adoption of the Guiding Principles was a key tactical decision that finessed state reluctance. It took half a decade and involved international lawyers and experts from all over the world, regional organizations, IGOs, the ICRC, and NGOs. States were eventually brought into the process and were prepared, for the most part, to promote them or at least not to lobby too aggressively against them.

The evolution from an idea to a set of principles to guide governments, militaries, humanitarian agencies, and non-state actors was a substantial achievement in half a decade, especially because many Third World countries initially viewed any external scrutiny of domestic human rights as an unacceptable assault on their sovereignty. Countries that have actually applied the Guiding Principles to the development of laws and court decisions include Angola, Colombia, Georgia, Peru, Uganda, and Sudan. "Incorporating the Guiding Principles into domestic law does not necessarily lead to better government policies or to automatic improvements in the rights of IDPs," wrote three evaluators, "but at least there is legislation in place against which governments can be held to account."[18] And representatives of civil society in places as diverse as Sierra Leone, Sri Lanka, Colombia, India, Russia, Liberia, and the Sudan People's Liberation Movement/Army have been empowered by the principles to seek better assistance and protection from governments and aid agencies.

Why should we analyze these efforts? For students of international organizations, the answer is: "People matter. Ideas matter."[19] For humanitarian intervention, the power of conceptualizing "sovereignty as responsibility" – and especially the need for international protection of people who remain in their country of origin and subject to the jurisdiction of their

government – is a story worth telling.[20] Deng and Cohen's conceptualization had policy consequences as the direct precursor of ICISS's responsibility to protect.

Starting from scratch and without an official and assessed UN budget – the usual poverty-stricken approach to human rights in the UN system – PID's productivity and output were impressive. Beginning in 1993, the CHR regularly extended the mandate of the RSG. Deng reported annually to the CHR, and at least biannually to the General Assembly. He undertook 28 official country missions, with many more field visits. In that period, PID conducted 16 regional and country workshops and seminars, many of which were made to dovetail with the country missions. Independent research and analysis put this issue squarely on the public policy map.

The succor and protection of IDPs through the realization of sovereignty as responsibility clashed directly with the customary prerogatives of state authorities who often believe that sovereignty means that they can do as they wish with their citizens. The contrary idea – that there are not only rights but also responsibilities, or, perhaps better, that there are limits to abuse – moved quickly in the intergovernmental arena, largely as a result of research and pressure from outside the United Nations. There are other illustrations of the same phenomenon – for example, NGOs and the signing of the Universal Declaration of Human Rights in 1948 and both women's and environmental groups and the host of conferences in the 1970s and 1990s on gender and sustainable development.[21]

Reframing sovereignty as responsibility provided a way to navigate around the shoals of state sovereignty. At the dawn of the twenty-first century, sovereignty remains the essential lens through which we perceive the way in which the world operates, in spite of the fact that globalization erodes the power of the state to guarantee outcomes and act independently, and that human rights norms and conventions circumscribe the

autonomy of state authorities in dealing with their populations or sometimes suffer opprobrium and sanctions. Yet this dominant principle of the international system since the Peace of Westphalia has never been as sacrosanct as its most die-hard defenders claim.

The idea that there was an international responsibility to enforce international human rights standards *inside* the boundaries of states grew from Deng and Cohen's conceptual framework that called for international access to, and protection of, the growing number of war victims who did not cross an international boundary. Their successful efforts to improve knowledge, data, and soft law have not as yet transformed the institutional structures dealing with IDPs, but some fledgling steps have been taken.

In brief, Deng and Cohen's efforts on behalf of IDPs broke new ground. International discourse is different; a clear normative framework is in place; guiding principles regarding IDPs are circulating with new coalitions behind them; and individual institutions emphasize to varying degrees the particular problems of IDPs within their programs and projects. This new field was prepared for more significant planting and harvesting at the end of the 1990s, first by UN secretary-general Kofi Annan and then by the Canadian-sponsored International Commission on Intervention and State Sovereignty. Our story of ideas in action and the march of humanitarian intervention turns to them.

Kofi Annan's two sovereignties

In trying to deride the lack of raw power, Joseph Stalin is widely reported to have asked, "How many divisions does the pope have?" Realists might well pose the same question to the secretary-general of the United Nations, often viewed as a secular pope. And the statistical answer has varied widely

over the years, from 10,000 during the Cold War to 80,000 in the mid-1990s and again in 2006 and more than 100,000 in 2010 – more deployed overseas than any country other than the United States.

Those figures are somewhat misleading, however, because the UN's top official actually borrows soldiers from member states; and his real power, like the pope's, does not come out of the barrel of a gun. More than his predecessors, secretary-general Kofi Annan (1997–2006) took human rights seriously and preached about humanitarian intervention from his bully pulpit. A series of speeches in 1998–9 is widely viewed as having placed the issue squarely on the intergovernmental agenda.

The first three speeches were delivered at Ditchley Park (a conference center in England), Geneva, and The Hague. Because he starkly juxtaposed the relative value of state versus individual sovereignty, these speeches received some publicity. More significant press and media coverage began shortly before the opening of the General Assembly on September 20, 1999, when a controversial opinion piece by Annan appeared in the influential weekly *The Economist*. His black-and-white challenge to traditional state sovereignty emerges from changing the balance between states and people as the source of legitimacy and authority. The older version of the rule of law of states is thus being tempered by the rule of law based on the rights of individuals. And a broader concept of sovereignty is emerging, which encompasses both the rights *and* responsibilities of states.

The then secretary-general's clarion call was hard to muffle. His "two concepts of sovereignty" helped launch the intense debate on the legitimacy of intervention on humanitarian grounds:

> State sovereignty, in its most basic sense, is being redefined – not least by the forces of globalization and international cooperation. States are now widely understood to be

instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty – by which I mean the fundamental freedom of each individual, enshrined in the Charter of the UN and subsequent international treaties – has been enhanced by a renewed and spreading conscious- ness of individual rights. When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.[22]

Later that week in his opening address to the General Assembly, the moral plea from the future Nobel laureate reached all member states in six official UN languages. Annan argued passionately that human rights transcended narrow claims of state sovereignty, a theme that he put forward more delicately a year later at the Millennium Summit.[23]

The reactions in the General Assembly Hall were raucous and predictable, from China, Russia, and especially much of the Third World. Unilateral intervention – that is, with- out Security Council authorization, however many countries are involved in a coalition – for whatever reasons, includ- ing genuine humanitarian ones, remains taboo. It is easy to underestimate the extent to which Westphalian sovereignty permeated not only the thinking of the framers of the UN Charter but also the perspectives of new states following decolonization. As Gareth Evans tells us, "sovereignty thus hard won, and proudly enjoyed, is sovereignty not easily relin- quished or compromised."[24] Indeed, the chorus of complaints after Annan's remarks in September 1999 had a remarkably similar tenor to hostile reactions over the years voiced in the General Assembly and the Economic and Social Council about many aspects of human rights campaigns or initiatives by Francis M. Deng.

Annan's reframing of two sovereignties clearly helped shift the balance away from the absolute rights of state leaders to

respect for the popular will and internal forms of govern- ance based on international standards regarding democracy and human rights.[25] Advocates suggest that, on a scale of values, the sovereignty of a state does not stand higher than the human rights of its inhabitants.[26] The fact that this argu- ment came from the world's top international civil servant resonated loudly.

International Commission on Intervention and State Sovereignty

Readers have encountered ICISS from the outset of this book. But it is worth parsing in greater detail here its deliberations and findings.[27] We have just seen the growing salience of popular sovereignty rooted in the notions of Cohen and Deng and of Annan. This doctrine stipulates that when states are unable to provide life-supporting protection and assistance for their citizens, they are expected to request and accept out- side offers of assistance. Should they refuse or deliberately obstruct access to their affected populations, and thereby place large numbers of people at risk, an international respon- sibility to act arises. Sovereignty means accountability to two separate constituencies: internally to one's own population and internationally to the community of responsible states in the form of compliance with human rights standards. Proponents of this view argue that sovereignty is not abso- lute, but contingent. In brief, when a government massively abuses the fundamental rights of its citizens, its sovereignty is suspended.

The ICISS mandate was to build on this emerging under- standing of the problem of intervention and state sovereignty and to find new common ground, or political consensus, about military intervention to support humanitarian objec- tives. The notion was that this independent commission

would seek to square the circle – to harmonize intervention and state sovereignty – much as the Brundtland Commission overcame the seemingly estranged notions of growth and environmental protection with "sustainable development."[28] Similarly, ICISS reconciled respect for human life with state sovereignty through "the responsibility to protect."

The 12-person group moved at a forced-march pace and formulated its recommendations less than a year after its establishment by then Canadian foreign minister Lloyd Axworthy. Given the supposedly wide disparity of views across the North–South divide, it was co-chaired by Gareth Evans (a former Australian foreign minister) and Mohamed Sahnoun (a respected Algerian diplomat). In addition to Evans, the "North" included Lee Hamilton (USA), Michael Ignatieff (Canada), Klaus Naumann (Germany), Cornelio Sommaruga (Switzerland), and Gisèle Côté-Harper (Canada). In addition to Sahnoun, the "South" included Ramesh Thakur (India), Cyril Ramaphosa (South Africa), Fidel Ramos (Philippines), and Eduardo Stein (Guatemala). Russia's Vladimir Lukin completed the group.[29]

The new twist for independent commissions of this type was the behind-the-scenes role of a sympathetic government, Canada – a model to be replicated in a subsequent commission on human security with Japan in the lead. Furthermore, Ottawa ensured that the topic and the work were not relegated exclusively to coffee tables and bookshelves. Indeed, the eventual blessing by the 2005 World Summit can be traced to Ottawa's persistence and diplomacy.

Humanitarian intervention is not really a North-versus-South issue, but that is how it – like virtually all international issues – is parsed in UN circles. This is the convenient, familiar, and readily available organizing principle for diplomats. Ten consultations were held in both the northern and southern hemispheres to expose the views of governments,

scholars, NGOs, and journalists. The cacophony cannot be summarized except to say that what was notable, in historical perspective, is that nowhere did a substantial number of people argue that intervention to sustain humanitarian objectives was never justifiable. As a result of the horror in Rwanda, there were few policymakers, pundits, or practitioners who dared to exclude humanitarian intervention in principle.

The commission laid down two normative markers.[30] First, it aimed to alter the consensus about the use of deadly force to help victims in harm's way. Second, it emphasized that the international responsibility to intervene to halt mass killings and ethnic cleansing is located in the UN Security Council, and that any intervention should be efficient and effective.

There are two public policy angles fraught with ethical dimensions resulting from the R2P report: "core principles" and "principles for military intervention." The former is politically correct enough packaging so that Chinese, Russian, and many Third World readers may be able to stomach the latter, the real meat of the report.

The "foundations" for the report contain an innocuous list with something for everyone, but the "basic principles" behind the report merit attention:

> State sovereignty implies responsibility, and the primary responsibility for the protection of its people lies with the state itself. Where a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.[31]

The first four words could have been written by Deng, Cohen, or Annan; and the remainder of the sentence is noteworthy for those who chart changes in international discourse. As hinted earlier, the recognized need to reinforce state capacity is not a misplaced nostalgia for repressive regimes but rather an

apt recognition, even among committed advocates of human rights and robust intervention, that state authority is fundamental to enduring peace and reconciliation. Human rights can only be defended over the longer term by democratic states with the authority and the monopoly of force to sustain such norms. The remedy is thus to rebuild failed or weak states rather than to place a misguided hope in the potential of international trusteeships and transnational NGOs to protect human rights. This fact reflects a growing appreciation not only of the international legal bases of the contemporary state system but also the practical reality that domestic authorities are best placed to take steps to guarantee respect for fundamental rights.

The responsibility to protect embraces three temporal phases:

- The responsibility to prevent: to address both the root causes and the direct causes of internal conflict and other man-made crises putting populations at risk.
- The responsibility to react: to respond to situations of compelling human need with appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.
- The responsibility to rebuild: to provide, particularly after a military intervention, full assistance with recovery, reconstruction, and reconciliation, addressing the causes of the harm the intervention was designed to halt or avert.

The notion of a logical continuum of responsibility before, during, and after assaults on civilians is indisputable. Clearly, preventing the outbreak of mass violence would be preferable to intervening to stop it, although just as clearly such a notion is politically very hard to sell. A commitment to post-conflict peace building is imperative if the long-term benefits of intervention are to be realized. Headlines in 2006 highlighted

this reality – the continued instability throughout Haiti, the triumph of militant Islamists in consolidating control over the capital of Somalia, Mogadishu, and the eruption of gang violence in Dili, the capital of East Timor. The situation in East Timor – until recently a much-vaunted "success story" of UN involvement after the Australian-led military intervention – highlights the need for what Roland Paris has correctly identified as "longer-lasting and ultimately more intrusive forms of intervention in the domestic affairs of these states."[32]

Notwithstanding the necessity for such a holistic approach across time for the R2P, there is still the fundamental significance of the choice of the title of this book – with its focus on what can make a difference at the middle stage when the need for outside coercion confronts the traditional and crucial norm of nonintervention. The challenges before and after the outbreak of lethal conflicts are indisputable, but more urgent still is the requirement to emphasize nonconsensual intervention to protect populations under deliberate attack. If one is unsure about whether states will act to prevent armed conflict or be in a position to commit themselves to longer-run investments, should we throw up our hands and refuse to take feasible steps to stop mass murder?

ICISS sought to drive a stake through the heart of the term "humanitarian intervention." The shift in language is based on several assumptions, some more sensible than others. The first, which is frankly the least solid, is the allergic reaction by many humanitarians. The self-righteous monopoly by civilian agencies about who can be considered a legitimate humanitarian is hard to stomach. On many occasions, use of the military is the only way to halt atrocities; and many members of the armed forces have certainly contributed substantially to humanitarian action.

However, there are two more sensible justifications in weighing the pluses and minuses of setting aside the familiar

terminology of "humanitarian intervention." Using the "H" word – for "humanitarian," though it may also be used facetiously for "hurrah" or bitterly for "hypocritical" – stakes out prematurely the moral high ground. Trying to avoid debate about the merits of a particular case is wrong – intellectually as well as politically. It overlooks the self-interested dynamics of the strong to impose their will on the weak in the name of the so-called universal principles of the day. History counsels caution to anyone even vaguely familiar with many purported humanitarian interventions. An honest debate about motivations and likely costs and benefits is required, not visceral accolades because of a qualifying adjective. Moreover, serious discussions have become particularly relevant, because analyses of interventions in the 1990s suggest that outside assistance can do more harm than good or can become entangled in a local political economy that favors war rather than peace.

Moreover, there is another possible payoff from switching to the vocabulary of the responsibility to protect. Moving away from the picturesque vocabulary of the French Doctors Movement has the political advantage of shifting the fulcrum of debate away from the rights of interveners to the rights of affected populations and to the obligations of outsiders to help. The new terminology means that the emphasis is on the rights of those needing support and suffering from starvation or being raped, and on the responsibility – the moral injunction does not yet, however, constitute an obligation or duty – of others to protect such victims.

According to the ICISS report, the change in vocabulary reflects two priorities, both seemingly sensible upon first reading. It is important that "less intrusive and coercive measures be considered before more coercive and intrusive ones." And "prevention is the single most important dimension of the responsibility to protect."

These priorities are highly situational. In fact, more coercive measures may make sense sooner rather than later. We need only think about Haiti's painful experience with sanctions or the distressing exhaustion of options in all of the Balkan wars to make a plausible case that earlier military intervention would conceivably have been more humanitarian than attempting less coercive measures prior to military ones. By the time that all the alternatives to military force have been explored, many of the people whom humanitarian intervention is intended to save could be dead or have fled. Furthermore, Stanley Hoffmann offers another warning: waiting could drastically up the ante by increasing the level and intensity of military force required to do the job – which not only makes a response politically less likely but also more lethal if it takes place.[33]

Moreover, it is preposterous to argue that to prevent is *the* single most important priority; the most urgent priority is to react better. Most of the mumbling and stammering about prevention is a superficially attractive but highly unrealistic way to try to pretend that we can finesse the hard issues of what essentially amounts to humanitarian intervention. ICISS's discourse about prevention is a helpful clarification, but it nonetheless obscures the essence of the most urgent part of the spectrum of responsibility: to protect those caught in the crosshairs of war.

For bullish humanitarians, any loss of life is deemed sufficient to warrant an intervention. For ICISS, which accurately reflects the existing international political consensus on the subject, a higher threshold of human suffering must be crossed: acts of such a magnitude that they shock the conscience and elicit a fundamental humanitarian impulse.[34]

Intervention consists of three categories of threat or actual use of coercion: military force, economic sanctions and arms embargoes, and international criminal prosecution. After

mentioning that "military intervention for human protection purposes is an exceptional and extraordinary measure," the ICISS report specifies what warrants such an unusual military response. The "just cause threshold" is reached if the following conscience-shocking harm occurs:

> large-scale loss of life, actual or apprehended, with genocidal intent or not, which is the product either of deliberate state action, or state neglect or inability to act; or a failed state situation; or
> large-scale "ethnic cleansing," actual or apprehended, whether carried out by killing, forced expulsion, acts of terror; or rape.

This double-barreled justification does not go as far as many might have hoped. For instance, Article 5 of the ICC's Rome Statute identifies the "most serious crimes of concern to the international community as a whole." In particular, its list of "crimes against humanity" mentions everything from murder and slavery to imprisonment and "other inhumane acts of a similar character intentionally causing great suffering."

The value of the lengthy ICC shopping list is questionable, but there were two strong candidates for inclusion in ICISS's shorter list of threshold conditions that did not make the cut. One was the overthrow of democratically elected regimes (especially favored by some African states and regional institutions) and massive abuses of human rights (favored by most western enthusiasts for outside intervention).

However, the insertion of "actual *or* apprehended" to qualify both agreed thresholds opens the door fairly wide to acting in advance of massive loss of life or forced displacement. Justifiable causes could include overthrow of a democracy or violations of human rights or, perhaps, even an environmental catastrophe like the one in Chernobyl if a state reacts as slowly as the Soviet Union did in 1986. The requirement to

endure high levels of loss of life *before* any action would have undermined the logic of saving lives.

In any event, contemporary policy debates revolve around the advisability of identifying any criteria whatsoever. Pragmatists see that interventions have taken place outside the Security Council and will continue to do so. As council approval is only a desirable option and not an absolute requirement, the argument goes, a set of criteria could be useful in guiding forceful action to stem mass killings and wholesale slaughter. In the post-9/11 world, ICISS commissioner Ramesh Thakur has argued that a consensus resolution about R2P criteria would make it more difficult for states to wrap themselves disingenuously in a humanitarian blanket for purely self-interested interventions.[35] At the same time, opponents argue that Security Council endorsement under Chapter VII is a sine qua non, so that intervention without it is a violation of international law. They worry that formulating a list of criteria might facilitate and regularize the practice of ad hoc intervention, which tends to be by the most powerful states.

St Thomas Aquinas, and the contemporary moral voices of Michael Walzer and Bryan Hehir,[36] would undoubtedly be pleased with "the precautionary principles" underlying the responsibility to protect. The debate in the 1990s can actually be seen as moving beyond "whether to intervene" to "how."[37] Concepts from the just war tradition animate much of the discussion about appropriateness. ICISS's modified just war doctrine includes four elements:

- First, right intention: The primary purpose of the intervention, whatever other motives intervening states may have, must be to halt or avert human suffering. Right intention is better assured with multilateral operations, clearly supported by regional opinion and the victims concerned.

- Second, last resort: Military intervention can only be justified when every nonmilitary option for the prevention or peaceful resolution of the crisis has been explored, with reasonable grounds for believing that lesser measures would not have succeeded.
- Third, proportional means: The scale, duration, and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective.
- Fourth, reasonable prospects: There must be a reasonable chance of success in halting or averting the suffering which has justified the intervention, with the consequences of action not likely to be worse than the consequences of inaction.

Affirming clearly these criteria was useful, even if they are remarkably similar to those from other work done over recent decades. In 1965, the International Law Association established a commission on human rights that, in turn, established a subcommittee that published four reports on humanitarian intervention between 1970 and 1978 and a protocol with criteria for legitimate intervention.[38] The issue was controversial and abandoned, but more recently it was the subject of intense work by the Swedish, Dutch, and Danish governments mentioned earlier, as well as a major concern of the Lawyers' Committee for Human Rights for the George W. Bush administration and of the International Council on Human Rights Policy for NGOs.[39] The same types of criteria exist in new work by independent scholars such as Michael Ignatieff, Simon Chesterman, Nicholas Wheeler, and Fernando Tesón.[40]

As ICISS pointed out at a special meeting after September 11, 2001, the precautionary principles for humanitarian intervention are also relevant for any unilateral or multilateral military operation. Even the special challenges presented by the war against terrorism demand adherence to the principles that the commission gave operational meaning to as precautionary considerations for humanitarian intervention.

Since the Security Council's lack of reaction to Rwanda and inability to act in Kosovo were the main driving force, the question of "right authority" was critical. Because they are equivocal, the details of the ICISS report are worth spelling out in full:

- There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes. The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work better than it has.
- Security Council authorization should in all cases be sought prior to any military intervention action being carried out . . .
- The Security Council should deal promptly with any request for authority to intervene where there are allegations of large-scale loss of human life or ethnic cleansing . . .
- The Permanent Five members of the Security Council should agree not to apply their veto power, in matters where their vital state interests are not involved, to obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support.
- If the Security Council rejects a proposal or fails to deal with it in a reasonable time, alternative options are: consideration of the matter by the General Assembly in Emergency Special Session under the "Uniting for Peace" procedure; and action within area by regional or sub-regional organizations under Chapter VIII of the Charter, subject to

their seeking subsequent authorization from the Security Council.

- The Security Council should take into account in all its deliberations that, if it fails to discharge its responsibility to protect in conscience-shocking situations crying out for action, concerned states may not rule out other means to meet the gravity and urgency of that situation and that the stature and credibility of the United Nations may suffer thereby.

A key lingering question thus hovers around authority – who may and will act, and how. Indeed, any standardization of criteria governing interventions to protect the vulnerable is problematic. Individual states will not act against major powers because more harm than good would result – the cure would be worse than the disease. For instance, who could rationally argue that Moscow and Beijing should be subject to military intervention to reverse their policies and actions in Chechnya and Xinxiang? There are good reasons not to challenge nuclear powers, but that gives little comfort to the victims among the latter's citizens, especially as the number of nuclear powers continues to increase. If the Security Council is paralyzed, action can still occur if conditions are right. This fact was highlighted by the Kosovo Commission's report, which concluded that "the NATO military intervention was illegal but legitimate."[41] However, we should bear in mind that selective action or inaction damages the UN's credibility.

Unfortunately, ICISS ends where it began. The vacillation, however elegant, revolves around the key question, "What if?" Of course, the reputation of the UN will suffer; and of course, states will not rule out other means to react. The intrinsic reality, after ICISS's work and after the real-world events of the late twentieth and early twenty-first centuries, remains the same as it has been throughout the Westphalian era. If there

is a political will and an operational capacity, humanitarian or other interventions will happen.

The final topic examined by ICISS concerns "operational principles." Here, there are no surprises. The shopping list of desirable conditions includes the items on a wish list for most practitioners, such as clear objectives, unambiguous mandates, adequate resources, unity of command, and maximum coordination among humanitarians. There is no recommendation whose implementation would not strike most military and humanitarian staff as sensible and straightforward, however implausible.

At the same time, there are a number of specific challenges in giving operational meaning to R2P that are distinct from the more familiar challenges of either peacekeeping or war fighting, the two distinct end points on a spectrum of international military action. The report's recommendations seek to highlight specific challenges in between – namely, how can protection be afforded to populations at risk, and how can those who prey upon them be deterred?

To date, the cumulative scorecard is not encouraging. There has been too little success in meeting the challenges of coercive protection. Moreover, there seems to be a lack of institutional adjustment and learning at the operational level, as is indicated by military doctrines. These shortcomings pose the future challenges of the responsibility to protect. One potential advantage of coercive protection is that it is politically and militarily less onerous than compelling compliance.

Yet this "do something" approach can save lives and provide the chance that a functioning sovereign state can reemerge as the provider of protection. Rwanda furnishes a helpful counterfactual. There was no robust intervention, and there has been too little international follow-up. Nevertheless, modest security and state services have returned, in spite of the tragic events of 1994. Would it not be possible to imagine the same

outcome but with slightly more robust and more timely international military responses in that fateful year that might have deterred or slowed the momentum of the genocide, prevented the flight of millions, and saved *only* a few hundred thousand lives?[42]

The essential results of the International Commission on Intervention and State Sovereignty are twofold. First, it reformulates the conceptual basis for humanitarian intervention. It calls for moving away from the rights of interveners toward the rights of victims and the responsibilities of outsiders to act. It is primarily state authorities whose citizens are threatened who have the responsibility to protect. Yet, a residual obligation rests with the larger community of states when an aberrant member of their club misbehaves egregiously or implodes. Essentially, governments not intervening in the face of massive loss of life and displacement should be embarrassed. Their responsibility to protect includes action not only to intervene when large-scale loss of life occurs but also to prevent armed conflicts and to help mend societies.

The implications are plain. The status of state sovereignty is not challenged per se, but rather reinforced. However, if a state is unwilling or unable to exercise its protective responsibilities for the rights of its own citizens, it forfeits the moral claim to be treated as legitimate. Its sovereignty, as well as its right to nonintervention, is suspended; and the residual responsibility necessitates vigorous action by outsiders to protect populations at risk.

Second, ICISS proposes a new international default setting – a modified just war doctrine for future interventions to sustain humanitarian values or human rights. As mentioned in chapter 2, the Security Council was largely missing in action regarding humanitarian matters during the Cold War. For more than two decades, there was a *tabula rasa* – no resolution mentioned the humanitarian aspects of any conflict from 1945

until the Six-Day War of 1967.[43] The first mention of the ICRC in a council resolution was not until 1978.[44] And in the 1970s and 1980s, "the Security Council gave humanitarian aspects of armed conflict limited priority . . . but the early nineteen-nineties can be seen as a watershed."[45] During the first half of the decade, twice as many resolutions were passed as during the first 45 years of UN history. They contained repeated references, in the context of Chapter VII, to humanitarian crises amounting to threats to international peace and security, and repeated demands for parties to respect the principles of international humanitarian law.

In short, today's normative landscape for humanitarian intervention is substantially different from that dominating international relations during the Cold War. José Alvarez observes the acceleration in the usual pace for the development of an emerging customary law: "traditional descriptions of the requisites of custom – the need for the passage of a considerable period of time and the accumulation of evidence of the diplomatic practices between sets of states reacting to one another's acts – appear increasingly passé."[46]

The 2005 World Summit and since

The UN's sixtieth birthday celebration in New York was attended by more than 150 presidents, prime ministers, and princes. Once seen as a window of opportunity to revisit the United Nations in light of changes in world politics since 1945, the September 2005 World Summit's negotiations exposed the debilitating political and bureaucratic conflicts that regularly paralyze the organization. "A once-in-a-generation opportunity to reform and revive the United Nations has been squandered,"[47] said the lead editorial in the *New York Times*. Partisans of R2P, however, were relieved, even though the overall results constituted considerably less than Kofi Annan's

prior plea that "the UN must undergo the most sweeping overhaul in its 60-year history."[48]

Two major developments at the summit are relevant for humanitarian intervention. The first is the creation of a Human Rights Council (HRC), which reflects an effort to bolster the human rights machinery of the United Nations, thereby enhancing the protection of individual rights. The second directly pertains to R2P, as the outcome document propelled forward, albeit gingerly, normative progress on the use of force in the face of conscience-shocking events by outright endorsing the responsibility to protect.

The performance of the UN's Commission on Human Rights was recognized to be scandalous everywhere except in countries run by thugs. Creaking along since 1946, the commission's 53 members in 2005 included Sudan, while its government was pursuing genocide in Darfur, and Zimbabwe, while it was bulldozing the houses of 700,000 suspected opposition supporters and rounding up journalists and other critics. That China and Cuba played prominent roles, and that Libya was a former chair, added to the litany of embarrassments. The last session of the CHR took place in March, and it was abolished in June 2006 during the first session of the Human Rights Council.

The High-level Panel recognized the "eroding credibility and professionalism," and that "States have sought membership of the Commission not to strengthen human rights but to protect themselves against criticism or to criticize others."[49] However, its recommendation was truly counterintuitive: universal membership instead of "only" one-quarter of the members.

In his only serious dissent from the panel's recommendations, the secretary-general proposed that member states "replace the Commission on Human Rights with a smaller standing Human Rights Council."[50] In September, leaders argued about whether the new council might one day become a principal organ, like the Security Council and the Economic and Social Council, one that could review the human rights of all members, not just those selected for special scrutiny.

World leaders found it easier to agree that the Commission on Human Rights was dysfunctional than to agree on an alternative. However, they "resolve[d] to create a Human Rights Council" as a subsidiary of the General Assembly, which would not only create it, under the provisions of Charter Article 22, but also decide its "mandate, modalities, functions, size, composition, membership, working methods, and procedures."[51]

Given the bitter disputes over the shape of the new council, it surprised some that the resumed General Assembly made any decision at all. Sweden's Jan Eliasson, the assembly's president, managed to secure an agreement in March 2006 on a 47-member Human Rights Council with terms of three years with the assent of a simple majority of the General Assembly.

The new body has flaws. A majority vote in May 2006 by the General Assembly (rather than by two-thirds, as Annan originally proposed) facilitated the election of such abusers as China, Cuba, Russia, Pakistan, Saudi Arabia, and Azerbaijan. Nonetheless, elections replaced selection by regional power brokers, and candidates put forward platforms, which spurred open discussion of records. Some came close to acknowledging international concerns. For example, Pakistan emphasized its commitment to punishing all forms of violence against women, especially "the infamous honor killing." China drew attention to its invitations to UN investigators on freedom of religion, as well as on torture and arbitrary detention.

Two vocal critics of human rights measures, Venezuela and Iran, were defeated. Whereas, in the past, despotic regimes could evade scrutiny by joining the commission – indeed, that

was often an incentive – inquiry into members' records is the first order of business for the new council. Hence, Zimbabwe, Sudan, Libya, Vietnam, Nepal, Syria, and Egypt did not even run.

Neither did the United States, which registered its negative views by not being a candidate for a seat in the council's first election. Rather than explain the tactic as pouting, some judged the decision as a calculation to avoid the potential embarrassment of possibly losing an election because of the American record at Abu Ghraib and Guantánamo. Indeed, Washington had earlier indicated its discontent with the modest level of change by voting against the council – one of only four countries (the others being Israel, the Marshall Islands, and Palau) to do so. Ambassador John Bolton told a public radio audience that the United States "wants a butterfly, not a caterpillar with lipstick on."[52] Many pundits and NGOs screamed that the firebrand conservative was doing the Bush administration's bidding and scuttling legitimate international initiatives. US opposition to the council was reversed under the Obama administration, which ran and won a seat in 2009. While conservative pundits continue to rail against the council, UN ambassador Susan Rice explained that the United States would work from within to bolster the flawed body.[53]

By the time of a review in 2011 after five years of work, the fledgling council had conducted its first "universal periodic review," a human rights report card for each UN member state. Preliminary assessments suggest that some gains have been made but that overall it is closer to "business as usual" – the process is deeply politicized and state sovereignty continues to trump human rights. Robust follow-up mechanisms to the UPR, moreover, have yet to be established. As Bertrand Ramcharan explains, "the HRC has been heavily criticized on three main grounds: it fails to take principled action on

many situations of gross human rights violations for political reasons; some in its membership seek to weaken the special procedures – the mandate-holders examining issues or situations of gross human rights violations; and it is biased in its treatment of countries as reflected in its narrow concentration on alleged violations committed by Israeli occupation forces in Palestine and refusal to take similar action on other equally or even more serious situations."[54]

We will have to wait and see if the actual behavior of the Human Rights Council over the longer run will distinguish it from its undistinguished predecessor. If past is prelude, this is unlikely. At the same time, if the promising sprouts of the council are to take root and not to shrivel, they must be actively nurtured by those committed to human rights – the Europeans, the democracies of the global South, India and South Africa, and especially the United States. An encouraging development was that the Human Rights Council referred to the responsibility to protect in its resolution S-15/1, which in turn led to the General Assembly's resolution 65/60 that suspended Libyan membership in the council. Some asked why Libya was a member in the first place; but the dramatic suspension was a precedent.

The summit also agreed to strengthen the Office of the High Commissioner for Human Rights (OHCHR), a relatively recent addition to the UN's machinery (established after the 1993 Vienna World Conference on Human Rights) that is staffed by professionals (rather than run by governments) who have, among other tasks, been establishing human rights centers in troubled countries such as Cambodia, Guatemala, and Nepal, and have assisted a series of special rapporteurs working on such thematic issues as torture. The summit document called for a doubling of the budget of the high commissioner's office, allowing recruitment of "highly competent staff."[55] The OHCHR's budget, however, remains woefully

inadequate for the magnitude of the tasks confronting the office.

Most significant for this discussion was the summit's blessing of R2P, an idea that has broken speed records in the international normative arena. As Kofi Annan told a 1998 audience, "state frontiers . . . should no longer be seen as a watertight protection for war criminals or mass murderers."[56] The High-level Panel reaffirmed the importance of changing the terminology from the divisive "humanitarian intervention" to "the responsibility to protect." It explicitly endorsed the ICISS argument that "the issue is not the 'right to intervene' of any State, but the 'responsibility to protect' of *every* State." It proposed the same five criteria as ICISS: seriousness of threat, proper purpose, last resort, proportional means, and balance of consequences.[57] In a significant breakthrough for the growing acceptance of the new norm, China's official paper on UN reforms and the Gingrich–Mitchell task force commissioned by the US Congress both endorsed the responsibility to protect.[58] In his own document for the summit, *In Larger Freedom*, Annan made explicit reference to ICISS and R2P, endorsed the legitimacy criteria, and urged the Security Council to adopt a resolution "setting out these principles and expressing its intention to be guided by them." This would "add transparency to its deliberations and make its decisions more likely to be respected, by both Governments and world public opinion."[59]

R2P was one of the few substantive items to survive relatively intact the negotiations at the World Summit – indeed, the concept was given its own subsection.[60] The final outcome document contained an unambiguous acceptance of individual state responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Member states further declared that they "are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the UN Charter, includ-

ing Chapter VII . . . should peaceful means be inadequate and national authorities manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."

While ICISS was not enthusiastic about unilateral humanitarian intervention, it had left open the possibility that humanitarian intervention not be totally dependent on the procedural rules of the Charter governing the use of force. As such, the summit's language could be seen as a step backward, as "R2P lite" – because humanitarian intervention has to be approved by the Security Council.

Moreover, the World Summit also kicked the issue of criteria back to the General Assembly, where a discussion is bound to stall. At the same time, the overall treatment of R2P suggests that consensus building can sometimes take place around even the most controversial issues and with opposition from the strangest of bedfellows – in this case, the United States and the Non-Aligned Movement (NAM). The summit's final text reaffirms the primary roles of states in protecting their own citizens and encourages international assistance to weak states to exercise this responsibility. At the same time, it also makes clear the requirement for international intervention when countries fail to shield their citizens from, or, more likely, to actively sponsor, genocide.

NAM will undoubtedly continue to reiterate its rejection of the so-called right of humanitarian intervention, and the United States will continue to refuse to be committed to military action by others. But the proverbial bottom line is clear: when a state is incapable or unwilling to safeguard its own citizens and peaceful means fail, the resort to outside intervention, including military force (preferably with Security Council approval), remains a policy option. In short, there is an unambiguous acceptance by governments of the collective international responsibility to protect.

Significantly, the Security Council made use of the term "R2P" at the end of April 2006 in thematic resolution 1674 pertaining to the protection of civilians in armed conflict. And at the end of 2007, UN secretary-general Ban Ki-moon sought to institutionalize the norm with the creation of a new office at the under-secretary-general level. Following the Security Council's approval, Ban Ki-moon then appointed Edward C. Luck to the position. Luck collaborates closely with Francis Deng, the special representative on preventing genocide and mass atrocities.

In 2009, Ban Ki-moon sought to further advance the R2P agenda with his report *Implementing the Responsibility to Protect*, which he submitted to the General Assembly in 2009.[61] The 2010 and 2011 General Assembly interactive dialogues on R2P's implementation revealed growing consensus around the R2P norm. Indeed, only four states outright rejected R2P and sought to roll back normative progress – Cuba, Nicaragua, Sudan, and Venezuela – with many former skeptics adopting a more positive tone.[62]

Although the first dialogue certainly was not what the secretary-general called "a watershed,"[63] the states members of the "Group of Friends" of the responsibility to protect in New York, the UN special adviser,o and civil society successfully advanced the cause. The mobilization resembled successful earlier campaigns to forge wider constituencies for such issues as banning land mines and establishing the International Criminal Court.[64]

Initially, many observers feared that the debate would lead to a resolution diluting the September 2005 commitment. Fears about normative back-pedaling seemed concrete enough; for instance, on the eve of the debate, *The Economist* described opponents who were "busily sharpening their knives."[65] The Nicaraguan president of the General Assembly, Father Miguel d'Escoto Brockmann, unsheathed his Marxist

dagger and suggested "a more accurate name for R2P would be . . . redecorated colonialism."[66]

However, R2P-naysayers were deeply disappointed by the discernible shift from antipathy to wider public acceptance of the norm.[67] Countries that had suffered terrible atrocities continued to make rousing pleas to strengthen and implement R2P – for example, Rwanda, Bosnia, Guatemala, Sierra Leone, and East Timor. A wide variety of other countries such as Chile, South Korea, and the entire West continued their outspoken support. More surprising was the widening consensus with support from major regional powers that had previously been reticent or even hostile – including Brazil, Nigeria, India, South Africa, and Japan. Concerns remained about implementation, thresholds, and inconsistency. In September 2009, General Assembly resolution 63/208 registered tepid support for R2P across regions, but it was more widespread than previously.

In August 2010, the conversation continued around the secretary-general's report on early warning, and forty-two states and four observers spoke at the informal interactive dialogue; and the vast majority once again reaffirmed support for the norm, welcomed the report, and supported continued discussions.[68] Not surprisingly, the usual detractors continued to question the definition of R2P and previous agreements by the General Assembly; but, in December 2010, the assembly approved resolution 64/245, which established the joint office and regularized the staff positions working on genocide prevention and R2P.

In addition to the official blessing by the UN General Assembly in October 2005, the Security Council also has made specific references to R2P on several occasions. The April 2006 resolution 1674 on the protection of civilians in armed conflict expressly "reaffirms the provisions of paragraphs 138 and 139"; and the August 2006 resolution 1706 on

Darfur repeats this language regarding this conflict. The first meaningful operational references came against Libya in 2011: resolution 1970 had unanimous support for a substantial package of Chapter VII efforts (arms embargo, asset freeze, travel bans, and reference of the situation to the International Criminal Court); and no state voted against resolution 1973 which authorized "all necessary measures" to enforce a no-fly zone and protect civilians. Subsequently, in July 2011, in approving a new peacekeeping mission in South Sudan, R2P once again figured in resolution 1996. And, earlier, we mentioned the decision by the Human Rights Council leading to the General Assembly's suspension of Libyan membership in the council. Ramesh Thakur and this author were correct when earlier we wrote that R2P's cumulative impact was "the most dramatic normative development of our time."[69]

Whether Libya has definitively accelerated the internalization of the norm is difficult to say at this juncture. It is worth noting that "focal points" from capitals and New York gathered in May 2011 at the invitation of the foreign ministers from Costa Rica, Denmark, and Ghana[70] – an initiative that figured in the report from the secretary-general to third interactive dialogue in July 2011.[71] In spite of the stalemate in Libya, the tenor of the conversation was even less controversial than the previous two summers' discussions, with fewer and fewer of the usual suspects claiming that there was no consensus. The focus during the interactive dialogue on regional organizations was especially timely in that regional support was crucial in Libya – in addition to the military action by NATO, the diplomacy surrounding the intervention involved the Gulf Cooperation Council, the Arab League, the Islamic Conference, and the African Union – as it had been in Côte d'Ivoire. Although the AU's diplomacy was ultimately unsuccessful, the organization was helpful in making the ultimate UN decisions, as was the pressure to

act militarily by the Economic Community of West African States.[72]

Mustering the cross-cultural political will to give concrete and consistent protection to civilians is never going to be easy, but Libya is pivotal for what Shannon Beebe and Mary Kaldor call "human security intervention."[73] As the situations in Tripoli and elsewhere across the wider Middle East unfold, there will be acute dilemmas for humanitarians[74] and policy makers. If the operation fares well in the long term, the norm will be strengthened. If it goes poorly, future decision making about its implementation will be even more problematic than in the past. Moreover, it will increase the decibel level of claims from naysayers who emphasize the potential of the responsibility to protect to backfire; the repression of dissent in Syria, Bahrain, and Yemen, for instance, lends some weight to claims from contrarians. Alan Kuperman, for instance, argues that the expectation of benefiting from possible outside "intervention" – and he includes sanctions, embargoes, judicial pursuit, and military force under this rubric – emboldens substate groups of rebels either to launch or continue fighting.[75] International mumbling has perhaps affected calculations by local militias and elites, even causing them to take action that perhaps has had the effect, intended and unintended, of prolonging the violence.

But does this mean that robust humanitarianism is destined to constitute a moral hazard? There might be a problem were there an insurance policy for humanitarians as there is for banks, which permits the latter to be reckless with other people's money. But there is no such global life insurance policy; surely dissenters in Libya as well as Syria and Yemen understand that humanitarian talk is cheap. Is there a danger of too much military humanitarianism? Hardly. Political will remains problematic, and the threshold for military intervention high – not merely the existence of substantial human

rights abuses but crimes of a mass nature such as genocide, war crimes, crimes against humanity, and ethnic cleansing. That military force for human protection remains a policy option at all, however, represents significant new middle ground in international relations.

New thinking was an essential contribution to this reality.

CHAPTER FIVE

So What? Moving from Rhetoric to Reality

The essential challenges of humanitarian intervention are not normative but, rather, operational. What political realities stand in the way of making R2P a reality – of turning "here we go again" into a genuine "never again," the fervent battle cry that resulted from the Holocaust of the Second World War? Constraints are certainly not in short supply, and five crucial ones are discussed here. The first is that many developing countries are still concerned that R2P can be used to conceal the imperial designs of western powers under the guise of "humanitarian" motives. This worldview was made more plausible, second, by the blowback from the war on terrorism and the *ex post facto* morphing of the justification for the war in Iraq as somehow a humanitarian undertaking.

The third constraint is crucial in explaining why the robust humanitarian intervention of the 1990s has not become fashionable again. The notion that human beings matter more than sovereignty radiated, albeit briefly, across the international political horizon until the United States tied down its military in Afghanistan and Iraq.[1] The political will, as well as operational capacity for humanitarian intervention, diminished afterward because the United States as the preponderant power is disinclined to commit significant political and military resources to human protection. Meanwhile, other states complain but do little.[2]

The fourth and fifth constraints complicate matters further and reside on the ground in war zones where civilians

come to the rescue. The nature of local war economies is a major threat to the humanitarian enterprise, which is deep in the throes of questioning its *raison d'être*.

A Trojan horse for the NAM

Students of history who recall the so-called humanitarian interventions of the nineteenth century will find understandable the substantial residue of visceral anticolonialism in the Third World. Commercial and geopolitical calculations were cloaked in the language of humanitarian and religious motives, with an overlay of paternalism. As a result, the doctrine was discredited among countries gaining independence from colonial rule, and something akin to this condemnation can also be seen as applying to the responsibility to protect.

Conditional sovereignty uncomfortably resurrects "standards of civilization" and "the white man's burden."[3] From this perspective, R2P has the potential to divide the world into "civilized" and "uncivilized" arenas and to promote a return to semicolonial practices in the latter. Powerful states can determine whose human rights justify departing from the principle of nonintervention. Most importantly, the responsibility to protect can seem a euphemism for US hegemony.

We earlier encountered the moral plea from Kofi Annan that human rights transcended claims of sovereignty, along with its outright rejection by many UN member states. Some have argued that the erosion of the principle of nonintervention could lead to chaos: "The use of force as a sanction for a breach of an international obligation may do more harm than the breach of the international obligation; the cure is often worse than the disease."[4]

Readers should recall Kosovo, which highlighted the need for guidelines when nonintervention is morally repugnant but the Security Council is paralyzed. What nature and gravity

of threats justify external military intervention?[5] ICISS proffered its response, but controversy continues over conflicting principles that produce normative incoherence, inconsistency, and contestation.[6]

Algerian president Abdelaziz Bouteflika's remarks, after Annan's justification of two sovereignties at the General Assembly in 1999, capture the NAM position: "We do not deny that the United Nations has the right and the duty to help suffering humanity, but we remain extremely sensitive to any undermining of our sovereignty, not only because sovereignty is our last defence against the rules of an unequal world, but because we are not taking part in the decision-making process of the Security Council."[7]

Venezuela's president Hugo Chavez played the same broken record at the September 2005 World Summit when he argued that the R2P would serve the interests of the powerful by making it easier to intervene inside weak countries without necessarily increasing cooperation for humanitarian crises.[8] This position remained a constant four years later during the General Assembly dialogues on R2P.

The Non-Aligned Movement – with 113 members, arguably the most representative group of countries outside the UN itself – has publicly rejected "the right of humanitarian intervention," even if Africans on their own are usually seeking more outside intervention to halt humanitarian disasters and the African Union's Constitutive Act contains a bullish Article 4(h).[9] Developing countries are not alone in their recalcitrance. For example, American "sovereigntists" launched three lines of counterattack: the emerging international legal order is vague and illegitimately intrusive on domestic affairs; the international lawmaking process is unaccountable, and the resulting law unenforceable; and Washington can opt out of international regimes as a matter of power, legal right, and constitutional duty.[10]

In the last chapter, we saw that, amidst modest achievements, the World Summit's endorsement of R2P, as well as the statements made during the General Assembly's interactive dialogues from 2009 to 2011, suggest that consensus continues to grow. However, it is difficult to disagree with Alex Bellamy, whose characterization was cited earlier, that the September 2005 consensus was possible only by "watering down" ICISS's original version by emphasizing that the Security Council alone must act and that the host state had the primary responsibility to act, and also by implying a higher threshold of "manifest failure" than had been present in several actual interventions in the preceding 15 years.[11] In effect, advances in norms have not changed the obvious reality that it is political will and military capacity, not considerations of state sovereignty, that determine whether or not humanitarian intervention takes place. This was most clearly demonstrated in the asymmetrical actions taken by the Security Council in confronting crises in Libya and Côte d'Ivoire in early 2011 and by the subsequent inability to stand up to the Syrian government's attacks on unarmed protestors.

Where does that leave us? David Rieff wonders whether the revolution of moral concern "has actually kept a single jackboot out of a single human face."[12] My own somber lament is that there still is appallingly sparse responsibility to protect those suffering from atrocities – unhumanitarian nonintervention. Or as the moral philosopher Michael Walzer echoed, "It is more often the case that powerful states don't do enough, or don't do anything at all, in response to desperate need than that they respond in imperialist ways."[13]

The reticence, and in some cases hostility, of some developing countries toward humanitarian intervention is an important explanation. But this is unlikely to disappear as long as inconsistency and disingenuousness continue to characterize western responses to humanitarian catastrophes.

This reality represents as great a threat to international society and global justice as preemptive or preventive war.

Recent research undertaken by scholars and activists of the global South, and more specifically from countries that have experienced violence and mass atrocities, suggests that there is a firm grounding of R2P norms in the diverse cultures in the global South.[14] The research embodied in *The Responsibility to Protect: Cultural Perspectives in the Global South* is a small first step toward probing the normative underpinnings of R2P in the spiritual, philosophical, and aesthetic dimensions of southern cultures. Further steps and dialogues among scholars, practitioners, and decision makers within the global South and between North and South are needed to continue to advance the R2P doctrine in practice and in theory.

9/11 and the war on terrorism

Conventional wisdom now holds that terrorism and the attacks on US territory of September 2001 brought a paradigm change in international relations. It has become equally commonplace to hear that the UN is at a crossroads. Speaking before the General Assembly in September 2003, the secretary-general stated that the world organization was at a "fork in the road . . . no less decisive than 1945 itself, when the United Nations was founded."[15]

The UN's credibility and legitimacy were the subjects of considerable debate well before 9/11. Selectivity and double standards in Security Council decisions about which conflicts warranted a response, for example, contributed to a sense that this UN organ was simply a conduit for western security interests. Why persist in Bosnia and withdraw from Rwanda? Why commit so fully to Kosovo and not to Sudan or the DRC? While few would make the ideal the enemy of the good – by insisting that humanitarian intervention must

occur whenever and wherever a crisis exists, or not take place at all – nonetheless too much and too blatant inconsistency tarnishes the UN's reputation as an honest broker.

The trumpeting of self-defense by the United States as a response to 9/11 was understandable, and even approved by the Security Council. However, the blanket authorization for Afghanistan can now be seen as a prelude to the Bush administration's determination to take on Iraq with or without Security Council approval. Indeed, consensus building around R2P must be seen in this context. In 2003, the UN was sidelined in the war against Iraq. Everyone was unhappy – the UN could not impede US hegemony, and the UN could not approve requisite action against Saddam Hussein.

Many countries, in Europe and in the Third World, are unwilling to accept any use of military force that is not approved by the Security Council – not even for humanitarian or human rights purposes, let alone preemptive or preventive war. The logic is straightforward: the authority of the international political process, however flawed, is at least regulated internationally. Setting aside agreed procedures, as NATO did in Kosovo and especially as Washington and London did in Iraq, threatens to destroy a tenuous but nonetheless essential rule governing international society.[16]

The wars in Iraq and on terrorism had three stifling effects on necessary normative conversations about criteria in the General Assembly.[17] First, the selective use of the Security Council has been compounded by Washington's and London's decisions to go to war against Iraq in March 2003 without Security Council approval after having so assiduously sought it. Indeed, this was a conversation stopper for many when considering any loosening of criteria for intervention or setting aside the principle of nonintervention.

Second, the legitimate idea of humanitarian intervention was contaminated by association with George W. Bush's

and Tony Blair's spurious and largely *ex post facto* "humanitarian" justifications for invading Iraq. These disingenuous rationalizations were "difficult to reconcile with international law."[18] In a widely cited speech to his Sedgefield constituency in March 2004, prime minister Blair provided the clearest and most worrisome example of the potential for unilaterally abusing R2P when he applied it retroactively to Iraq: "But we surely have a duty and a right to prevent the threat materializing; and we surely have a responsibility to act when a nation's people are subjected to a regime such as Saddam's."[19] Fernando Tesón's judgments about the use of force for humanitarian purposes are usually apt, but his efforts to rationalize the end of Saddam Hussein's tyranny in such terms were implausible and erroneous.[20] Terry Nardin correctly commented that such "rationales strain the traditional understanding."[21]

It was thus harder at the end of the first decade of the twenty-first century than at the beginning to gainsay those who are reluctant to codify norms about using military force for human protection purposes. The Bush and Blair doctrine was considered such a powerful threat as to require *renewing* the principle of nonintervention rather than any downgrading of sovereign prerogatives even for a humanitarian rationale.

The *National Security Strategy of the United States of America*,[22] unveiled in September 2002, circumscribed discussions about using force. The Bush doctrine "had the effect of reinforcing fears both of US dominance and of the chaos that could ensue if what is sauce for the US goose were to become sauce for many other would-be interventionist ganders," wrote Adam Roberts. "One probable result of the enunciation of interventionist doctrines by the USA will be to make states even more circumspect than before about accepting any doctrine, including on humanitarian intervention or

on the responsibility to protect, that could be seen as opening the door to a general pattern of interventionism."[23]

The election of Barack Obama in 2008, however, has attenuated some fears. His administration's renewed commitment to multilateralism and engagement with the UN appears to slowly be undoing the damage caused by the Bush administration, as illustrated by Security Council decisions under Chapter VII and action for human protection purposes in Libya and Côte d'Ivoire in early 2011.

Third, the possibility of moving the General Assembly toward debating criteria stalled. The atmosphere was simply too poisonous.

The war in Iraq was without council approval, and definitely had not improved the overall humanitarian situation on the ground, which today is better but remains tenuous. Indeed, almost a decade after the ousting of Hussein's regime, the country remains unstable and turmoil-ridden. In the aftermath, Iraq's civilian populations continued to endure daily violence on a scale unknown under the Hussein regime prior to the invasion. Although civilian fatalities are highly disputed, actual reported deaths number over 100,000,[24] with many more not officially recorded – indeed, one organization estimates Iraqi civilian fatalities at 865,000[25] – and countless have been injured since the March 2003 invasion.[26]

If R2P's "just cause threshold" could have justified humanitarian intervention in 1999 in Kosovo, would not the same logic apply to Saddam Hussein's regime, whose history was certainly as ugly as Slobodan Milošević's? The just cause threshold could arguably have been invoked for Iraq, but it was not before the resort to force, and certainly was a minor factor in the decision to attack. Indeed, that human rights and human dignity were under assault during the Hussein period cannot be disputed. As such, the just cause threshold might well have been invoked in March 1988 – when Saddam

used chemical weapons against the Kurdish city of Halabja in northern Iraq, instantly killing 5,000 civilians – or on numerous other occasions in the 1990s. But it was not. And in the run-up to the March 2003 war, only the most perfunctory of references were made. Thus, the use of "humanitarian" has the hollow ring of rationalization after the fact and after the earlier justifications – mainly weapons of mass destruction and links to Al-Qaeda – proved vacuous.

It is more doubtful still that the other criteria could have been satisfied: right intention, last resort, proportional means, reasonable prospects, and right authority. Moreover, the primary purpose of the war in Iraq was the pursuit of geopolitical interests, while halting human suffering was at most an afterthought. There remains a question about whether reasonable nonmilitary options had been exhausted and whether the means were proportional (some 12,950 Iraqis were killed during the invasion, including 3,750 noncombatants). Determining whether the consequences of the war are worse than inaction will require waiting to see how long the postwar misery lasts and on the future shape of Iraq.

But most important, even if the five previous criteria had been met, which clearly they were not, ICISS emphasized just authority, which preferably means an overwhelming show of support from the Security Council or at least from a regional organization. Dissent within the council about the war in Iraq, and indeed across the planet, was far more visible than was the case for Kosovo. In withdrawing the resolution to authorize military force against Iraq in March 2003, Washington and London were not even assured a simple majority, and were also confronting three vetoes. In Kosovo, there were three negative votes and two vetoes in the offing. Moreover, there was not unanimous approval for the Iraq campaign from a 19-member regional body as there had been for Kosovo – in fact, both NATO and the European Union were split on

the Iraq war between the "old" and "new" Europe. And all of the regional organizations in the geographic area covered by the crisis were categorically against the war. In short, the "coalition" in Iraq was not legitimately constituted in any meaningful way, nor was the decision to wage war genuinely multilateral. Widespread international backing, let alone right authority, was conspicuously absent. Military intervention for human protection purposes using the framework spelled out in *The Responsibility to Protect* is one thing; military intervention for preventive war is quite another. The world requires capabilities to come to the rescue of vulnerable peoples, not fuzzy applications of legitimate concepts to obfuscate more sinister motivations.

Countries that earlier would have supported the R2P concept have on occasion subsequently been reluctant or hostile toward unilateral humanitarian intervention (that is, outside Security Council decision making). As a result, "the Iraq war has undermined the standing of the United States and the UK as norm carriers . . . [and] the process of normative change is likely to be slowed or reversed."[27] One specific illustration took place immediately after the so-called victory in the Iraq war. At the July 13–14, 2003 Progressive Governance Summit of left-of-center government leaders, Canadian prime minister Jean Chrétien and British prime minister Tony Blair at first sought to quote ICISS's basic principles in the draft communiqué and to seek support for a continued discussion at the United Nations. When Argentina, Chile, and Germany strongly objected, a supportive passage was removed.

This reluctance among countries that were previously counted among R2P's friends seemed to be spreading in UN corridors. The world's worst apprehensions regarding US military activism were rekindled by the Iraq crisis and confirmed by Blair's and Bush's attempt to twist the concept of the responsibility to protect. Is humanitarian intervention

a convenient sleight of hand to conceal hidden – and in the case of Iraq, not so hidden – western agendas? Would even enthusiasts now push for a doctrine that hinted at unauthorized humanitarian intervention, which could then provide a justification after the fact for the use of force in Iraq?

Such apprehensions were hardly assuaged as mainstream American academics pointed to the ethical underpinnings of preemptive and even preventive war. Extending R2P to prevention, Lee Feinstein and Anne-Marie Slaughter argued for a new "duty to prevent," while Allan Buchanan and Robert Keohane called for the "cosmopolitan" use of preventive military force.[28] The inevitable overextension of R2P was made by the Naval War College's Thomas Nichols: "The Westphalian notion of sovereignty has already been breached by the necessity for humanitarian intervention, and now the international community must take the next step and legitimize action not only to prevent terrible regimes from annihilating their own people but also to coordinate preventive action against such regimes when they seek to undermine international order."[29] According to Ivo Daalder and James Steinberg, the conditional terms of sovereignty include preventing not only genocide but also terrorism, the spread of weapons of mass destruction, and diseases. "It would be unfortunate," they concluded, "if President Bush's doctrine of preemption were a casualty of the Iraq war."[30]

The fallout from Iraq was obvious: humanitarian intervention and even R2P were no longer on the side of the angels for fear that such notions could be manipulated to conceal imperialist agendas. The debate within the United Nations over the war in Iraq was at least as much about American power and its role in the world as about the risks posed by Iraq's disdain for UN resolutions and the search for weapons of mass destruction. UN diplomats almost unanimously described the debate surrounding the resolution withdrawn on the eve of the war in

Iraq as "a referendum not on the means of disarming Iraq but on the American use of power."[31] It is to this challenge that we now turn.

The distracted superpower

Terrorism, and UN responses to it, reveal and accentuate the implications of the post-Cold War trend toward an international system based on a sole superpower. The preponderance of the United States represents a serious threat to the health of the United Nations, particularly when the incumbent regime goes into "unilateralist overdrive,"[32] as it was during the George W. Bush administration. Throughout these pages, a frequent refrain with both positive and negative implications for international society has been the role of the United States. When the members of ICISS met in 2001 with French foreign minister Hubert Védrine, they failed to appreciate his apt depiction of American preeminence, *hyper-puissance*. On the one hand, major power politics have always dominated the UN. The bitter East–West divide of the Cold War and the North–South clashes of the 1960s and the 1970s provide extensive evidence for this reality. On the other hand, there is no modern precedent for the current dimensions of the US goliath.

What exactly is the meaning of a collective security organization in a world so dominated by US power? Political scientists who examine the unparalleled power of the United States are aware of the implications for international institutions.[33] A dictionary, however, does not define "hegemony" only in pejorative terms. Another connotation is that the strongest member exerts natural leadership within a confederation – for example, it is an analytical focus of political scientists who see "hegemonic stability" as a necessary and desirable element in international political economy. First put forward by Charles

Kindleberger in the 1970s and developed by such analysts as Robert Gilpin afterward, the theory points to the benefits of an open and stable world economy of having one country dominate so that others can feel secure enough to open their markets and avoid beggar-thy-neighbor policies.[34] Indeed, many Americans and non-Americans have often regretted the lack of US leadership and wished for more initiatives like the ones in San Francisco.[35]

Washington's multilateral record in the twentieth century conveys "mixed messages," as Edward Luck reminds us. The United States has sometimes been the prime mover for new international institutions and norms, but just as often has kept a distance or stood in the way.[36] This historical pattern is not about to change in combating terrorism. In the past, Washington was careful and somewhat reluctant to thumb its nose openly. The argument was that American "exceptionalism" was, well, exceptional – that is, to be saved for an unusual set of events when international cooperation was simply out of the question. The Bush administration, by contrast, was committed to exceptionalism as a routine, the normal bill of fare whether the context was terrorism or the Kyoto Protocol, the ban on anti-personnel land mines or the International Criminal Court.[37]

At the same time, the Bush administration provides an anomalous contrast to the image and the actions of the previous administration's "assertive multilateralism." The Clinton administration's missile strikes against Afghanistan and Sudan in 1998 were launched without recourse to the United Nations. In contrast, the Bush administration went immediately to the world organization after September 11. It also persisted with protracted and difficult negotiations in the Security Council on resolution 1411 in November 2002. While it proceeded to war in the following March without the council's approval, it has returned at several junctures to seek

help with the internationalization of the much contested occupation that was an increasing political liability – in May for resolution 1483, in November for resolution 1511, and early in 2004 for help in finding a formula to identify an acceptable Iraqi sovereign before 30 June.

Scholars speculate about the nuances of economic and cultural leverage resulting from US soft power, but the hard currency in the international system remains military might. Before the war in Iraq, the "hyper-power" was already spending more on its military than the next 15–25 countries (depending on who was counting). With additional appropriations for Afghanistan and Iraq, Washington was spending more than the rest of the world's militaries combined.[38] The situation remains skewed in the western alliance – during the Cold War, the United States contributed about 50 percent of total military expenditures whereas, since then, Washington's tab has been closer to 75 percent. And even in the domain of soft power, the United States remains without challenge on the world stage for the foreseeable future, although some analysts see hegemony as more western than American.[39]

Even so, downsizing the armed forces in the post-Cold War era means an insufficient supply of equipment and manpower to meet the demands for humanitarian intervention. There are bottlenecks in the US logistics chain – especially in airlift capacity – that make improbable a rapid international response to a fast-moving, Rwanda-like genocide. With the US army tied down in Iraq and Afghanistan and a quarter of its reserves overseas, questions are being raised about the capacity to respond adequately to a serious national security threat or a natural disaster like Hurricane Katrina, let alone "distractions" like Liberia or Haiti. The Obama administration's outright decision of only "days not weeks" of air strikes and no boots on the ground in Libya illustrates the evident effects of such overstretch on humanitarian intervention.

Mass starvation, rape, and suffering continue in a post-9/11 world. For at least some conscience-shocking cases of mass suffering, there will simply be no viable alternative to military coercion for human protection purposes. The prediction that major powers other than the United States would not respond with military force to a new humanitarian emergency after September 11 proved somewhat too pessimistic. France led a European Union force into Ituri in summer 2003 and halted an upsurge of ethnic violence, which suggested to Washington that the EU could act outside the continent independently of NATO. This proposition was perhaps strengthened by Europe's takeover from NATO of the Bosnia operation in December 2004, the deployment of troops to the DRC for elections in July 2006, NATO's command of the air strikes in Libya in early 2011, and the assistance of French troops in ending the crisis in Côte d'Ivoire. These efforts provide a faint hope that an EU security identity could underpin a more operational responsibility to protect in circumscribed humanitarian crises of limited duration.

Europeans should share more of the burden of humanitarian boots-on-the-ground better even if US air-lift capacity, military muscle, and technology are required for larger and longer-duration deployments. The imposition of the no-fly zone in Libya demonstrated once again that, for better or worse, the United States in the Security Council as elsewhere is what former secretary of state Dean Rusk once described as the fat boy in the canoe: "When we roll, everyone rolls with us."[40] Even after Washington began playing a secondary role, NATO allies had to rely on American AWACs and refueling airplanes, as well as intelligence gathering and suppression of air defenses. With Washington's focus and equipment elsewhere, the danger is not too much but rather too little military humanitarianism. Upgrading African capacities is a very long-run undertaking. The bullish article 4(h) of the

AU's Constitutive Act provides for intervention in grave circumstances but is as yet unused.[41] In the near term, unless European and other populations support higher expenditures on their armed forces, there is little alternative to the overworked global policeman. Hence, we will have the kind of deployments for human protection purposes that we have seen since 1999, namely few and far between.

The present is an unparalleled multilateral moment with implications for humanitarian intervention as for other international decisions. There are two "world organizations." The United Nations is global in membership, but the United States is global in reach and power. American unilateralism in the early twenty-first century is hardly new. This reality creates acute difficulties for card-carrying multilateralists. For example, UN-led or UN-approved operations with substantial military requirements take place only when Washington approves or at least acquiesces. For other issues, moving ahead without the United States is problematic, although experiments are under way – for example, the 1998 Rome Statute establishing the ICC and the 1997 Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction.

Whether the US presence and power are overrated and will wane in the coming decade remains to be seen. Even if, as Joseph Nye claims, "the world's only superpower can't go it alone,"[42] US power is likely to dominate future UN affairs.[42] There is no danger that any US administration would permit the UN or any other international institutions to stand in the way of pursuing vital national interests for very long. If "unilateralism and multilateralism are best understood as two ends of a continuum,"[44] would it not be more profitable to identify the types of strategic considerations and substantive issues that might optimize prospects for "tactical multilateralism"?[45]

Conservative American pundits often overlook how the UN system serves American interests and gives Washington cause to proceed with international acquiescence, if not jubilant support. The late Ted Sorensen, a former speechwriter for President John F. Kennedy, asked: "What is more unrealistic than to believe that this country can unilaterally decide the fate of others, without a decent respect for the opinions of mankind, or for the judgment of world institutions and our traditional allies?"[46] Princeton University's John Ikenberry pointed to a striking irony: "The worst unilateral impulses coming out of the Bush administration [were] so harshly criticized around the world because so many countries have accepted the multilateral vision of international order that the United States has articulated over most of the twentieth century."[47]

The sobering experiences in occupied Afghanistan and Iraq have highlighted the limits of sheer military power. Postwar (if that is the term) Iraq has demonstrated that recovery, reconstruction, and rebuilding are not US strong suits. Meanwhile, the UN has accumulated substantial experience over several decades, and this comparative advantage makes its new peacebuilding Commission sensible. Former US assistant secretary of state James Dobbins and a Rand Corporation evaluation team have argued that the world organization's performance in post-conflict situations is remarkably good by comparison with Washington's – they attribute success to seven out of eight UN operations versus only four out of eight for the United States.[48]

Moreover, most Americans would acknowledge that when it comes to spotting, warning, and managing international health hazards – the severe acute respiratory syndrome (SARS), avian flu, and AIDS perennially – the World Health Organization is indispensable. Monitoring international crime statistics and narcotics, policing nuclear proliferation,

and numerous other global oversight functions are properly based within the UN system.

The reality of US power means that, if the UN and multilateral cooperation are to have a chance of working, let alone flourishing, the globe's remaining superpower must be on board. The United States raced to be the first country to ratify the UN Charter, winning Senate approval on July 28, 1945, barely a month after the ink dried on the signatures on the Charter of the 51 countries present in San Francisco. The United States was as preponderant on the world stage then as it is now.

Looking back on that "remarkable generation of leaders and public servants," Brian Urquhart remembers: "They were pragmatic idealists more concerned about the future of humanity than the outcome of the next election; and they understood that finding solutions to postwar problems was much more important than being popular with one or another part of the American electorate."[49] Could that same far-sighted political commitment not dawn again? The election of Barack Obama in 2008 renewed hope. His administration appreciates the value of multilateral action and of the UN in a world with increasingly complex, transnational challenges. The insistence on regional backing and Security Council support for Libya stood in stark contrast with decisions and attitudes from 2000 to 2008. Whether the hope endures beyond 2012 is, of course, unknown.

War economies, spoilers, and privatization

Another crucial drag on the current international system's capacity to engage in humanitarian intervention is the nature of local war economies accompanied by spoilers and privatization.[50] Earlier in the discussion of new wars and new humanitarianisms, a dominant theme was the prevalence

of nonstate actors of various shapes, sizes, and sensibilities. Here it is essential to unpack the distinctive engagement challenges for aid agencies and outside military forces that result when prevailing economic interests are better served by continuing violence than by ending war. "Spoilers"[51] – so-called because they seek to prevent turning a page on armed conflict and thus foster war – are perhaps better described as "war entrepreneurs" and have been present in previous armed conflicts. But the current generation is more numerous and better equipped to wreak havoc. The synergy of local and global economic conditions coupled with relatively inexpensive arms allows NSAs to assemble military capacity without much difficulty or investment.

Laurent Kabila was reported to have quipped that all that was required in (then) Zaire to have an "army" was $10,000 and a cell phone. Aid agencies and foreign militaries face a steep learning curve in negotiating access in such contexts. Reflection is more valuable than visceral reactions. Humanitarian impulses and goodwill simply are no longer adequate, if indeed they ever were.

Two general types of economies influence war and humanitarian action. First are "war economies," or those interests that directly profit from armed conflict. In his farewell speech in 1961, US president Dwight D. Eisenhower warned, "We need to guard against the acquisition of unwarranted influence . . . by the 'military-industrial complex.'"[52] The new wars do not operate with the sophistication or technology of the US military-industrial complex, but a network of economically calculating actors profit from the production of violence. The second type that circumscribes humanitarian action is that of "aid economies" or interests that benefit from the provision of external assistance.

International efforts to thwart war economies follow two tracks, controlling means and ends. The former seeks to

prevent or limit economically based actors from developing their ability to wage war. Examples are international efforts to restrict the spread of small arms and regulations to ban mercenaries. Several studies have spotlighted the former,[53] and numerous groups work to limit the production and distribution of these weapons by targeting arms sales.

Impeding or stopping the use of mercenaries is also crucial but less prevalent in analyses of intervening in new wars, where commercially inspired military actors have become standard players. Bad memories in the Third World have shaped perceptions of guns for hire, and international bodies have taken action: Article 47 of Additional Protocol I to the Geneva Conventions of 1977, the 1977 Convention for the Elimination of Mercenarism in Africa, and the 1989 UN Convention against the Recruitment, Use, Financing and Training of Mercenaries. The UN has also created the position of a special rapporteur to monitor developments. Despite bans, mercenaries have appeared throughout the world, mostly in Africa but also in the Balkans, Latin America, and Southeast Asia.

A different type of hired gun, contemporary private military companies, is also crucial to the dynamics of the new wars. The war zones with PMCs are usually those in which international humanitarian law has been ignored by belligerents – for example, PMCs have had sizeable operations in such diverse sites as Sierra Leone, Bogainville, and Borneo.[54] The distinctions between "guns for hire" by aid agencies and by political-military actors are important,[55] but the larger issue is the presence of mercenaries in Afghanistan and Iraq on a scale not previously seen. The 20,000–25,000 private soldiers in Iraq in 2006 outnumbered the second largest national contingent, the United Kingdom's, by at least three to one.

The second track seeks to regulate the resources over which new wars are waged. The UN has emphasized the role of

plundered natural resources, particularly in Africa.[56] Natural resources used to be considered a blessing. But this truism has been called into question because a large variety of lootable resources – gold, silver, coltan, timber, copper, titanium, and diamonds – often sustain contemporary wars. As diamonds were the first resources to garner attention, it is worth noting progress since the early 1990s to regulate "blood diamonds."[57] Codes of conduct are becoming important in the industry. NGOs, such as Global Witness, have pressured it to accept regulation and clamp down on illicit trade responsible for fueling wars.[58] These efforts have led to broader efforts to regulate "conflict resources" pertaining to agricultural commodities and mineral deposits that often finance civil wars. Experts have long been aware of the links between predation of natural resources and financing violence, but efforts to control such economies are becoming more widespread.

Powerful external commercial interests that are vital to national economic development – such as oil, mining, and timber companies – can sometimes constitute additional obstacles to relief efforts or even spark conflicts that trigger humanitarian crises. Foreign oil companies in Africa alone – the "scorched earth" of southern Sudan, the charged ethnic environment of the delta in Nigeria, or deposits that funded guerillas and governments in Angola – demonstrate their significance. Mining interests in the DRC, Sierra Leone, and Indonesia typify how large multinational corporations become power brokers in resource-rich countries. While oil represents the most substantial loot, other natural resources provide substantial funds – illicit diamonds in Angola are believed to generate some $700 million per year, and in Sierra Leone probably $350 million.[59]

The focus of predators in aid economies is on benefiting not so much from violence as from the generosity to relieve suffering. Aid can facilitate exploitation by greedy middlemen,

speculation, and hoarding, as well as generate conditions conducive to breeding future resentments and exacerbating local tensions. Furthermore, outside aid can also be a disincentive to indigenous capacity building.

Among humanitarians, the response to the new landscape has been a modified Hippocratic Oath. Ignoring or eroding local capacities, long a theme in the work of Mary Anderson,[60] has led to the adoption of "do-no-harm" criteria. The idea is to carry out emergency efforts to improve the ability of communities and public authorities to take control of their own destinies, begin development, and react better to future disasters – all of which is easier said than done.

Local commercial interests are pivotal in shaping the operating environment for aid agencies. Merchants and traders are stakeholders in the price of basic commodities, which can be undermined by the availability of relief goods in local markets. Private sector providers of veterinary medicine, vaccinations and health care, agricultural supplies and even potable water see profits dwindle when aid agencies provide goods for free. An astute measure in Somalia in 1993 was to make foodstuffs available commercially rather than as grants, which forced hoarders to dump their commodities and enticed legitimate traders back into business,[61] thereby helping to build the basis for development rather than dependency. Well-intentioned relief can make enemies of legitimate local businesspeople, prompting them to sabotage wells, drive food convoys away, or even incite violence against aid agencies.

A related group of problematic actors consists of employment seekers. In many crises, external aid agencies constitute virtually the entire monetized sector. Drivers working for external agencies can earn many multiples of the salaries of senior government officials, highlighting the skewed incentives in aid economies. When hiring procedures are perceived as unfair, spurned applicants can confront aid agencies. Local

staff who are fired or whose contracts are not renewed can themselves become a security problem. These individuals tend to be the greatest threat when scarce resources or other frustrations lead them to join a militarized faction, but they can also present a challenge on purely economic grounds. Other negative factors for the local economy include skyrocketing rents and inflation, prostitution, and parallel markets.

To add to the list of possible woes, aid agencies have also been criticized as the primary beneficiaries of aid. Alex de Waal and Michael Maren stridently criticize outside humanitarian agencies as enriching themselves from the needs of local populations on the dole.[62] MSF's Jean-Hervé Bradol notes that "aid agencies [are] ever sensitive to the preservation and growth of their budgets."[63] Mark Duffield goes a step further and points to the needs of western aid agencies to continue to have wars as part of a new international political economy.[64]

Although an in-depth analysis suggests that the economic impact of peacekeeping has been largely positive, nonetheless aid operations "are regularly criticized for a wide array of damage they are thought to do to the war-torn economies into which they deploy."[65] And whatever the quantitative data show, symbolically, when salaries, transportation, equipment, housing, insurance, and security rival the aid delivered, or international aid workers live lives of luxury next door to feeble shanties and squalid refugee camps, the humanitarian enterprise tarnishes its reputation.

The economies of war and of aid suggest the uncertain terrain on which aid workers tread while trying to help, and the complications are often especially acute after a military intervention. These elements were not unknown in earlier armed conflicts, but the magnitude of outside aid and a globalizing world economy create an unusual witches' brew in contemporary wars.

A humanitarian identity crisis

The expansion of the international humanitarian system – not only in terms of resources and actors, but also in the scope of tasks – was central to our discussion of new humanitarianisms. The transformation of the sector has entailed substantial costs as well as benefits. Indeed, many practitioners are worried that humanitarianism as they have known it is under threat. There have been far more questions than answers about the nature of new wars and the actual results from new strategies and tactics guiding humanitarians. For example, if they are less effective than commercial alternatives, Stephen Hopgood asks, should we be "saying 'no' to Wal-Mart?"[66] If the industry were not a century and a half old, we might describe the present situation as a "mid-life crisis."

For the last two decades, humanitarian agencies have careened from one emergency to another. After barely recovering from Operation Lifeline Sudan in the late 1980s, the post-Cold War world promised a kinder, gentler 1990s, with more space for their action. But instead, humanitarians confronted nearly unimaginable challenges, which means – as Michael Barnett and I have argued – that humanitarians are increasingly called upon to go "where angels fear to tread."[67] Some of these spectacles made front-page news and profiled heroic and not so heroic activities. In Somalia, humanitarians attempted to save hundreds of thousands from warlords who created a widening famine in order to attract food aid and feed ambitions. In Bosnia, they attempted to provide relief to those trapped in so-called safe havens – zones, resembling prisons, which were supposed to protect inhabitants from Serbian attacks but which were among the most unsafe places on the planet. In Rwanda, humanitarians were largely absent during the genocide itself but began attempting to save millions of displaced people in camps militarized and controlled by the

perpetrators of the mass murder. In Kosovo, Afghanistan, and Iraq, aid agency personnel were funded by and operated alongside invading and occupying soldiers, which meant that civilian helpers found themselves being treated as enemy combatants by insurgents. In addition to these high-profile disasters, there were so-called silent orphans in Pakistan, the DRC, northern Uganda, Chad, and Niger which had their own brands of peculiar but thorny problems.

Twenty years of daunting challenges have compelled the members of the international humanitarian system to re-examine who they are, what they do, and how they do it. Questions that were once essentially answered, or were asked rhetorically with ready-made replies, are now open for honest debate. Perhaps the most gut-wrenching one is whether outside assistance actually helps or hinders conflict management. Good intentions clearly are no longer enough – if they ever were. The recognition that well-intentioned humanitarian action can lead to negative consequences – David Kennedy's "dark sides of virtue"[68] – has forced humanitarian organizations to measure their effectiveness. Such exercises require contemplating not only the values that motivate actions but also the consequences. "Accountability" has become a buzzword, and Janice Stein reminds us that we need much better data and thinking, because it is not easy to answer "why, to whom, for what, and how?"[69]

These debates reflect a humanitarian enterprise in considerable flux – some would say in a full-blown identity crisis. Driving the debate are differences over the value of military intervention. There is substantial disagreement about how humanitarian organizations should respond, with some insisting that they have to adapt, and others arguing that adaptations might change humanitarianism beyond recognition. Indeed, while some suggest that the sector has improved its ability to deliver relief and protect rights, others contend that

humanitarianism is in crisis because it has lost its soul by compromising with and conforming to the new world order.

The off-the-rack humanitarian suit (neutrality, impartiality, and consent) may fit some, but certainly not all, contemporary armed conflicts. What, if any, are the binding principles of humanitarianism? Can the humanitarian system adapt to new wars and new terrains?

The objective is not to question the honorable motivations of those who have worked heroically over a century and a half, but rather to indicate how new wars can distort traditionally cast humanitarian efforts. New wars have not only led to multiple humanitarian crises of a magnitude and simultaneity that dwarf those of previous generations; they have also led to debates among humanitarians about their purposes and practices. Earlier humanitarian agencies faced some of the elements found in contemporary wars. For example, confusion over responsibility and access in internal as opposed to international wars was present in the US Civil War (1861–5). The 1949 extensions of the Geneva Conventions included non-international armed conflict and considered those in unrecognized governments or in resistance movements as subject to restrictions and protections.

The plethora of wars in the 1990s hastened a realization: that the expiry date had passed for the previous orientations of the international humanitarian system. The performance of agencies created anxiety and doubts. David Rieff correctly characterized the responses of the 1990s as "humanitarianism in crisis."[70]

A philosophical chasm is widening about the political implications of humanitarian action.[71] On one side are the "classicists," who continue to uphold the principles of neutrality, impartiality, and consent. On the other are the "solidarists," who side with selected victims, publicly confront hostile governments, advocate partisan public policies in donor states,

attempt to skew the distribution of aid resources, and refuse to respect the sovereignty of states. Moreover, many no longer view humanitarianism as being limited to short-term emergency relief to war victims, because job descriptions now include such broader objectives as protecting human rights, promoting democracy, fostering development, and hastening peace building.

For many at the latter end of the spectrum, humanitarianism is no longer viewed as "pure," and acceptance of neutrality, a cornerstone of humanitarianism, is seen as naive. Proponents believe that aid should not be merely palliative and given without regard to political context. Rather, it should be ameliorative and address structural problems that foment humanitarian crises in the first place. And, when possible, it should be conceived in such a way as to help cement peace processes.

Among the earliest and most dramatic instances of the division among humanitarians arose from the so-called French Doctors' Movement that emerged in the late 1960s war between Nigeria and its Ibo inhabitants in the oil-rich eastern province of Biafra.[72] A group of dissidents, led by Bernard Kouchner – later humanitarian minister in several socialist governments in France and the UN's first special representative in Kosovo – refused to keep quiet about systematic slaughter. Rather than pretending that working on both sides was essential and that keeping quiet was an operational advantage, the dissidents publicized the plight of the Ibos and worked to help them and to isolate the federal government. They took issue with the ICRC's orthodoxy and formed Médecins sans Frontières in 1971. The organization was awarded the Nobel Peace Prize in 1999 – the ICRC, its parent, was so acknowledged in 1944 and 1963.

An even more controversial cleavage appeared between classicists and solidarists with the advent of the most obviously

politicized strain of humanitarianism, involving the use of military force. The spread of new wars and massive crises in Africa and the Balkans spawned a hot topic: whether or not the use of force could legitimately be advocated on humanitarian grounds; and if so, whether its use did more harm than good for war victims.

Since the 1990s, the goalposts have moved on several occasions. The explosion of new wars spurred rethinking about consent, impartiality, and neutrality, as well as the use of force. Some humanitarians espoused a more muscular stance and pushed for soldiers as "humanitarian warriors." At a minimum, most aid agencies took advantage of military action to secure humanitarian goals – but usually with a somewhat defensive and begrudging posture – as a last resort and for a limited time. However, as armed aid convoys and security for refugee camps became more common, and insecurity remained, some humanitarians supported the use of force to defeat militarily those who cause or worsen crises. Indeed, some "human rights hawks" called for outside soldiers to overthrow governments that violate the rights of their citizens and to transform afflicted states and societies. One Canadian study group went so far as to propose an NGO-supported intervention force because governments moved too slowly.[73] As we have seen, the use of PMCs by aid agencies reflects a similar realization and need for effective protection.

At the other end of the spectrum, classicists still often view military forces as the antithesis of true humanitarianism, or at least as wishful thinking without the presence of substantial national interests to stay the course – which are rarely in evidence. Again, these dichotomous categories are designed to shed light on the nature of differences and do not necessarily portray the specific behavior of any agency at all times. What unites the classicists, however, is their worry about the "risk of being associated with a potentially unwelcome

military force, and thereby losing the protective patina of neutrality."[74]

The value of a humanitarian veneer for the military was obvious when US secretary of state Colin Powell described NGOs in Iraq as a "force multiplier." He was even clearer later in the same speech when he noted that they were part of his "combat team."[75] As one military analyst notes, "In the wake of 9/11, some Western countries, especially the United States, have stressed the strategic and force-protection benefits of assistance and reconstruction as part of broader military strategies."[76]

Laura Hammond reminds us that the United States and its allies are quite aware of humanitarianism's potential to win "hearts and minds" in countries where their militaries are deployed, as well as to help persuade constituencies at home of the righteousness of the cause.[77] A distinction thus should be made, as above, between the legitimate use of military force to foster humanitarian values – with specific triggers, just war precautions, and right authority along the lines of R2P – and the illegitimate manipulation of humanitarian values to facilitate militarism.

The crises stemming from the new wars frame the peculiar collective action problems of the new humanitarianisms, but they encounter a very old problem – the fragmentation of the international humanitarian system. With no central power of the purse and no wherewithal to ensure compliance, it should come as no surprise that cohesive action in an atomized system is the exception rather than the rule. It is more necessary than ever, but remains unlikely.

The use of outside military forces for humanitarian intervention and peace enforcement felled barriers to entry for aid agencies. As a result, in the 1990s, a growing number of organizations became involved in active war zones. Mark Bowden, a senior OCHA official, described the "explosion

in the number of actors involved in humanitarian response, in particular nongovernmental and quasi-governmental organizations and the more recent phenomenon of increasing private sector involvement."[78] During the Cold War, there were fewer moving parts, but "[t]he ICRC's and UN's monopoly on humanitarian action was broken by the mid-1990s," according to Joanna Macrae.[79] Being where the action is in zones of armed conflict and beyond became an option for any international NGO, as evidenced by the fact that in the immediate aftermath of the Rwandan genocide there were some 200 such entities, and in Kosovo during 1999 even more NGOs populated relief activities, in what Ian Smillie and Larry Minear have called "the humanitarian free-for-all."[80] Accompanying the surge in resources and activity among NGOs has been the proliferation of institutions that give us an idea of the nature of the system. To start, the sheer growth in organizational numbers is striking.[81] There are at least 2,500 NGOs in the business, with about 260 being serious players.[82] Already by 2001 the half-a-dozen or so largest NGOs controlled between $2.5 billion and $3 billion, about half of global humanitarian assistance.[83]

Global longitudinal data are lacking,[84] but a detailed survey of US-based private voluntary agencies suggests considerable growth over the last 75 years. Shortly after the start of World War Two, the number of US-based organizations rose to 387 (from 240), but the numbers dropped to 103 in 1946 and 60 in 1948. They rose steadily thereafter and reached 543 in 2005. The growth was especially dramatic from 1986 to 1994 when the number increased from 178 to 506.[85]

Not only has the total number increased but so too have the funds and market share of the largest. Specific emergencies account for spikes, and the numbers of people working in the NGO sector grew by 91 percent from 1997 to 2005. Overall, the international humanitarian system (including the UN

system and the ICRC) experienced a 77 percent surge in personnel.[86]

The Office of the UN High Commissioner for Refugees was created to help displaced persons, but the bulk of UN agencies were founded to foster development.[87] However, they too are increasingly involved in relief, including the United Nations Development Programme and the World Bank, both of which have steadily enlarged programming for disasters. Until recently, other UN specialized agencies had virtually nonexistent disaster programs but have also decided to pursue available funding. Organizations that were once dedicated to relief expanded into other domains, moving "upstream" (helping in the midst of war) and "downstream" (post-conflict peace building and ultimately development). As a result, few UN organizations or NGOs are indifferent about creating more humanitarian space or the "scramble" for funds and turf.[88]

Another indicator of growth is the number of international and regional organizations whose primary responsibility is coordination, including the European Community Humanitarian Aid Office, the UN's Inter-Agency Standing Committee (IASC), and the Office for the Coordination of Humanitarian Affairs. The same phenomenon exists for NGOs in the United States and Europe, including InterAction in Washington, DC, the International Council for Voluntary Action and Emergency Committee for Humanitarian Response in Geneva, and Voluntary Organizations in Cooperation in Emergencies in Brussels.

States, for-profit disaster firms, businesses, and foundations are also increasingly prominent contributors to humanitarian action. More and more governments are responding to disasters of all sorts. Whereas 16 states pledged their support to Bosnia in the mid-1990s, most from the West, a more diverse group of 73 attended the 2003 pledging conference in Madrid

for Iraq, and 92 responded to the December 2004 tsunami. One overview summarized, "From as few as a dozen government financiers just over a decade ago, it is now commonplace to see 50 or 60 donor governments supporting a humanitarian response."[89]

Such non-western donors as China, Saudi Arabia, and India have accounted for up to 12 percent of official humanitarian assistance in a given year; and their influence in certain crises – for example, Afghanistan or Palestine – is significant. Most countries that are not members of the Organization for Economic Co-operation and Development's Development Assistance Committee (OECD/DAC) concentrate on immediate neighbors; and the bulk of such assistance (over 90 percent or almost $1 billion in 2008) emanates from the Gulf states. In fact, Saudi Arabia accounted for three-quarters of the non-OECD/DAC sum and was the third largest humanitarian donor that year.[90] Along with the United Arab Emirates and Kuwait, these states now contribute larger humanitarian resources than some of the smaller western countries. We know little about whether nontraditional donors follow the major western states in their rationales for aid disbursements, their priorities and policy options, or their choices for response channels.[91] But they resemble their OECD counterparts in preferring bilateral aid to increase influence. Moreover, NGOs are now major players – for instance, expenditures by Médécins Sans Frontières (MSF) in 2007 were larger than Saudi Arabia's, while those by World Vision and Caritas outstripped all but four DAC donor countries.[92]

Nonetheless, the international humanitarian system remains essentially a North American and Western European enterprise, accounting for about $11 billion of the total of just over $12 billion of official humanitarian assistance in 2008.[93] In short, "It works wherever it can in international society but is not really owned by all of international society."[94]

Private contributions have increased, but the growth in official (i.e., governmental) assistance has been most impressive. Between 1990 and 2000, aid levels rose nearly threefold, from $2.1 billion to $5.9 billion – and in 2005–6 amounted to over $10 billion.[95] In the last year for which data are available, 2008, the best "guesstimate" was a total of some $18 billion, up about $3 billion from the previous year.[96]

How many humanitarian aid workers are there? Observers hazard a guess of 200,000 worldwide. But Peter Walker and Catherine Russ humbly confess: "We have no idea what size this population is." Extrapolating from solid Oxfam data, they estimate some 30,000 humanitarian professionals (both local and expatriate).[97]

It is difficult for newcomers to understand the bevy of governmental, intergovernmental, and nongovernmental aid agencies that flock to emergencies along with other external actors. Hence, the label "IGO" fails to capture the complexity of the European Union or the dizzying acronyms within the UN system – the main abbreviations being UNHCR, UNICEF, WFP, UNDP, and OCHA. And behind the label of "NGO" reside literally hundreds of international nongovernmental bodies – some with budgets of hundreds of millions of dollars, others mom-and-pop operations.

Readers may also have to stretch to understand the extent to which calls for enhanced "coordination" are usually sung by a passionate chorus of bureaucrats, while actual behavior is accompanied by lower decibel levels that reflect administrative inertia and dominant economic incentives pushing in the opposite direction. The widespread shorthand is usually the international humanitarian "system." This word disguises the fact that overall performance reflects the sum of individual actions rather than a planned, singular, and coherent whole. The use of another image, the international humanitarian "family," might be more apt in that it allows

for several eventualities, including being extremely dysfunctional.

The need to make better use of the many moving parts of international humanitarian machinery has been a preoccupation for some time, but the need to have less waste and more impact at least within the humanitarian part of the international delivery system seems especially compelling when huge numbers of lives are at stake in humanitarian disasters.

Everyone is for coordination as long as it implies no loss of autonomy. One recently retired UN practitioner, Antonio Donini, draws distinctions among three broad categories of coordination within the United Nations, which apply equally to NGOs:

- *coordination by command* – in other words, coordination where strong leadership is accompanied by some sort of leverage and authority, whether carrot or stick;
- *coordination by consensus* – where leadership is essentially a function of the capacity of the "coordinator" to orchestrate a coherent response and to mobilize the key actors around common objectives and priorities;
- *coordination by default* – where, in the absence of a formal coordination entity, only the most rudimentary exchange of information and division of labor takes place among the actors[98]

Given the feudal nature of the UN system and the ferocious independence of NGOs, coordination by command is clearly unrealistic, however desirable in the context of coercive military operations. While exceptions occur – for instance, some have argued that UNHCR exercised "benign coercive coordination" as lead agency in the Balkans[99] – nonetheless, the experience under the best of circumstances could undoubtedly be best described as coordination by consensus. The experience under the worst of circumstances – for instance,

in the uncharted waters of Liberia or Afghanistan or Iraq – demonstrated the absence of meaningful coordination; and what little existed could accurately be labeled as coordination by default.

The clearest central theme emerging from earlier descriptions of the new wars and the new humanitarianisms is the urgent requirement for fewer outsiders and better orchestration among those coming to the rescue – the military, IGOs and especially the members of the UN system, international NGOs, private contractors, and the ICRC. Nonetheless, no expression in the public policy lexicon is more used, or less understood, than "coordination." Autonomy, not meaningful coordination, is the key goal of proprietary UN agencies and market share-oriented NGOs. Officials who lament waste and the lack of effectiveness should make genuine efforts to forgo financial and operational independence in the interests of common humanitarian efforts and address its collective action problems.

At the same time, it would be unfair to imply a total absence of adaptation. Largely as a result of having to respond to the challenges of new wars, the organization of humanitarian action has begun to evolve into a better defined field of professional activity, with improved and appropriate career development. Previously, a relatively limited number of agencies had few sustained interactions and rarely focused on principles of action, codes of conduct, or standards. Those who presented themselves as humanitarian usually limited themselves to emergency relief – except for the ICRC and the UNHCR whose mandates include protection. Their operations were sometimes staffed by individuals with little experience, who jumped into the fray believing that a can-do attitude and good intentions were sufficient.

Over the last two decades, what Larry Minear aptly calls the "humanitarian enterprise"[100] has become a recognized

field with more donors, deliverers, and regulators. Not only have the numbers grown, but the field is now characterized by regular interactions among the members, a greater reliance on specialized knowledge, and a collective awareness of a common undertaking. Since 1997, the Active Learning for Accountability and Performance in Humanitarian Action – better known by its acronym, ALNAP – has produced some 5,000 evaluations and an annual *Review of Humanitarian Action.* Practitioners have begun to rationalize conduct by developing codes of conduct, methodologies for calculating results, abstract rules to guide standardized responses, training programs, exchanges of personnel among various types of agencies, and procedures to improve efficiency and identify best practices and lessons learned.

Although some old-timers protest the fading of volunteerism and the onset of bureaucratization, the dominant reality is that agencies and managers are familiar with and value specialized knowledge, spheres of competence, rules for standardized responses, and means–ends calculations.[101] Nothing could be more obvious than the need for professionalism among aid workers who act side by side with soldiers during humanitarian interventions.

In short, military force has opened up not only "humanitarian space" but also the marketplace for more resources and institutions. However, all is not well. In spite of some rethinking, the international humanitarian system is struggling to determine the extent to which the crises in Afghanistan and Iraq, or in the DRC and Darfur, are aberrations or the new metric. Moreover, there is little coherence and no centralization – neither in the UN system nor in the NGO arena. As demonstrated earlier, "coordination" rolls easily from administrators' lips but is absent from the incentive structures of the system.

Moreover, collective action problems are exacerbated by the lack of an agreement concerning the scope and nature

of humanitarian activity. Some humanitarians pursue a broad range of tasks with military protection. Others, such as the ICRC, remain more closely committed to traditional principles, preferring not to be tainted by politicized activity that may endanger not only the fulfillment of goals but the lives of aid providers. Thus, in addition to the multiplicity of actors on the scene, an incentive structure that encourages resource grabbing, and donor preferences that may have geopolitical underpinnings, the humanitarian identity crisis is yet another centrifugal force pulling actors in multiple directions.

In February 2006, for example, the UN secretary-general set up a 15-member High-level Panel on UN System-wide Coherence in the areas of development, humanitarian aid, and the environment. Thus far this effort – co-chaired by the prime ministers of Mozambique, Norway, and Pakistan – has resulted in tinkering rather than a substantial rationalization of the system. Certainly there will be no consolidation into a central humanitarian pillar.[102] The numerous moving parts of the international humanitarian system will continue to impede effectively aiding and protecting war victims into the foreseeable future.

Conclusion

ICISS was originally established because of the Security Council's failure to address dire and conscience-shocking humanitarian crises in Rwanda and Kosovo. However, the view of Yale historian Paul Kennedy is quite accurate: namely, that the absence of meaningful military might in Rwanda was "the single worst decision the United Nations ever made"[103] like the do-nothing approach in the Darfur region of Sudan, Uganda, Zimbabwe, and the DRC – and represents a more serious threat to international order and justice than

the council's paralysis in Kosovo. Not all claims to justice are equally valid, and NATO's was superior to Serbia's and Russia's. At least in the Balkans, a regional organization took a unanimous decision to deploy military force to halt bloodshed by coercing a political solution to conflict and ultimately for human protection. Justified criticism arose about timidity: Washington's domestic politics meant that military action remained at an altitude of 15,000 feet when ground troops would have prevented the initial mass exodus. Nonetheless, past or potential victims would undoubtedly support NATO's decision. A 1999 survey of affected populations in several war zones reports, not surprisingly, that fully two-thirds of civilians under siege who were interviewed in 12 war-torn societies by the ICRC wanted more intervention, and only 10 percent wanted none.[104]

The disarray of humanitarian agencies has polarized perspectives on the ground. While the majority of victims who benefit from relief and protection undoubtedly hold positive views about the overall enterprise and most operations, instances of hostile reactions to the presence of agencies, as well as profound differences among humanitarians, highlight the seriousness of its "identity crisis." A 2005 mapping exercise of operational contexts for humanitarian agencies finds that recipients rightly "are more concerned about *what* is provided than about *who* provides it."[105]

It is soothing for those of us who are preoccupied with normative developments to point proudly to paragraphs 138–9 about R2P as the success story of the World Summit. On the one hand, that clearly is true. Cosmopolitanism is compelling normatively, and R2P is an important step "to promote a society-of-states morality, given the fact that sovereignty is one of the few principles that has universal appeal among national elites and mass publics."[106]

On the other hand, the summit could do nothing to

change the geopolitical reality that "never again" is an inaccurate description of the actual impact of the 1948 Genocide Convention – "here we go again" is closer to the truth in Darfur, just as it was in Rwanda. There are limits to analysis and advocacy with neither the political will nor the operational capacity among major powers to act on new norms. Simon Chesterman notes that political desires and means, not sovereignty considerations, determine whether states intervene to save strangers in the improved international society that Nicholas Wheeler urges.[107] Stephen Lewis's lament is blunter: "Alas, man and woman cannot live by rhetoric alone."[108] Today, the main challenge facing the responsibility to protect is how to act, not how to build additional normative consensus. The shibboleth of western imperialism is a distraction when there are foundations across the global South on which to build a case for robust humanitarian action[109]; in this regard, the Arab League's and the African Union's support for outside intervention in Libya is noteworthy, as was military participation by Qatar and the United Arab Emirates. "Though some critics fret that R2P could prove to be a humanitarian veneer by which powerful states could justify military intervention in the development world, more often the problem has been the opposite," Edward Luck tells us. "The capable have stood by as the slaughter of civilians unfolded before the world's – and sometimes even UN peacekeepers' – eyes. They have looked for excuses not to act, rather than for reasons to intervene."[110]

Perhaps Libya will make policy and decision makers realize that between 1999 and 2011 we hardly witnessed too much military intervention to protect human beings but, rather, nothing significant. The international action against Libya was not about bombing for democracy, sending messages to Iran, implementing regime change, keeping oil prices low, or pursuing narrow interests. These may result, but the dominant motivation for using military force was to protect civilians. A

likely collateral benefit is that the, to date, encouraging non-violent and democratic revolutions in Tunisia and Egypt will have greater traction. Now that the Arab world is no longer a democracy- and human rights-free zone, Gaddafi's "model" for repression can no longer automatically be interpreted as an acceptable policy option by other autocratic regimes, even if mustering cross-cultural political will to protect civilians will always reflect the art of the possible, as the lack of reaction to Bahrain and Syria in mid-2011 underlined.

Speaking in Brazil shortly after imposing the no-fly zone for Libya, US president Barack Obama saw no contradiction with his Nobel Prize – one can be in favor of peace but still authorize force to halt the "butchering" of civilians. Later, when addressing the US public, Obama defended this decision, which provided no political advantage but prevented massacres that would have "stained the conscience of the world." Libya suggests that we can say no more Holocausts, Cambodias, and Rwandas – and occasionally mean it.

To this end, in August 2011, President Obama issued the Presidential Study Directive on Mass Atrocities (PSD-10), which stated clearly that mass atrocity and genocide prevention is not only a core national security interest but also a moral responsibility of the United States. In addition to asking individual agencies to assess how to accomplish this task, PSD-10 also created an inter-agency Atrocity Prevention Board, an important step in embedding the norm in a bureaucracy.

We are living in a new world for which the International Commission on Intervention and State Sovereignty has reiterated the central role of the Security Council – reformed and enlarged or not – and urged it to act when mass atrocities threaten, once again, to stain the collective conscience. But if it does not, humanitarians and victims are left where Kofi Annan was in September 1999 when he questioned his dignified diplomatic audience in the General Assembly about their

reactions had there actually been a state or a group of states willing to act early in April 1994 without a Security Council imprimatur. "Should such a coalition have stood aside," he asked rhetorically, "and allowed the horror to unfold?"[111]

While the answers in UN diplomatic circles remain equivocal, those from any of the 800,000 dead Rwandans – or millions of murdered Sudanese, Ugandans, and Congolese – would have been a resounding "no."

What is yours?