"HUMANITARIAN INTERVENTION, THE RESPONSIBILITY TO PROTECT AND LIBYA"

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*Humanitarian intervention has always attracted many researchers and has been more popular and, of course, controversial in theory than in practice. Despite inexpressible acts, the desire to perform something, '*anything*', is understandable.States have shown less desire to act based on such desires leading to the existing situation where there are quite many books and many more papers articulating the contours of such a so-called right to 'intervene for humanitarian purposes' supporting the point that the concept is theoretically rather than practically welcome by the responsible States. In fact, the number of cases that could possibly be cited as instances or models of what is being elaborated upon can be counted on one hand only.*

Thus, is Libya a case-in-point? It depends on why and how one thinks that precedent is significant. Looking from an international legal outlook, controversial discussions have been made on whether one or more states are eligible and carry the legal right *to intervene in another for human protection desires or pretexts. Based on an international relations and internal policies viewpoint, a question arises: do the States have the* will *to intervene? From a military perspective, an unavoidable predicament is that whether the States have the* ability *to intervene effectively. The present paper has these three issues at its core. The legal importance of Libya is minimal, though the response shows how the politics on humanitarian intervention has displaced to a point where it is more difficult to do something in the face of atrocities. Simultaneously, however, military action of May 2011 proposed a constant disjunction between ends and means.*

Keywords: *Humanitarian intervention, R2P, Law, Military intervention, Libya*

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Interlocutory Note

For a researcher in international law sphere, the intervention in Libya might not seem as innovative and groundbreaking as interesting.

The resolution 1973 (2011) of the United Nations Security Council was in line with resolutions passed in the astucious days of the immediate post-cold war era. December 1992 and April 1993 witnessed the first starts in Security Council in authorizing the use of 'all necessary means'to establish secure conditions forhumanitarian relief and create safe havens in situations of internal conflict.[1] Although there are slight differences, the question of consent and aggregation on an operation is not legally significant when there is such authorization under Chapter VII of the UN Charter. Effectively, employing the language that the situation was 'exceptional', 'unique 'or 'exceptional and unique' was not needed. Such phrases were used in resolutions in the early 1990s to ensure abstentions by the members such as China on resolutions; which led to broadening of the Security Council's 'international peace and security' mandate.

Looking from a legal perspective then, the resolution 1973 could hardly be considered as ground-breaking. Yet the difficulties and complications associated with implementing those two resolutions of the early 1990s targeting Somalia and Srebrenica denote that the issue has never been limited just to what the law allows, but also involve what politics allows and what militarily is possible.

It is of course in no way at all meant that advent of the 'responsibility to protect' or R2P has not been normatively significant.In order to reach at an aggregation and resultant consensus in the commission that coined the word and the UN General Assembly that welcome it, however, compromises were needed. First, the 2001 International Commission on Intervention and State Sovereignty (ICISS) placed the military issue somewhere between prevention and

post-conflict peacebuilding.[2] Secondly, by the time R2P was endorsed by the World Summit in 2005, its normative load had been castrated that much that it essentially provided that the Security Council could authorize things that it had in fact been authorizing for more than a decade.[3]

It is evident that the Council hesitates to some extent to embrace the R2P doctrine fully. Resolution 1973 refers just to the 'responsibility of the Libyan authorities to protect the Libyan population'.[4] This is in line with earlier resolutions passed in the SC that had used different forms of the phrase, but limited it to that first pillar of national protection. [5]later on, two more resolutions passed in the SC went further touching on the responsibility of the international community, but restrained themselves to 'reaffirming' the provisions of the 2005 Outcome Document.[6] Engagingly, a number of resolutions on Georgia starting in 2002 'recalled' that Abkhaz side bore 'a particular responsibility to protect' those who returned.[7] This was disputably distinct from R2P, but was repeated in ensuing extensions of the United Nations Observer in Georgia (UNOMIG). Probably the phrase was absent in the eight resolutions on UNOMIG adopted after the 2005 World Summit *coincidently*.

Nonetheless, the importance of R2P was in no way at all, in a strict sense, legal; rather, political and *rhetorical*. The ICISS's establishment was carried out mainly by Britain and Canada, both of whom had participated in military action in Kosovo in 1999 that appeared to violate the UN Charter. Article 2 (4) of the UN Charter prohibits the threat or use of the force against member States. Only two exceptions are anticipated in the Charter : self-defense and action authorized by the SC.[8] None of these provisions were in fact applied in Kosovo, and the uncertain possibility of a General Assembly resolution in support of intervention, which needed support of at least two-thirds of the member States, had been rejected by Britain.[9]

It is worth mentioning that in Kosovo, as well as every other case of so-called humanitarian interventions, States were unwilling to justify their actions based on a due legal perspective and in legal terms. So, States did not consider articulating a legal discussion that might be used by other States to justify other interventions. Connected with Kosovo's case, for instance, the German government unusually enough employed the phrase 'humanitarian intervention' but emphasized that Operation Allied Force shouldn't be a precedent for further actions.[10] United States Secretary of State Madeleine Albright emphasized that the air strikes were a "unique situation *sui generis* in the region of the Balkans."[11] British Prime Minster retreated from his initial excitement for the intervention to put emphasis on the exceptional nature of the air campaign.[12] Kosovo's case was also atypical for it was a case of alleged humanitarian intervention that actually made it to the International Court of Justice. When proceedings against ten NATO members were brought by Yugoslavia, it was only Belgium which presented a formal legal justification for the intervention.[13] The case was eventually dismissed on technical grounds.

Such reticence was emulated in two major commissions on the topic. Richard Goldstone's Kosovo Commission obscured the issue by concluding that NATO's action was 'illegal but legitimate'.[14] The report by ICISS acknowledged that as an issue related to 'political reality' it would be impossible to achieve consensus on any set of the suggestions for military intervention without being authorized by the Security Council, but questioned where the greaterharm lay: in the damage to international order if the Council is bypassed, or in the damage ifcivilians are slaughtered while the Council stands idly by.[15] The commission could not offer a logical answer to the question.[16] Looking from a legal perspective, thus, neither R2P in general nor Resolution 1973 in particular have imposed a change on the standing prohibition on the use

of force for reasons other than self-defense and Security Council-authorized enforcement action.

Politics

It needs mentioning here that although R2P does not create rights or impose legal obligations, it could nevertheless be perceived as conferring public power and allocating jurisdiction. Looked from such an angle, the obscure formulations adopted by the 2005 Summit do not invoke 'responsibility' in the strict legal sense of an obligation to act in a defined way, but rather in the sense of an apportionment of responsibility to respond to a situation. This could be compared with the function assumed for the Article 99 of the UN Charter, which allows the UN secretary-general to bring to the attention of the Security Council "any matter which in his opinion may threaten the maintenance of international peace and security."[17] It is not a matter of coincidence that much of the intention, will, and energy behind the adoption and, now, implementation of R2P has come from the office of the secretary-general.[18] Like Article 99 of the UN Charter, the true significance of R2P does not lie in creating new rights or obligations to perform 'the right thing'; rather, it lies in making it more difficult to do the wrong thing or nothing at all.[19]

Such a dynamic seems to have had some success in international arena, facilitated by the atypical clarity of the situation in Libya. State leaders are generally more prudent in the threats they voice against their own population than was Qaddafi; imminent massacres are infrequently so easy to foresee. In line with the support of African States and the Arab League for intervention, this persuaded most States in the Security Council not to let the atrocities occur.

Such clarity of intent had outstanding impact on the Obama administration in particular. In less than a twenty-four hour period the US pivoted from dubious stand on

intervention in Libya to forceful advocacy. Such change in policy was partly driven by external events, impending possibility of thousands being killed by General Qaddafi's troops, but also by the internal advocacy of Secretary of State Hillary Rodham Clinton, Ambassador to the UN Susan Rice, and National Security Council staffer Samantha Power.[20] Rice in particular had used her first statement in the Security Council to endorse R2P.[21] The author of the Pulitzer prize-winning book '*A Problem from Hell: America and the Age of Genocide*', Power currently serves as National Security Council's Senior Director of Multilateral Affairs and is a special adviser to Obama.[22]

Nonetheless, when Obama expressed the reasons for the United States intervening militarily in Libya, at a time of upheaval in many other Arab countries, it was evident that they were carefully limited to the Libyan case. As he stated:

> *America cannot use our military wherever repression occurs. And given the costs and risks of intervention, we must always measure our interests against the need for action. But that cannot be an argument for never acting on behalf of what's right. In this particular country— Libya—at this particular moment, we were faced with the prospect of violence on a horrific scale. We had a unique ability to stop that violence: an international mandate for action, a broad coalition prepared to join us, the support of Arab countries, and a plea for help from the Libyan people themselves. We also had the ability to stop Qaddafi's forces in their tracks without putting American troops on the ground.[23]*

Such an assessment of individual cases can hardly be explained as a 'doctrine'[24], and was soon condemned by some for its passivity or naiveté.[25] The famous quote from an administration official that the US was 'leading from behind' became a subject of ridicule, particularly when the leading role was assumed by France by its initial air strike and the entire operation later on was handed over to NATO, with operational command in the hand of a Canadian. [26]Bluster

aside, however, and after a decade of aggressive and unfortunate leadership from the front, the wary policy perceived from such a phrase appeared more tied to United States capacities and interests at a time when its relative power is decreasing and in some particular regions of the world it continues to be berated.[27]

On the Ground

The lingering question of course is the military one. Looking at many such cases, it is evident that the commitment of leaders for limiting their countries' involvement to air strikes alone and for a limited duration was obviously a political rather than military decision.[28] The military action, as in many previous cases, quickly showed that air strikes alone were unlikelyto be that effective. The potential tragedy of Benghazi soon devolved into farce as the Libyan rebelswere revealed to be a disorganized rabble.[29]

The sixteenth-century proverb about the road to Hell is usually invoked by critics of humanitarian intervention. Maybe the intentions behind the decision to intervene in Libya were goodas they were in Somalia and Srebrenica. Yet the complexity in following through on those intentions in Srebrenica allowed 8000 men being killed, and harshly undermined the capability of NATO. The decision to withdraw from Somalia led directly to a failed mission that left the country in a pirate-ridden situation, and indirectly to the mass graves of Rwandan, where genocide happened less than a year later.

Do something, do *anything*, is not a military strategy. It is still not very clear what exactly will come out from humanitarian intervention in Libya in the long run and what impacts it will have beyond the Libyan borders. R2P may have made it harder to say no, but what comes next will evidently influence the likelihood of whether future leaders will say yes.

Core Focus

Both 1970 and 1973 resolutions on Libya were predicated on the instantaneous need to protect civilians. They stopped short of sketching a desired political outcome to the crisis. Resolution 1970 imposed a number of compelling measures in Libya short of the use of force. By resorting to a package of measures, the Security Council's actions centered on four fronts:

- referral of the situation in the Libyan Arab Jamahiriya since 15 February 2011 to the Prosecutor of the International Criminal Court (ICC);
- imposition of an arms embargo;
- enforcement of a travel ban for certain individuals;
- and ordering the freezing of assets of some individuals associated with the regime.

While a consensus was reached at regarding the need for effective, proper, and competent action, the unprecedented quick action on all these fronts could not duly and properly undertake some basic facts. On the one hand, the potential impact of the mentioned measures on Gaddafi's behavior was diminished by his regime's capability to make liquid financial resources and military capacities. Furthermore, having had experience of both extensive sanctions and air strikes, Gaddafi's regime was completely prepared to resist such measures again. Lastly, the decision by SC to refer the issue to ICC proved problematic.While the legitimacy of this decision was opened to criticism by the unwillingness of three permanent Security Council members to stick to the Rome Statute, equally problematic was its act of narrowing the possibility for diplomatic discussions and maneuvering in the immediate term.

As the measures foreseen for resolution 1970 proved powerless, and the threatening risks around Benghazi maintained being, the imaginations that Gaddafi would raise an eyebrow were shattered. Prompted by a second resolution

issued by the Arab League, the Security Council authorized resolution 1973 on 17 March 2011.

Enjoying the support of ten members plus five abstentions (including Brazil, China, Germany, India and Russia) resolution 1973 disapproved of Libya's failure to comply with and obey the terms of the previous resolution and reconfirmed its intention and determination to take necessary actions to ensure the protection of civilians. In spite of the mentioned abstentions, it must not be overlooked that no SC member, whether permanent or elected, overtly resisted more forceful action. In fact no one of the members was ready to be seen as countenancing a mass atrocity.

With a perspective to reinforce the measures previously taken for protection of civilians, resolution 1973 emphasized the immediate ceasefire and a complete end to brutal attacks against and abuses of civilians. It then resolved to:

> *With a view to reinforcing the measures previously taken on behalf of the protection of civilians, resolution 1973 called for an immediate ceasefire and a complete end to violent attacks against and abuses of civilians. It then resolved to:*
>
> ➢ enhance the enforcement of the arms embargo and the freezing of assets;
> ➢ establish a ban on flights and create a no-fly zone;
> ➢ request the Secretary-General to create a 'panel of experts.'

Although the course acknowledged by resolution 1973 was vividly inspired by the need to protect civilians and to stop The Gaddafi regime from going for mass murder, this was not without difficulties and problems. First, in contrary to resolution 1970, from the beginning this resolution attracted less support because of the fact that the imposition of no-fly zone starts with an air strike, and so entails the risk of being seen as an act of war. Secondly, as had been the case in Kosovo, the coalition of the States leading the actions authorized by the SC carried on based on the assumption that a few air strikes

would quickly lead the Gaddafi regime to halt its brutal tactics.[30] Third, the SC's decision to use "all necessary measures" to enforce a no-fly zone, and "all necessary measures (…) to protect civilians and civilian populated areas under threat of attack" was visibly restricted in purpose: to protect civilian population. As an operational directive this restricted mandate, confining military intervention to protect civilians, was bound to face outstanding challenges. On the one hand, it offered much hope not only to those whose lives remain under threat, but also those who resist and oppose. On the other, such a strict mandate inexorably placed a premium on expectations about neutrality and impartiality.

A defined amount of primary trust about the provisions of effectively restricting the military operation to civilian protection was apparent. In addition to restating that according to the terms foreseen by resolution 1973 the international military intervention in Libya could in no way at all aim at toppling the regime, serve as an air force for the rebel insurgency, or seek to promote democratic change, some sheltered expectations that such tight, 'sharply defined' and properly authorized military intervention could reduce, neutralize and eventually remove the threat to civilian populations. [31]Experts quickly referred to the increased technological capability both in terms of surveillance capacity to control developments on the ground and to command airborne surveillance and action on individual targets, highlighting in turn the advantages to be drawn from the use of drones and manned aircraft. However, they also urged considering a number of impending challenges. These soon materialized. Based on previous experiences, the capability of airpower to provide effective and practical protection is not only restricted but is bound to come at a price. This is specifically the case in densely populated urban areas, with their associated risk of the accidental killing of civilians.

The idea that tight military action could be closely confined to the protection of civilians soon faced challenges by the inherent problems of managing military force and unfolding developments on the ground. While the legitimate and authorized measures, such as airborne invasions to disable the regime's air defense systems and its fighter jets and helicopters, to impose the no-fly zone were in totality undisputable, the range of likely measures supposed to enforce the wider civilian protection mandate soon proved to be controversial. Military intervention had the aim of protecting civilians from possible attacks of both sides of the conflict. Risks aside, the consensus stated that airborne action in order to disable or neutralize the regime's advancing tanks and troop columns would be allowed on the condition that it did not serve the aims of the armed rebellion.

As the multilateral coalition mobilized its forces to execute SC's actions, the airborne campaign was found to be strewn with challenges: not only was it short of a proper 'strategic headquarters', but it was also set to sail without a precise perception of either its intended outcome or its opponent. Gaddafi remained ignorant and through tactical maneuvering made the already difficult distinction between civilians, oppositional and combatants ever more difficult. Thus what started as a seemingly successful air strike campaign soon altered into a mission showing lesser and lesser returns.

In fact the decision to initiate a military intervention based on the narrow goal of protecting civilians proved problematic on both logistic and moral grounds. Before long, the disarray among the coalition regarding strategy, operations and tactics made dubious the effectiveness of using military forces. Maybe more significantly, the decision to initiate a military operation under such restrictive terms raised uncertainties about its capability to meet one of the five internationally endorsed criteria of legitimacy in the use of force: "balance of consequences".[32]

While the authorized international military intervention, having the responsibility to put an end to atrocities, may have averted a catastrophe in Benghazi, an action cannot be judged only by its immediate outcomes; the mid-term as well as long-term consequences need to be taken into account. As the signs of a strategic stalemate and new evidence of the regime's willingness and preparation to perpetrate atrocities become clear, doubts were raised about the capability of military actions to stand a reasonable chance of success.

Not surprisingly, the military intervention has been simultaneously attacked by those who have held that more ambitious actions will be needed, and by those who demand a full, committed, and continued adherence to its tight mandate. Evidently, the risk of mass atrocities was only slightly dealt with and the Council may soon be saddled with this immediate and sensitive issue yet again.

A controversial issue at the time of conflicts in Libya was if the coalition forces should consider arming anti-Gaddafi rebels or not. The question of whether resolutions 1970 and 1973 prohibit this course of action was a tricky suggestion given the arms embargo imposed by resolution 1970. Based on resolution 1970 the member States were expected to:

> *immediately take the necessary measures to prevent the direct or indirect supply, sale or transfer to the Libyan Arab Jamahiriya, from or through their territories or by their nationals, or using their flag vessels or aircraft, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts …*

However, both the last line of paragraph 9, which indicates that this measure "shall not apply to..." and more specifically paragraph 9c suggest some room for exceptions: "Other sales or supply of arms and related materiel, or provision of assistance or personnel, as approved in advance by the [Security Council arms embargo] committee."

Towards End

The responsibility to protect is not meant and does not happen in vacuum. Furthermore, the questions regarding protection of civilians cannot possibly ignore political and military realities. The issue to determine which groups can be assumed as 'civilians' is not only challenging, but also clearly political. The issue is further complicated by the fact that the 2005 summit document makes reference to populations rather than civilians.

In situations where the civilian population is encountered with a cruel, merciless, and unrelenting regime which applies no remorse in using its maximum force against its opponents, some have discussed that violence may not only be legitimate, but vividly needed to put an end to rapidly unfolding atrocities. Based on this background, the interpretations about the scope and limits of the actions carried out under the terms of resolutions 1970 and 1973 have proved to be controversial till now.

What needs to be better understood is what mass atrocity *prevention* and protection include, and that in time the distinction between civilians and opposition may become a real dilemma.

Whether one agrees or disagrees with the points that have portrayed Libya as a classic R2P case, the truth is that actions against Libya were motivated by the definite risk of an impending massacre. According to many, the decisions taken by the Security Council concerning Libya promised to establish a significant precedent. Once the resolutions were passed, all required for the show to go on was to closely follow the stage directions.

Prevention and protection issues have undoubtedly given the international community of States a sense of purpose and direction. Yet the apparent refusal of Gaddafi to respond duly pointed to the uncomfortable fact that more radical actions were in fact needed. The international community had come

to the point that there was no practical solution to the issue other than air strikes.

It has long been stated that by restricting and calibratingthe responses to mass atrocity prevention and protection, reaching at and maintaining consensus will be easier. This clearly is an assumption that departs from the premise that those on the other side of the spectrum will finally listen. If R2P is intended to serve as a tool for persuasion, what happens when that it not reached at?The difficulty with this specific crisis is not whether the coalition must depart from the authorized range of action. The deeper problem, rather, lies in the need to broaden the range and scope of authority for more forceful actions.

In fact the dilemma unleashed by the case of Libya raised difficult questions of selectivity and moral contestability. Yet the UN in general and UNSC in particular offered a unique platform for collective legitimation that graded the way for making decisions regarding the use of force; decisions that some found problematic.

But if legitimacy is the conceptual space where facts and norms merge, and where a shared conviction is expected to be reflected in collective action, the international community of States cannot simply give up when dilemmas arise.[33]

The politics of R2P argumentation and persuasion are now being played out for various audiences. For the Security Council this means that disengagement cannot be an option; for the Group of Friends and the General Assembly, that R2P has become a common idiom. R2P is a new tool that we are only just beginning to learn how to use.

Notes

1. See SC Res 794 (1992); SC Res 819 (1993).

2. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (International Development Research Centre, Ottawa, December 2001), available at *<http:// www.iciss.ca>*.

3. 2005 World Summit Outcome Document, UN Doc A/RES/60/ 1 (16 September 2005), available at *<http://www.un.org/ summit2005>*, paras 138-139. Cf. Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action* (Cambridge: Polity, 2007), pp. 88- 118; Alex J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (Cambridge: Polity, 2009), pp. 66-97.

4. SC Res 1973 (2011), preamble (emphasis added). Cf SC Res 1790 (2011), preamble.

5. Probably the first use of RtoP *strict sensu* was in relation to Sudan's responsibilities in Darfur: SC Res 1564 (2004), preamble. In a resolution on the Great Lakes Region, the Council underscored that "governments in the region have a primary responsibility to protect their populations": SC Res 1653 (2006), para. 10.

6. SC Res. 1674 (2006), para 4; SC Res. 1894 (2009), preamble.

7. SC Res 1393 (2002), para.11; SC Res 1427 (2002), para.12; SC Res 1467 (2003), para. 14; SC Res 1494 (2003), para. 15; SC Res. 1524 (2004), para.16; SC Res 1554 (2004), para.16; SC Res 1582 (2005), para. 18; SC Res 1615 (2005), para. 19.

8. See generally Simon Chesterman, *Just War or Just Peace? Humanitarian Intervention and International Law*, *Oxford Monographs in International Law* (Oxford: Oxford University Press, 2001).

9. See UK House of Commons, Foreign Affairs Committee, Fourth Report: Kosovo, Minutes of Evidence – Volume II, HC 28-II, 18 January 2000, available at *<http://www.parliament.the- stationeryoffice.   co.uk/pa/cm199900/cmselect/cmfaff/28/ 0011806.htm>*, Question 178 (Professor Adam Roberts).

10. Deutscher Bundestag, Plenarprotokoll 13/248, 16 October 1998, 23129, available at *<http://dip.bundestag.de/parfors/parfors.htm>*. See also Bruno Simma, "NATO, the UN and the Use of Force: Legal Aspects", *European Journal of International Law*, 10 (1999), p. 22.

11. U.S. Secretary of State Madeleine Albright, Press Conference with Russian Foreign Minister Igor Ivanov, Singapore, 26 July 1999 available at *<http://secretary.state.gov/www/statements/1999/ 990726b.html>*.

12. See, e.g., UK Parliamentary Debates, Commons, 26 April 1999, col 30 (Prime Minister Blair).Cf Colin Brown, "Blair's Vision of

Global Police," Independent, 23 April 1999. This was consistent with the more sophisticated UK statements on the legal issues. See, e.g., UK Parliamentary Debates, Lords, 16 November 1998, WA 140 (Baroness Symons); reaffirmed in UK Parliamentary Debates, Lords, 6 May 1999, col 904 (Baroness Symons). Foreign Affairs Committee (United Kingdom), Fourth Report - Kosovo (23 May 2000), available at <*http://www.fas.org*>, para 132 (concluding that "at the very least, the doctrine of humanitarian intervention has a tenuous basis in current international customary law, and that this renders NATO action legally questionable").

13. *Legality of Use of Force Case* (Provisional Measures) (ICJ, 1999) pleadings of Belgium, 10 May 1999, CR 99/15(uncorrected translation).

14. Independent International Commission on Kosovo, *The Kosovo Report* (Oxford: Oxford University Press, 2000), p. 4.

15. International Commission on Intervention and State Sovereignty, The Responsibility to Protect, para 6.37.

16. Cf. Jennifer M. Welsh, "Humanitarian Intervention After September 11", in Jennifer M. Welsh (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2004); Antonios Tzanakopoulos, *Disobeying the Security Council: Countermeasures Against Wrongful Sanctions* (Oxford: Oxford University Press, 2011).

17. UN Charter, art. 99.

18. Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington, DC: Brookings Institution, 2008), pp. 46-51.

19. Cf. James Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (Oxford: Oxford University Press, 2010), pp. 247-250.

20. Helene Cooper and Steven Lee Myers, "Shift by Clinton Helped Persuade President to Take a Harder Line", *New York Times*, 19 March 2011.

21. Susan E. Rice, "Respect for International Humanitarian Law" (UN Security Council, New York, 29 January 2009), available at <*http://www.state.gov/p/io/rm/2009/115579.htm*>.

22. Samantha Power, *A Problem from Hell: America and the Age of Genocide* (New York: Basic Books, 2002).

23. Barack Obama, "Remarks by the President in Address to the Nation on Libya" (National Defense University, Washington, DC, 28 March 2011), available at *<http://www.whitehouse.gov/the-pressoffice/2011/03/28/remarks-president-address-nation-libya>*.

24. "The Birth of an Obama Doctrine", *Economist*, 28 March 2011.

25. See, e.g., Laura Meckler and Adam Entous, "Obama Defends Libya Fight—President Says Massacre Prevented", *Wall Street Journal*, 29 March 2011; Charles Krauthammer, "The Obama Doctrine: Leading from Behind", *Washington Post*, 29 April 2011.

26. Steven Erlanger and Eric Schmitt, "NATO Set to Take Full Command of Libyan Campaign ", *New York Times*, 25. March 2011.

27. Ryan Lizza, "The Consequentialist: How the Arab Spring Remade Obama's Foreign Policy", *New Yorker*, 2 May 2011.

28. Cf. Taylor B. Seybolt, *Humanitarian Military Intervention: The Conditions for Success and Failure* (Oxford: Oxford University Press, 2007).

29. C. J. Chivers, "Libyan Rebels Don't Really Add Up to an Army", *New York Times*, 7 April 2011.

30. The unauthorised NATO intervention in Kosovo in March 1999 led to a forceful aerial bombardment campaign which lasted more than ten weeks. The deployment of more than 38,000 NATO combat missions made clear the limits of air power and the need for ground support. Such ground support was eventually provided by the Kosovo Liberation Army (KLA) whose capacity to recruit had been in turn favoured by the tragic fortunes of the civil resistance campaign. The concert established between air and ground efforts, together with the compromise reached within the Security Council by which Russia interceded with Belgrade, helped break the stalemate and ultimately forced Serbia's withdrawal from Kosovo. See D. Harland, "Kosovo and the UN," *Survival* 2010-5, pp. 75-98 and H. Clark, "The Limits of Prudence: Civil Resistance in Kosovo, 1990-98," in: A. Roberts and T. Garton Ash (eds) *Civil Resistance and Power Politics. The Experience on Non-Violent Action from Gandhi to the Present*, Oxford: Oxford University Press 2009, pp. 276-294.

31. See G. Evans, "UN Targets Libya with Pinpoint Accuracy," The Age, 24 March 2011, distributed by Project Syndicate as 'Libya: the Scope and Limits of the Responsibility to Protect,' and M. Frost and D. Rodin, "A Limited Mandate in Libya can still have Transformative Events," at http://www.elac.ox.ac.uk/news/ (1 July 2011); S. Sewall and A. Zinni, "The military interventions we don't plan for — those to protect civilians" at http://www.washingtonpost.com/opinions/the-military-interventions-we-dont-plan-for—those-to-protect-civilians/2011/04/14/AFQSjyKE_story.html (1 July 2011).

32. The ICISS Commission and the UN High Level Panel *A More Secure World* identified five basic criteria for legitimacy that the Security Council should consider before authorising the use of force: seriousness of the threat, proper use, last resort, proportional means and the balance of consequences. See G. Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All,* Washington D.C.: Brookings Institution Press 2008, p. 145. See also A. Hurrell, "Legitimacy and the Use of Force: Can the Circle be Squared?" *Review of International Studies*, Supplement S1 Force and Legitimacy in World Politics 2005-3, pp. 15-32.

33. J. Steffek, "The Legitimation of International Governance: A Discourse Approach," *European Journal of International Relations* 2003, pp. 249-275.

References

Bellamy, Alex J. and Paul D. Williams. *Understanding Peacekeeping*. 2nd ed. (Massachusetts: Polity Press, 2010).

Bellamy, Alex J. "Realizing the Responsibility to Protect." *International Studies Perspectives* 10.2 (2009), 111-128.

Bellamy, Alex J. *Global Politics and the Responsibility to Protect: From Words to Deeds* (New York: Routledge, 2011).

Bellamy, Alex J. "Libya and the Responsibility to Protect: The Exception and the Norm."*Ethics& International Affairs* 25.3 (2011), 263-269.

Blanchard, Christopher M. "Libya: Unrest and U.S. Policy." *Congressional Research Service*, 2011.

Boucek, Christopher. "Libyan State-Sponsored Terrorism: An Historical Perspective." *Terrorism Monitor,* Volume 3.6 (2005).

Humanitarian Intervention and the Future of International Law. In *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas*, edited by Holzgrefe, J L. and Robert O. Keohane (Cambridge University Press, 2003).

Charvet, John, and Elisa Kaczynska-Nay. *The Liberal Project and Human Rights: Theory and Practice of a New World Order* (London: Cambridge University Press, 2008).

Chesterman, Simon. "Leading from Behind: The Responsibility to Protect, the Obama Doctrine, and Humanitarian Intervention after Libya." *Ethics & International Affairs* 25.3 (2011), 279-285.

Claes, Jonas. "Libya and the Responsibility to Protect." *United States Institute of Peace*, 2011.

Collins, Cindy, and Thomas G. Weiss. *Humanitarian Challenges and Intervention* (Colorado: Westview Press, 2000).

Dunoff, Jeffery L., Steven R. Ratner, and David Wippman. *International Law Norms, Actors, Process*. 2nd ed. (New York: Aspen Publisher, 2006).

Evans, Gareth. "From Humanitarian Intervention to the Responsibility to Protect." *Wisconsin International Law Journal* 24.3 (2006), 703-722.

Evans, Gareth. *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington D.C.: The Brookings Institution, 2008).

Evans, Gareth and Mohamed Sahnoun."The Responsibility to Protect." *Foreign Affairs* 81.6 (2002), 99-110.

Friedman, Benjamin H. "Intervention in Libya and Syria Isn't Humanitarian or Liberal." *The National Interest*, April 5, 2012. *<http://nationalinterest.org/b log/the-skeptics/intervention-libya-syria-isn%E2%80%99t-humanitarian-or-liberal-6739> [accessed 4 December 2012]*

Gibbs, David N. "Washington's New Interventionism: U.S. Hegemony and Inter-Imperialist Rivalries." *Monthly Review* 53.4 (2001), 15-37.

Glanville, Luke. "Darfur and the responsibilities of sovereignty." *International Journal of Human Rights* 15.3 (2011), 462-480.

Haglund, David, and Allen Sen. Kosovo, and the Case of the Free Riders: Belgium, Canada, Portugal, and Spain. "Kosovo and the

Challenge of Humanitarian Intervention: Selective Indignation, Collective Intervention, and International Citizenship." Edit by Albrecht Shnabel, and Ramesh Thakur. Tokyo: *United Nations University*, 2000. *<http://archive.u nu.edu/p&g/kosovo_full.htm>* [accessed 10 December 2012].

Holzgrefe, J. L. The Humanitarian Intervention Debate. *Humanitarian Intervention Ethical, Legal, and Political Dilemmas*, edited by Holzgrefe, J. L. and Robert O. Keohane (Cambridge: Cambridge University Press, 2003).

"Italy, France Sending Troops to Advise Libyan Rebels." *CNN World*, April 20, 2011. *<http://articles.cnn.com/2011-04-20/world/libya.war_1_french-troops-rebel-stronghold-military-officers?_s=PM:WORLD>* [accessed 4 December 2012]

Jackson, Robert and Georg Sørensen. *Introduction to International Relations: Theories & Approaches*. 4th ed. New York: Oxford University Press, 2010.

Kazianis, Harry. "Intervention in Libya: Example of R2P or Classic Realism." *e-International Relations*, 2011.

Klaus, Naumann. "NATO, Kosovo, and Military Intervention." *Global Governance* 8.1 (2002), 13-17.

Kumar, KerthiSampath. "Libya and R2P: A Year After UNSCR 1973." *Institute for Defense Studies and Analysis*, 2012.

Kuwali, Dan. "Responsibility to Protect: Why Libya and not Syria?" *The African Center for the Constructive Resolution of Dispute (ACCORD)*, 2012.

Lonergan, Jonelle. "Neo-Realism and Humanitarian Action: From Cold War to Our Days."The *Journal of Humanitarian Assistance*, 2011.

Morgenthau, Hans. "To Intervene or Not to Intervene." *Foreign Affairs*, 1967, 92-103.

Moses, Jeremy. "Sovereignty as Irresponsibility?A Realist Critique of the Responsibility to Protect." *Review of International Studies* (2006), 1-23.

O'Connell, Mary Ellen. "How to Lose a Revolution." *e-International Relations*, 2011.

Pattison, James. "The Ethics of Humanitarian Intervention in Libya." *Ethics & International Affairs* 25.3 (2011), 271-277.

Soendergaard, Bettina Dahl. "The Political Realism of Augustine and Morgenthau: Issues of Man, God, and Just War." *Turkish Journal of International Relations* 7.4 (2008), 1-17.

Stegner, Grant. "American Humanitarian Intervention: How National Interests, Domestic and International Factors, and 'Historical Milieu' Shape U.S. Intervention Policy." *Macalester College*, 2008, 82-113.

Telbami, S. "Kenneth Waltz, Neorealism, and Foreign Policy." *Foreign Policy, Security Studies* 11.3 (2012), 158-170.

Thakur, Ramesh. "R2P, Libya and International Politics as the Struggle for Competing Normative Architectures." *e-International Relations*, 2011.

Thakur, Ramesh. *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (New York: Routledge, 2011).

Walt, Stephen M. "International Relations: One World, Many Theories." *Foreign Policy* 110 (1998), 29-46.

Weiss, Thomas G. *Humanitarian Intervention*. (Cambridge and Massachusetts: Polity Press, 2007).

Wolfson, Adam. "Humanitarian Hawks?Why Kosovo but not Kuwait." *Policy Review* 98 (2000), 29-43.