

THE PROTECTION DEBATE: ORIGINS AND MOMENTUM

Fresh attention is focused on the issue of civilian protection by military forces. This trend deserves examining, as it points to a growing interest in civilian protection more broadly. Why are UN troops now being asked to “protect civilians under imminent threat?” How did the notion of an international “responsibility to protect” come about? Are these ideas taking hold? This chapter considers these questions, outlines the development of contemporary calls for civilian protection by military forces, and suggests where such appeals may head in the future.

CIVILIANS IN CONFLICT

The notion of an international “responsibility to protect” emerged both from hard experience and from political debate about international affairs and “humanitarian intervention” in the 1990s.²² The post-Cold War period witnessed calls for such interventions in Somalia, Bosnia-Herzegovina, Haiti, Rwanda, Kosovo, Sierra Leone, and elsewhere. In some cases, troops sent to mitigate human suffering met with only limited success. High profile failures to protect civilians catalyzed calls for a reassessment of the use of force and effective

²² The justification of warfare on “humanitarian” grounds is as old as the state itself — only the terminology is new. Sources abound on humanitarian intervention and debates regarding its legality, history, and efficacy. See, for example, David Chandler, *From Kosovo to Kabul: Human Rights and International Intervention* (London: Pluto Press, 2002); Deen K. Chatterjee and Don E. Scheid, eds., *Ethics and Foreign Intervention* (Cambridge: Cambridge University Press, 2003); Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001); Neta Crawford, *Argument and Change in World Politics: Ethics, Decolonization and Humanitarian Intervention* (Cambridge: Cambridge University Press, 2002); Richard Falk, Mary Kaldor, Carl Tham, Samantha Power, Mahmood Mamdani, David Rieff, Eric Rouleau, Zia Mian, Ronald Steel, Stephen Holmes, Ramesh Thakur, Stephen Zunes, “Humanitarian Intervention: A Forum,” *The Nation* 277, No. 2, 14 July 2003; J. L. Holzgrefe and Robert O. Keohane, eds., *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003); Anthony F. Lang, *Agency and Ethics: The Politics of Military Intervention* (New York: State University of New York Press, 2002); David Rieff, *At the Point of a Gun: Democratic Dreams and Armed Intervention* (New York: Simon & Schuster, 2005); Taylor B. Seybolt, *Humanitarian Military Intervention: The Conditions for Success and Failure* (Oxford: Oxford University Press, forthcoming 2007); Jennifer M. Welsh, *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2004); Wheeler, *Saving Strangers*; Weiss and Hubert, *The Responsibility to Protect: Research, Bibliography and Background*; Victoria Wheeler and Adele Harmer, eds., *Resetting the rules of engagement: trends and issues in military-humanitarian relations*, HPG Report 21 (London: Overseas Development Institute, 2006).

international responses. Concern for vulnerable civilians deepened within and beyond the human rights and relief communities, emerging as a political and normative force among international leaders, policymakers and NGOs.

Why did the 1990s witness such interest in “humanitarian intervention?” Much of the story is well-known: The end of the Cold War brought optimism about cooperation through a newly activist UN Security Council no longer constrained by the superpower tensions.²³ The Council authorized a powerful US-led coalition to expel Iraq from Kuwait, for example, gaining new stature. In Africa, the Balkans, Central America, and elsewhere, conflicts suppressed by the US-Soviet dynamic burst forth, leading to vicious civil wars. Buoyed by a sense of common purpose, the international community agreed—prematurely, in some cases—that these conflicts could be resolved through a combination of international negotiations, sanctions, peace operations, and enforcement. Many citizens saw images of these crises—and the efforts to remedy them—on television, as news reports brought pictures of famine, ethnic cleansing, and mass killing into their homes. The so-called “CNN effect” increased pressure on leaders to respond or, when interventions went awry, to get out.²⁴

During these “uncivil wars” of the 1990s,²⁵ civilians bore the brunt of the violence.²⁶ Wars between distinguishable, uniformed armies facing off over national boundaries were the exception rather than the rule. Most warfare, instead, took place *within* states, often among armed groups that operated beyond the control of governments. Conflicts spilled across borders to impact entire regions. Non-combatants faced displacement, crossfire, and even direct targeting by fighters.²⁷

²³ The Security Council approved roughly as many resolutions in the 1990s as in the period from 1946 to 1989. Peter Wallensteen and Patrik Johansson, “Security Council Decisions in Perspective,” in Malone, ed., *The UN Security Council*, 18.

²⁴ A senior military advisor in the George H. W. Bush administration argued that the US intervention in Somalia was offered to the President as a means to get the conflict in the Balkans off American television screens. Lecture, Naval War College class, Washington, DC, 1994.

²⁵ William J. Durch, *UN Peacekeeping, American Politics, and the Uncivil Wars of the 1990s* (Washington, DC: The Henry L. Stimson Center, 1996).

²⁶ Precise data on civilian deaths in conflict is difficult to collect. The percentage of civilian casualties in modern wars is disputed, but all agree it is far too high. See Debarati Guha-Sapir and Olivier Degomme with Mark Phelan, *Darfur: Counting the Deaths, Mortality Estimates for Multiple Survey Data* (Brussels: Centre for Research on the Epidemiology of Disasters, University of Louvain, School of Public Health, 2005); Médecins sans Frontières, *Nothing New in Ituri: The Violence Continues* (Médecins sans Frontières, August 2005); Lisa Schlein, “UN: 25 Million Civilians Displaced by War are Unprotected,” *Voice of America News*, 6 March 2005; Fred Kaplan, “What Peace Epidemic?” *Slate*, 25 January 2006; Ronald Waldman, “Public Health in War, Pursuing the Impossible,” *Harvard International Review* 27, Is. 1, Spring 2005.

²⁷ Some argue that limited interventions contribute to more mass violence, or spur the need for greater intervention. Alan Kuperman has argued that there is a “moral hazard to humanitarian intervention” when rebellious actors are encouraged to stand up to their stronger opponents in the (mistaken) belief that the international community will back them, e.g., the Kurds in Iraq, the

In addition to deaths caused directly by violence, an enormous number of civilians perished due to the social disruption, disease, and malnutrition that accompany warfare, especially in developing states. There are relatively few systematic analyses of *total civilian* deaths caused by conflict, including those due to disease and famine. The International Rescue Committee (IRC) has estimated that nearly four million people have died from the war in the DRC since August 1998; less than two percent of the fatalities stem from direct violence.²⁸

Policymakers in the 1990s wrestled with the nature of intervention, conscious of their failures to halt egregious human rights violations. In Rwanda, 800,000 Tutsis and moderate Hutus died despite the presence of a UN peacekeeping mission. In Srebrenica, Serb forces massacred roughly 7,000 Muslims in a UN “safe area” as Dutch peacekeepers looked on, even though NATO close air support was nearby.²⁹ Individuals directly involved in both missions believed that only a modest use of military firepower could have saved thousands of lives.³⁰ Sobered by these failures, the international community let the number of UN peacekeeping missions dwindle by the mid-1990s.

Toward the end of the decade, however, with chances for peace after brutal conflicts in Sierra Leone, the DRC, Kosovo, East Timor, and elsewhere, international support shifted again towards military interventions, peace operations, and efforts to protect civilians. With the onset of NATO bombing in Kosovo in June 1999, US President Bill Clinton declared, “If the world community has the power to stop it, we ought to stop genocide and ethnic cleansing.”³¹

Kosovo Liberation Army in Kosovo, and secessionists in Bosnia-Herzegovina. Alan J. Kuperman, “Humanitarian Hazard,” *Harvard International Review* 26, Is. 1, Spring 2004, 64-68.

²⁸ The IRC studies of mortality are groundbreaking. Benjamin Coghlan, Richard J. Brennan, Pascal Ngoy, David Dofara, Brad Otto, Mark Clements, and Tony Stewart, “Mortality in the Democratic Republic of Congo: a nationwide survey,” *Lancet* 367, 7 January 2006, 44-51; International Rescue Committee, “The Lancet Publishes IRC Mortality Study from DR Congo; 3.9 Million Have Died: 38,000 Die per Month,” International Rescue Committee, 6 January 2006, www.theirc.org/news/page.jsp?itemID=27819067.

²⁹ The International Committee of the Red Cross estimates 7,079 were killed in Srebrenica. Paul Watson, “Bosnia’s 1995 Massacres Still Cloaked in Denial,” *Los Angeles Times*, 6 July 2000.

³⁰ Dallaire, *Shake Hands With the Devil*; UN General Assembly, A/54/549, *Report of the Secretary-General pursuant to General Assembly resolution 53/35: The fall of Srebrenica*, 15 November 1999; S/1999/1257, *Letter dated 15 December 1999 from the members of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda addressed to the Secretary-General*, 16 December 1999.

³¹ G-8 Summit: Interview of President Clinton by Wolf Blitzer *CNN Late Edition*, 20 June 1999, www.state.gov/www/issues/economic/summit/990620_clinton_cnn.html. Even for humanitarian purposes, any intervention by one state into another is highly controversial and there is a major argument about its legality under the UN Charter except when based on authorization of the Council. “Editorial Comments: NATO’s Kosovo Intervention,” *The American Journal of International Law*

INSUFFICIENT RESPONSE

The 1990s revealed where traditional humanitarian action and traditional peacekeeping *could not* effectively protect civilians. The principles of traditional humanitarian action—neutrality, impartiality, and consent—proved difficult to uphold in situations of severe insecurity.³² In dozens of situations, humanitarians delivered assistance, often heroically, only to witness the beneficiaries face injury or death at the hands of armies, militia groups, or thugs. A painful phrase emerged to describe the victims of such violence: “the well-fed dead.”³³ Humanitarians thought hard about ways to reduce and eliminate such violence against civilians, and began to call for the more effective provision of security.³⁴

Traditional peacekeeping—where third-party military forces deploy to support a political peace—also failed to protect civilians effectively in renewed or ongoing conflicts. The Geneva Conventions aimed to shield civilian populations, but belligerents often ignored such laws of war in modern conflicts, whether in Haiti, Sierra Leone, El Salvador, Chechnya, Angola, Cambodia, or Bosnia. Peacekeeping operations and other military interventions that followed the signing of peace accords were usually poorly designed to address the reemergence of large-scale violence or the meddling of “spoilers” in the peace process.³⁵ Unarmed or lightly armed peacekeepers mandated to use minimal force faced tough choices when civilians came under threat. In many situations, peacekeepers tried to carry out their missions without clear political direction and faced threats they could not counter. For example, peacekeepers in UNPROFOR in the Balkans had an implicit mission to protect civilians in UN-designated “safe areas,” but were not authorized to intercede when those civilians came under attack. Nor did other, stronger military forces from NATO back them up. In its report on Srebrenica, the UN harshly criticized the strategy of establishing safe areas and then failing to defend them forcefully:

Protected zones and safe areas can have a role in protecting civilians in armed conflict, but it is clear that either they must be demilitarized and established by

93, no. 4, October 1999; Louis Henkin, “Kosovo and the Law of ‘Humanitarian Intervention,’” *The American Journal of International Law* 93, no. 4, October 1999, 824.

³² Humanitarian impartiality was further challenged by situations such as the aftermath of the Rwandan genocide, when refugees streamed into camps in the eastern DRC. Relief groups could not distinguish the *génocidaires* and distributed food and shelter to victim and killer alike. The *génocidaires* proceeded to spread discord and instability in the DRC.

³³ The term “well-fed dead” emerged out of the carnage of Bosnia in the early 1990s. Roberta Cohen and Francis M. Deng, “Exodus Within Borders: The Uprooted Who Never Left Home,” *Foreign Affairs* 77, no. 4 (July/August 1998), 15.

³⁴ This view has migrated into policy circles today. Stewart Patrick, “The Role of the US Government in Humanitarian Intervention,” US Department of State, 5 April 2004, address at Lewis and Clark College.

³⁵ Stephen John Stedman, “Spoiler Problems in Peace Processes,” *International Security* 22, no. 2, January 1997.

the agreement of the belligerents, as in the case of the “protected zones” and “safe havens” recognized by international humanitarian law, or they must be truly safe areas, fully defended by a credible military deterrent.³⁶

The Srebrenica report made an eloquent call for a more robust response to future humanitarian tragedies:

The cardinal lesson of Srebrenica is that a deliberate and systematic attempt to terrorize, expel or murder an entire people must be met decisively with all necessary means, and with the political will to carry the policy through to its logical conclusion. In the Balkans, in this decade, this lesson has had to be learned not once, but twice. In both instances, in Bosnia and in Kosovo, the international community tried to reach a negotiated settlement with an unscrupulous and murderous regime. In both instances it required the use of force to bring a halt to the planned and systematic killing and expulsion of civilians.³⁷

Thus, a new consensus developed: the rules needed to change.

Humanitarian Literature on “Protection”

Humanitarian organizations realized that they could not simply deliver food, shelter, and healthcare without also attempting to reduce civilian vulnerability to violence. The result is a significant body of literature laying out a humanitarian framework for the protection of civilians. The International Committee of the Red Cross (ICRC), for example, began a workshop series in 1996 to identify the legal, policy, and operational issues of protection. In 1999, the ICRC produced a broad and influential definition of “protection” as:

[A]ll activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e., human rights law, international humanitarian law and refugee law)...³⁸

The ICRC also created a multilayered “egg” model of protection, involving three categories of activity to support protection: *responsive action*, *remedial action*, and *environment building*. These layers reflect the non-chronological use of broad-to-specific actions to create “an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse, and restoring dignified conditions of life through reparation,

³⁶ UN General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The Fall of Srebrenica*, A/54/549, 15 November 1999, para. 499.

³⁷ *Ibid.*, para. 502.

³⁸ Sylvie Gioosi Caverzaslo, *Strengthening Protection in War – A Search for Professional Standards: Summary of Discussions Among Human Rights and Humanitarian Organizations* (Geneva: International Committee of the Red Cross, 2001); cited in Roger Williamson, *Protection of Civilians: Bridging the Protection Gap, Report on Wilton Park Conference 766* (West Sussex, UK: Wilton Park, 2005).

restitution and rehabilitation.”³⁹ Intergovernmental processes, such as the multinational Good Humanitarian Donorship Initiative, sought to develop consensus around an international obligation to protect civilians when their governments were unwilling or incapable of doing so, to agree on criteria that would trigger a response, and to establish the operational parameters of that response for donors, the military and humanitarian and human rights agencies.⁴⁰

In 2002 the Inter-Agency Standing Committee (IASC), made up of UN agencies, the ICRC, and NGOs, published field strategies used to protect or promote rights through humanitarian practices. The report demonstrated the sheer diversity of activities under the umbrella of human rights, humanitarian action, and the “protection” agenda, covering topics from protection against forced marriage to planning shelter, from dissemination of international humanitarian law to sanitation. The IASC also recognized the basic tension between the provision of humanitarian assistance and the prevention of violations of humanitarian law: assistance does *not* “always consciously aim” to stop violations of international humanitarian, human rights and refugee law. The report suggested that the agenda to protect civilians links the two concepts:

Programmes may not be strategically designed to enhance the protection of civilians. The inextricable link of protection and assistance must be recognized if humanitarians are to play a significant role protecting the rights of those participating in their programmes. This collection of field practices demonstrates some of the ways humanitarian assistance programmes have moved beyond the provision of material assistance in an effort to enhance protection.⁴¹

The IASC report focused on the protection of civilians by promoting protection through law, including international humanitarian and human rights law. It made virtually no mention of working with military or peacekeeping forces to enhance the physical protection of civilians, however.

Yet the humanitarian community increasingly recognized the challenge of physical protection. A 2005 guide for humanitarian agencies from the Active Learning Network for Accountability and Performance in Humanitarian Action

³⁹ Carlo Von Flue and Jacques de Maio, *Third Workshop on Protection for Human Rights and Humanitarian Organizations: A Report of the Workshop Held at the International Committee of the Red Cross, 18-20 January 1999* (Geneva: International Committee of the Red Cross, 1999), 21.

⁴⁰ Under the Initiative, the objectives of humanitarian action are “to save lives, alleviate suffering and maintain human dignity during and in the aftermath of man-made crises and natural disasters, as well as to prevent and strengthen preparedness for the occurrence of such situations.” Another objective is “the protection of civilians and those no longer taking part in hostilities,” as part of the provision of traditional assistance (e.g., food, water and sanitation, shelter, health services and other items of assistance).

⁴¹ Inter-Agency Standing Committee, *Growing the Sheltering Tree: Protecting Rights Through Humanitarian Action* (UNICEF, 2005), 5.

(ALNAP) described this shift since 2001. The first ALNAP *Review of Humanitarian Action* analyzed the Kosovo crisis and found that humanitarian agencies “did not give enough attention to people’s protection.”⁴² In particular, the report found:

Many agencies focused on the provision of material assistance, leaving protection to mandated agencies such as UNHCR and ICRC. The Review concluded that the humanitarian community was at last waking up to the fact that all humanitarian agencies have a role to play in people’s protection in war and disaster. Agencies realized that they have an obligation to work with communities, mandated agencies and responsible authorities to ensure people’s safety as well as providing assistance to those in need.⁴³

ALNAP has since published additional guidance for humanitarian protection, aimed at helping practitioners “get to grips” with both the conceptual and operational elements of protection.⁴⁴ A 2004 field-based study of international protection for IDPs also examined UN protection strategies, and cited the problems faced when peacekeepers do not see their role as providing protection or offering a preventive presence.⁴⁵

Overall, this humanitarian approach to civilian protection has moved to include a wide range of aims, concepts, strategies and operational parameters. “Protection” can entail, for example: encouraging peace and economic development; preventing conflict; promoting compliance with international law; addressing the special needs of women, children and the displaced; stopping small-arms proliferation; ensuring the safety of humanitarian-relief workers and their access to vulnerable populations; disarming, demobilizing, reintegrating and rehabilitating ex-combatants; and tackling “hate media.” Where the military’s role lies in relation to these aims remains the subject of ongoing debate.

Improving Peace Operations

Nations and their military leaders also began to consider their responsibilities in areas of extreme violence, refining the mandates and doctrine for peace operations, and expanding peacekeeping capacity at the UN and elsewhere. The US experience in Somalia, which resulted in a broad US distaste for

⁴² John Mitchell, preface to Hugo Slim and Andrew Bonwick, *Protection: An ALNAP Guide for Humanitarian Agencies* (London: Overseas Development Institute, August 2005), 3.

⁴³ Ibid. UNHCR refers to the United Nations High Commissioner for Refugees.

⁴⁴ Ibid.

⁴⁵ Simon Bagshaw and Diane Paul, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons* (Washington, DC: The Brookings-SAIS Project on Internal Displacement and the UN Office for the Coordination of Humanitarian Affairs, November 2004).

“humanitarian intervention,” also led to more realistic appraisals of what was needed for effective peace operations, ranging from better planning and coordination to mission design and increased firepower. Countries recognized that doctrine and training for peace operations needed to prepare troops better for more robust missions, to manage “spoilers” to a peace process, to engage with civilian actors, and to promote the rule of law.

UN peacekeeping mandates grew to include new tasks. The UN Security Council began to authorize operations to “protect civilians under imminent threat” under Chapter VII of the UN Charter, as seen for the first time with UNAMSIL in 1999. The following UN mandates for operations in the DRC, Liberia, Haiti, Burundi, Côte d’Ivoire, and Sudan contained similar language. Mandates also included directives to protect or facilitate the return of IDPs and to create “necessary security conditions” for the provision of humanitarian assistance. In addition, the UN increasingly authorized operations led by individual nations and regional organizations to protect civilians and IDPs, including the European Union’s *Operation Artemis* in the DRC in the summer of 2003, the French-led *Operation Licorne* in Côte d’Ivoire beginning in 2003, the ECOWAS operation in Côte d’Ivoire in 2003—2004, and the AU mission in Darfur, Sudan since 2004. [For a full list of UN authorizations, see *Annex I: UN Security Council Resolutions for Missions Involving Aspects of Civilian Protection*].

In 2000, UN Secretary-General Kofi Annan appointed an international group, the Panel on United Nations Peace Operations, to assess the challenges of peacekeeping operations and offer recommendations to improve their conduct. The Panel’s “Brahimi Report,” named after Panel chairman UN Under-Secretary-General Lakhdar Brahimi, called for greater UN planning and management capacity, more effective and rapid deployment, and clearer mandates, doctrine, and strategy. The Panel recognized the fundamental challenges faced by peacekeepers operating without the full consent of local parties. It argued:

[P]eacekeepers may not only be operationally justified in using force but morally compelled to so. Genocide in Rwanda went as far as it did in part because the international community failed to use or to reinforce the operation then on the ground in that country to oppose obvious evil.⁴⁶

The Panel also offered clear limits as to the scope of UN-led interventions. “The United Nations does not wage war,” it stated. “Where enforcement action is required, it has consistently been entrusted to coalitions of willing States, with

⁴⁶ UN General Assembly and Security Council, *Report of the Panel on United Nations Peace Operations A/55/305-S/2000/809*, 21 August 2000, para. 50.

the authorization of the Security Council, acting under Chapter VII of the Charter.”⁴⁷ Despite the report’s acknowledgement of the UN failure during the Rwandan genocide, it offered a roadmap for improving operations that were not responses to genocide. As a result, the UN baseline capacity for missions was greatly improved, but the UN role in protecting civilians from large-scale violence remained unclear.⁴⁸

In 1999, the Security Council also began to increasingly invoke Chapter VII authority for UN-led missions. This authority reflected less a call for “enforcement action” than recognition of UN authority and its potential intrusiveness in leading efforts to improve local governance. Nevertheless, the use of Chapter VII indicated that a line was being crossed in many missions and that the Council expected peacekeepers to use force to uphold their mandates.

Reports of the Secretary-General and Security Council Resolutions on Civilian Protection

Just as the humanitarian and peacekeeping communities responded to the disasters in Rwanda, Srebrenica and elsewhere with an emphasis on protecting civilians, so too did the UN Secretary-General and Security Council. The Secretary-General began publishing a series of reports on “the protection of civilians in armed conflict” in 1999. The Security Council also looked at the question, approving three resolutions and six presidential statements under the same title and holding semi-annual open briefings on the subject.

The UN Office for the Coordination of Humanitarian Affairs (OCHA) has been particularly focused and active on the protection agenda. OCHA has seen protection as a core element of its role, and worked to focus the attention of the Security Council and key Secretariat departments on protection issues. It has developed reports, online resources, a glossary of relevant “humanitarian terms,” and other materials on the subject.⁴⁹ These include an *Aide Mémoire*, which outlined various keys to effective civilian protection to assist the Security Council in its deliberations over peacekeeping missions; a ten-point “Plan of Action” on the protection of civilians for the Security Council; and a “Roadmap” for implementing the UN’s protection responsibilities. OCHA also hosted a series of regional workshops on the topic.

⁴⁷ Ibid., paras. 52-53.

⁴⁸ For details on progress in implementing the Brahimi Report recommendations, see William J. Durch, Victoria K. Holt, Caroline R. Earle and Moira K. Shanahan, *The Brahimi Report and the Future of Peace Operations* (Washington, DC: The Henry L. Stimson Center, December 2003).

⁴⁹ OCHA maintains an active website, <http://ochaonline.un.org/webpage.asp?Site=civilians>.

Box 2.1

**MODERN PEACE OPERATIONS:
THE BRAHIMI REPORT & CIVILIAN PROTECTION**

The Brahimi Report famously detailed the challenges facing modern UN peacekeeping missions – and the new call for peacekeepers to protect civilians. Throughout the report, the Panel is conscious of the implications of this responsibility and called for the UN Secretariat to “tell the Security Council what it needs to know, not what it wants to hear” about the requirements for successful operations and necessary commitments from member states. The Report also acknowledged the new trend in UN mandates to identify the protection of civilians as a key component of peacekeeping operations:

62. Finally, the desire on the part of the Secretary-General to extend additional protection to civilians in armed conflicts and the actions of the Security Council to give United Nations peacekeepers explicit authority to protect civilians in conflict situations are positive developments. Indeed, peacekeepers – troops or police – who witness violence against civilians should be presumed to be authorized to stop it, within their means, in support of basic United Nations principles and, as stated in the report of the Independent Inquiry on Rwanda, consistent with “the perception and the expectation of protection created by [an operation’s] very presence” (see S/1999/1257, p. 57).

63. However, the Panel is concerned about the credibility and achievability of a blanket mandate in this area. There are hundreds of thousands of civilians in current United Nations mission areas who are exposed to potential risk of violence, and United Nations forces currently deployed could not protect more than a small fraction of them even if directed to do so. Promising to extend such protection establishes a very high threshold of expectation. The potentially large mismatch between desired objective and resources available to meet it raises the prospect of continuing disappointment with United Nations follow-through in this area. If an operation is given a mandate to protect civilians, therefore, it also must be given the specific resources needed to carry out that mandate.

Source: UN General Assembly and Security Council, Report of the Panel on United Nations Peace Operations, A/55/305-S/2000/809, 21 August 2000, 11.

The Security Council first passed a resolution in September 1999 on “the protection of civilians.” In it, the Council expresses “its willingness to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the Council’s disposal.”⁵⁰ The precise nature of “appropriate measures” was not elaborated. The Council offered a few

⁵⁰ S/Res/1265, 17 September 1999, para. 10.

more details in April 2000. A new resolution indicated the Council’s intention to provide peacekeeping missions with appropriate mandates and resources to protect civilians. It also called on peacekeepers to consider the use of “temporary security zones for the protection of civilians and the delivery of assistance in situations characterized by the threat of genocide, crimes against humanity, and war crimes against the civilian population.”⁵¹ The resolution established “the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict” as a “threat to international peace and security”—the legal trigger for a UN response.⁵² Thus, the Council approach to protection of civilians began to shift.

A SHIFT IN NORMATIVE LANGUAGE

The international community’s struggle with the mass killing in the 1990s also led to redefining the terms of intervention. In 2000, reflecting on the UN’s devastating reports on international inaction in Rwanda and Srebrenica, Annan challenged Member States to “forge unity” on the matter of humanitarian intervention and to identify a basis for preventing future catastrophes:

...[I]f humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that affect every precept of our common humanity?⁵³

The International Commission on Intervention and State Sovereignty, designed as an independent international body with distinguished leaders from 11 countries, was organized by the government of Canada to take up Annan’s challenge. In December 2001, the ICISS published its landmark report, *The Responsibility to Protect*. The Commission’s central conclusion was that there are limits to the general non-intervention rule for certain kinds of emergencies, namely:

[L]arge 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.⁵⁴

⁵¹ S/Res/1296, 19 April 2000, para. 15.

⁵² *Ibid.*, para. 5.

⁵³ UN General Assembly, “*We the Peoples*”: *The Role of the United Nations in the 21st Century*, A/54/2000, Millennium Report of the Secretary-General, 27 March 2000, 48.

⁵⁴ ICISS, *The Responsibility to Protect*, xii. Note: bold is in original text.

The Commission also suggested doing away with the term “humanitarian intervention,” and replacing it with simply “intervention,” “military intervention for human protection purposes,” or “human protection operation.”⁵⁵ The ICISS duly noted that humanitarian relief organizations chafe at the use of the term “humanitarian” to describe violent military activities, such as dropping a bomb, for example, although such displays of force might be needed to save lives. Moreover, the phrase “human protection” put the emphasis on potential victims of violence rather than on the “rights” of prospective interveners.

Borrowing from just-war theory, ICISS specified six criteria for military intervention for human protection purposes: *right authority*; *just cause*; *right intention*; *last resort*; *proportional means*; and *reasonable prospects*. The preferred “right authority” was the Security Council, although ICISS recognized other routes if the Council deadlocked, including the General Assembly’s “Uniting For Peace Procedures,” and regional organizations acting within their “defining boundaries.”⁵⁶ ICISS added that any intervention must be both “defensible in principle” and “workable and acceptable in practice.”⁵⁷

The report emphasized that there is a “continuum” of responsibilities to reduce the likelihood of abuses before, during, and after conflict. The “responsibility to protect” includes a “responsibility to *prevent*” mass killing and ethnic cleansing before they occur, a “responsibility to *react*” when these abuses are taking place, and a “responsibility to *rebuild*” in the wake of conflict. In line with these priorities, the report advocated the increased use of preventive deployments and follow-on peacebuilding missions. In the case of ongoing abuses, the Commission stated that the “responsibility to react” should involve “appropriate measures, which may include coercive measures like sanctions and international prosecution, and in extreme cases military intervention.”⁵⁸

A New View of Humanitarian Intervention? Cycling Back

The timing of the ICISS report—coming shortly after September 11, 2001—initially blunted its impact. In December 2001, few in the international community were thinking seriously about humanitarian intervention. The earlier debates about such missions—which many observers felt culminated with the 1999 bombing of Belgrade and the subsequent NATO peace operation in Kosovo—waned with the advent of the US-led “Global War on Terror,” at least temporarily.⁵⁹ Many observers believed the wars in Afghanistan and Iraq,

⁵⁵ Ibid., 8.

⁵⁶ Ibid., 53.

⁵⁷ Ibid., 29.

⁵⁸ Ibid., xi, viii.

⁵⁹ As Weiss points out, articles on humanitarian intervention represented roughly half of those

undertaken for defensive and/or strategic reasons yet justified *ex post facto* as a kind of active humanitarianism, further undermined efforts to establish an international consensus on the legitimacy of “saving lives with force.”⁶⁰ By 2004 some analysts even went so far as to wonder, “Is anyone interested in humanitarian intervention?”⁶¹

The ICISS had hit a nerve, however, and demonstrated enduring relevance. In the US the growing concern that “failed states” could become terrorist havens further aligned American strategic interests with “humanitarian” issues and support for international peace operations. The 2006 US *National Security Strategy* called for an increase in the number of troops available worldwide for “conflict intervention,” for example. It also concluded, “Where perpetrators of mass killing defy all attempts at peaceful intervention, armed intervention may be required.”⁶²

While billions of dollars fund operations in Iraq and Afghanistan, the Bush Administration has expanded its funding for international peacekeeping training programs, as well as offered support to UN and regionally-led peace operations. New US efforts aim to create capacities for dealing with failed states and mounting post-conflict operations, as evidenced by the creation of a US State Department office to coordinate reconstruction and stabilization operations, and a Department of Defense (DoD) directive in November 2005 giving standing to stability operations equivalent to warfighting in its plans and policies.

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published in the scholarly journal *Ethics & International Affairs* by the end of the 1990s, but fell precipitously after September 11, 2001. Thomas G. Weiss, “The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era,” *Security Dialogue* 35, no. 2, June 2004, 136.

⁶⁰ This phrase, though not the argument, is borrowed from Michael O’Hanlon, *Saving Lives With Force: Military Criteria for Humanitarian Intervention* (Washington, DC: Brookings Institution Press, 1997).

⁶¹ Neil S. Macfarlane, Carolin J. Thielking and Thomas G. Weiss, “The Responsibility to Protect: Is anyone interested in humanitarian intervention?” *Third World Quarterly* 25, no. 5, 2004, 977-992.

⁶² *The National Security Strategy of the United States of America*, March 2006, Chapter 4, “Working with Others to Defuse Regional Conflicts,” 16-17. See also *The National Security Strategy of the United States of America*, September 2002, Chapter 4, “Working with Others to Defuse Regional Conflicts.”

Motivation for capacity building reflects the sustained surge in peace operations around the world. More personnel are deployed in international peace and stability operations today than ever before. Assorted security providers lead missions—including the UN, NATO, EU, AU, ECOWAS, and coalitions of the

This dynamic time offers opportunities to identify gaps in capacity and to suggest ways for national and multinational organizations to prepare for and conduct operations.

willing. In addition to US-led counterinsurgency/stability operations in Iraq and Afghanistan, NATO has substantial operations in Afghanistan, Iraq, and Kosovo, and the EU heads a major mission in Bosnia-Herzegovina. The UN leads 15 peacekeeping operations with more than 70,000 uniformed personnel from 107 countries, plus additional peacebuilding missions. Many of its

operations are in countries where civilians face severe insecurity, such as the DRC, Haiti, Côte d'Ivoire, and Burundi, testing the limits of UN willingness and capacity to use force in defense of civilian life.

In response to this increase in peace operations, multinational organizations have authorized more missions to use force and are developing greater capacities to intervene. Military organizations are reconsidering the doctrine, scenarios, and training programs for peace and stability operations. This dynamic time offers opportunities to identify gaps in capacity and to suggest ways for national and multinational organizations to prepare for and conduct operations.

In addition, the American public may be less wary of humanitarian intervention than a decade ago.⁶³ Many decry the lack of stronger action or media attention on the crisis in Darfur, for example, displaying an outpouring of concern for the victims there. The crisis has spawned innumerable US student groups, NGO coalitions, and even the arrest of political leaders and others protesting in front of the Sudanese Embassy.⁶⁴

⁶³ In a 2003 poll, fifty-five percent of Americans expressed the belief that “the US and other Western powers have a moral obligation to use military force in Africa, if necessary, to prevent one group of people from committing genocide against another.” Seventy-four percent responded that the US had such an obligation in Europe. Program on International Policy Attitudes, Humanitarian Military Intervention in Africa, Americans and the World website, www.americans-world.org/digest/regional_issues/africa/africa4.cfm. Cited in Macfarlane, Thielking and Weiss, “Is anyone interested in humanitarian intervention?” 986.

⁶⁴ “Rep. Rangel Arrested in Sudan Embassy Protest,” *Democracy Now!* 14 July 2004, www.democracynow.org/article.pl?sid=04/07/14/1411202.

*Box 2.2***HUMANITARIAN INTERVENTION: BASIC ARGUMENTS**

Arguments over the legitimacy of humanitarian intervention were particularly pointed in the 1990s. Opponents of intervention worried that it could be used as a proxy for neo-colonialist impulses, or that human rights were a “Western” concept that should not be imposed on others. They argued that powerful rich countries dominated the institutions responsible for adjudicating decisions to intervene, such as the UN Security Council. Moreover, these same countries had endured centuries of violent rebellions, and peace had taken hold only after they exhausted such disputes. Decisions about when and where to intervene were therefore viewed with suspicion, and many believed that such decisions had more to do with self-interest than genuine concern for civilian well being.

Observers in developed countries also questioned the utility of humanitarian interventions and decried the resource expenses that they entailed. Not only were such interventions wrong in *practice* – as interveners inevitably arrived too late, with insufficient understanding of local grievances and history – they were also wrong in *principle*, as the “realist” theory of international relations holds that foreign policy should be based on the pursuit of states’ self-interest. Humanitarian intervention was an oxymoron in that it sapped resources from more worthy endeavors, and often caused more harm than good. Some analysts also questioned the grounds for humanitarian intervention under international law.

The arguments on the other side of this debate were straightforward and emotionally appealing: if we can save innocent lives or protect populations, we should do so. Because the most troubling crimes against humanity in the post-Cold War era were connected to fighting within states rather than among them, states could no longer simply be left to conduct their internal business as they pleased. International legal theorists thus sought justification for humanitarian interventions in new readings of international law (much of which supports state sovereignty, due to its origins in the post-World War II era) or, as in Resolution 1296, through expanding the definition of threats to “international peace and security” (specified under Chapter VII of the UN Charter as one of two legal justifications of war, the other being self-defense) to include human rights concerns. Some analysts also argued that intervention was not nearly as difficult or as risky as many people supposed. Others pointed out that militaries have served humanitarian purposes for centuries, so that humanitarian intervention was just a new shine on an old problem. Some cast humanitarian goals as a component of national security interests. Finally, practical voices argued that it is better to support Council-authorized humanitarian interventions than to leave such adventures to coalitions of the willing to define their missions as they wish. Many further noted that, like it or not, the dramatic increase in the speed of news worldwide increased both knowledge of crises and the calls to do something, making it likely that interventions were here to stay.

Sources: Mohammed Ayoob, “Humanitarian Intervention and International Society,” *Global Governance* 7, no. 3 (July–September 2001), 225-230; Michael Walzer, “The Argument about Humanitarian Intervention,” *Dissent* (Winter 2002), 30; See Henry Kissinger, *Does America Need a Foreign Policy? Toward a Diplomacy for the 21st Century* (New York: Simon & Schuster, 2001); Chesterman, *Just War or Just Peace?*

Real Impact

The ICISS report itself has made a substantial impact, receiving high-level attention and endorsement of its framework by governments, non-governmental organizations, and scholars worldwide. Five years after the Commission's report, there is growing acceptance of the "responsibility to protect" concept and increasing use of its terminology.⁶⁵ Human Rights Watch, the International Crisis Group, Refugees International, Oxfam and other groups frequently reference the "responsibility to protect" in their statements and reports on the crisis in Darfur and elsewhere.⁶⁶ Among others, Human Rights Watch and International Crisis Group have called for UN peacekeepers to directly "protect civilians" in conflict zones such as the DRC; likewise, many NGOs call for AU forces to protect civilians in Darfur. For example, the United Kingdom House of Commons International Development Committee published a strong endorsement of the "responsibility to protect" framework in its 2005 report, *Darfur, Sudan: The responsibility to protect*. The report condemns inaction on Darfur and suggests that political pressure on the Government of Sudan should be combined with humanitarian relief, "protection," and support for rebuilding efforts.⁶⁷ Amnesty International, after years of maintaining a policy of relative neutrality on the use of force and military intervention, decided in 2005 to develop guidelines for when it will call for military intervention to end widespread and grave human rights abuses.⁶⁸

In the United States, a 2005 bipartisan task force directed by Congress to evaluate US interests with the United Nations cited and strongly endorsed the "responsibility to protect" framework as grounds for considering intervention:

The United States government should affirm that every sovereign government has a 'responsibility to protect' its citizens and those within its jurisdiction from genocide, mass killing, and massive and sustained human rights violations.... Sovereignty belongs to the people of a country, and governments have a responsibility to protect their people. If a government fails to protect the lives

⁶⁵ *Responsibility to Protect* project of the World Federalist Movement, www.responsibilitytoprotect.org/.

⁶⁶ Amnesty International, "Sudan: UN Security Council must meet 'responsibility to protect' civilians," Amnesty International Press Release, 25 May 2006; International Crisis Group, *Darfur: The Failure to Protect*, Africa Report No. 89 (Washington, DC: International Crisis Group, 8 March 2005); Michael Clough, "Darfur: Whose Responsibility to Protect," in Human Rights Watch, *World Report 2005* (Human Rights Watch, 2005); Oxfam International, "Ugandan government must fulfill its responsibility to protect civilians in war-torn north," Oxfam Press Release, 27 October 2005; Sally Chin and Jonathan Morgenstein, *No Power to Protect: The African Union Mission in Sudan* (Refugees International, November 2005); Cheryl O. Igiri and Princeton N. Lyman, *Giving Meaning to "Never Again": Seeking an Effective Response to the Crisis in Darfur and Beyond*, Council Special Report No. 5 (Washington, DC: Council on Foreign Relations, September 2004).

⁶⁷ House of Commons International Development Committee, *Darfur, Sudan: The responsibility to protect*, Fifth Report of Session 2004-05, Volume 1 (London: March 2005), 30.

⁶⁸ Amnesty International representative, interview with author, 13 February 2006, Washington, DC.

of those living within its jurisdiction from genocide, mass killing, and massive and sustained human rights violations, it forfeits claims to immunity from intervention (based on the principle of nonintervention in a state's internal affairs) if such intervention is designed to protect the at-risk population... Those engaged in mass murder must understand that they will be identified and held accountable.⁶⁹

The task force further recommended that if the Security Council failed to act in such cases, “The United States should insist that states asserting an absolutist doctrine of nonintervention explain why they are preventing action against the world’s *génocidaires*.”⁷⁰

Adding real weight to the endorsements of the “responsibility to protect,” the United Nations has begun to embrace the framework. In its December 2004 report, *A More Secure World: Our Shared Responsibility*, the UN High-level Panel on Threats, Challenges, and Change endorsed “the emerging norm that there is a collective international responsibility to protect...in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law.”⁷¹ Secretary-General Annan’s 2005 report *In Larger Freedom* referenced the “responsibility to protect” concept as grounds for action, arguing that, “[I]f national authorities are unable or unwilling to protect their citizens, then the responsibility shifts to the international community.” Moreover, if “diplomatic, humanitarian and other methods...appear insufficient, the Security Council may out of necessity decide to take action under the Charter of the United Nations, including enforcement action, if so required.”⁷²

After tumultuous negotiations, the 2005 UN World Summit made a strong statement for collective enforcement action to halt serious crimes against humanity. Member States agreed:

Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity.... [W]e are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are

⁶⁹ Task Force on the United Nations, *American Interests and UN Reform* (Washington, DC: United States Institute of Peace, 2005), 29.

⁷⁰ *Ibid.*

⁷¹ The High-level Panel designated the Security Council as the legitimate authorizing body for such interventions, where the ICISS left open other possibilities. UN General Assembly, *A More Secure World: Our Shared Responsibility, Report of the Secretary-General's High-level Panel on Threats, Challenges and Change*, A/59/565, 2 December 2004, 66, para. 203.

⁷² UN General Assembly, *In Larger Freedom: Toward Development, Security and Human Rights for All, Report of the Secretary-General*, A/59/2005, 21 March 2005, para. 135.

manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.⁷³

Saying or Acting?

Even with such broad endorsement by UN member states, NGOs, and others, the concept of a “responsibility to protect” is far from achieving universal acceptance. Fundamental to the question of how far it will go is the ICISS argument that—in cases where the appropriate thresholds and criteria for intervention are met—states should feel, indeed are, *compelled* to act. A “responsibility” is therefore more than an *option* to protect.

A “responsibility” is therefore more than an option to protect.

As the “responsibility to protect” language is tracked through these documents—from the initial ICISS report to the recommendations of the US task force on UN reform, the High-level Panel, the Secretary-General’s *In Larger Freedom* and, finally, the Summit Outcome Document—analysis reveals that qualifiers dilute the stronger language of the ICISS report. *In Larger Freedom* argues that the Security Council “*may* out of necessity” authorize intervention, while the Summit Outcome promised only to act on “a case by case basis.” These endorsements thus support action, but do not suggest it is a requirement.

Many states at the 2005 World Summit, particularly countries within the Non-Aligned Movement and the G-77, initially opposed the inclusion of language on “responsibility to protect” in the final outcome document. The US rejected language from an early draft that indicated an *obligation* among states to respond to a certain scale of atrocities, while states such as Zimbabwe, China, and Egypt expressed opposition to the concept as a whole.⁷⁴ Nevertheless, the Summit produced a clearer statement than many expected: the international community has the responsibility to act when nations “are manifestly failing to protect their populations” from these categories of violence.⁷⁵ Even if some

⁷³ UN General Assembly, *2005 World Summit Outcome*, A/Res/60/1, 24 October 2005, para. 139. That the “responsibility to protect” concept gained support was surprising given that other substantive proposals at the Summit did not.

⁷⁴ John Bolton, “Dear Colleague” letter from US Ambassador John Bolton, 30 August 2005, ReformtheUN.org, www.reformtheun.org/index.php?module=uploads&func=download&fileId=813; ReformtheUN.org, *Overview Chart of State-by-State Positions on the Responsibility to Protect*, World Federalist Movement – Institute for Global Policy, 12 August 2005, www.reformtheun.org/index.php?module=uploads&func=download&fileId=797. The US reportedly shifted its position to support inclusion of the “responsibility to protect” language in the final document.

⁷⁵ A/Res/60/1, 2005 World Summit Outcome, as adopted by the UN General Assembly, 24 October 2005, 30.

arms were twisted along the way, UN Member States officially recognized an international “responsibility to protect” civilians.

The Security Council reaffirmed this Summit position on the “responsibility to protect” with its third resolution on “the protection of civilians” in April 2006. The United Kingdom spearheaded this effort and won Council approval unanimously despite initial opposition from Russia and China.⁷⁶ Unlike earlier resolutions, Resolution 1674 provides some specific guidance to peacekeepers. It calls on peacekeepers to ensure the security of refugee camps, to associate the UN Emergency Relief coordinator in the early stages of mission planning, and to prevent sexual violence. The resolution also reaffirms the Council’s practice of including provisions for the protection of civilians in peacekeeping mandates. It proposes that “such mandates include clear guidelines as to what missions can and should do to achieve those goals,” and that measures to protect civilians be “given priority in decisions about the use of available capacity and resources, including information and intelligence resources, in the implementation of the mandates.”⁷⁷

Thus, on the heels of the 2005 World Summit, the UN Security Council further embraced the “responsibility to protect” and recognized a role for peacekeeping forces in making it a reality. This is big news.

⁷⁶ Security Council Report, “Update Report No. 7, Protection of Civilians in Armed Conflict,” 20 April 2006, www.securitycouncilreport.org/site/c.glKWLeMTIsG/b.1563699/k.B611/Update_report_No_7brprotection_of_civilians_in_armed_conflictbr20_April_2006.htm.

⁷⁷ S/Res/1674, 28 April 2006, paras. 4, 11, and 14-19.