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THESIS

NORM EMERGENCE AND HUMANITARIAN INTERVENTION

by

Brendan C. Bartlett

December 2008

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13. ABSTRACT (maximum 200 words)

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This thesis uses the constructivist approach to norms and norm development to investigate whether a norm of humanitarian intervention has emerged in the international system that is shaping the behavior of states. It proposes that norms develop in a three-stage life cycle. I suggest that the norm of humanitarian intervention, since the end of the Cold War, has developed in a manner that was initially consistent with the norm-life cycle, but more recently has deviated from the life cycle. This thesis seeks to explain why this is the case and discuss the implications of the norm of humanitarian intervention for international society.

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NORM EMERGENCE AND HUMANITARIAN INTERVENTION

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requirements for the degree of

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ABSTRACT

Despite efforts by the UN in the past two decades, the world has seen numerous intrastate conflicts emerge. Immediate worldwide reporting of such atrocities, evoking empathy for the plight of others, has led to an unseen measure of objection to repressive treatment, and the excuse of sovereignty as a defense against inhumane actions is being challenged. The relevance and importance of this topic is reflected in the origins of humanitarian intervention and the International Commission on Intervention and State Sovereignty's 2001 report titled *The Responsibility to Protect* (R2P) and the United Nations' (UN) subsequent adoption of the report at the World Summit in 2005.

This thesis uses the constructivist approach to norms and norm development to investigate whether a norm of humanitarian intervention has emerged in the international system that is shaping the behavior of states. It proposes that norms develop in a three-stage life cycle. I suggest that the norm of humanitarian intervention, since the end of the Cold War, has developed in a manner that was initially consistent with the norm-life cycle, but more recently has deviated from the life cycle. This thesis seeks to explain why this is the case and discuss the implications of the norm of humanitarian intervention for international society.

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I. NORM EMERGENCE AND HUMANITARIAN INTERVENTION

In the current anarchical international system in which states are the single most important actors, the desire for an active promotion of forcible humanitarian intervention becomes a complex dilemma. In promoting a humanitarian foreign policy, to include the coercive use of force, states desiring to intervene for humanitarian reasons are given a fundamental choice between political autonomy on the one hand and human rights on the other—or more specifically between the sovereignty of the target state or the easing of suffering.[1] These two issues—humanitarian rights and sovereignty—pose complex and contentious problems within contemporary international relations, and underline "the conflict between order and justice at its starkest."[2]

In international society, as Thomas Weiss notes "the cluster of norms inhibiting, if not prohibiting, humanitarian interventions includes nonintervention, state sovereignty, domestic jurisdiction, pacific settlement of disputes, nonuse of force, and, in the case of UN-authorized use of force, impartiality."[3] Weiss stresses "at the same time, a clear challenge to traditional interpretations of sovereignty emerges from the changing balance between states and people as the source of legitimacy and authority."[4]

The paramount international body governing the legal use of armed force in the international community is the United Nations (UN).[5] For most international lawyers, the meaning of the UN Charter is apparent. However, as J. L. Holzgrefe suggests, "a small,

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[1] Martha Finnemore, *The Purpose of Humanitarian Intervention: Changing Beliefs about the Use of Force* (Ithaca: Cornell University Press, 2003), 136-37.

[2] Hedley Bull, *Anarchical Society: A Study of Order in World Politics* (New York: Columbia University Press, 1977), 227-28.

[3] Thomas Weiss, *Humanitarian Intervention: Ideas in Action* (Cambridge, UK: Polity Press, 2007), 23.

[4] Ibid.

[5] J. L. Holzgrefe, "The Humanitarian Intervention Debate," in J. L. Holzgrefe and Robert Keohane, ed. *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge, UK: Cambridge University Press, 2003), 37.

but growing, number of international legal scholars, beg to disagree."[6] Jon Mandle illustrates the two extremes in the debate of humanitarian intervention. At one extreme, some argue that "humanitarian intervention is justified when the likely benefits outweigh the likely costs, since when a state violates basic human rights, it loses its legitimacy and forfeits its claim to sovereignty."[7] Representing a strong form of cosmopolitanism, Mandle states that supporters of intervention believe "that humanitarian intervention is justified—indeed, *required*—if it is likely to result in a net decrease in human rights violations."[8] On the other end of the spectrum are those who argue that intervention is never justified, and who "make their case in terms of respect for state sovereignty as traditionally understood."[9]

This thesis seeks to investigate whether a norm of humanitarian intervention has emerged in the international system and if so, to what degree is the norm internalized in the international system, and to explain the implications of the norm of humanitarian intervention for international society.

It is the growing, changing, and emerging pattern of norms—specifically the emergence of the norm of humanitarian intervention—that this thesis aims to investigate. I argue that states always seek to legitimate their actions in terms of socially established norms, especially their use of force both internally and externally. It is the changing nature of what social norms legitimate the use of force, and whether they direct state behavior, that is under study here. The notion of constraint is "derived from constructivist understandings of how actors are embedded with a normative context structured by rules."[10] Norms are not physical barriers, but are constraining devices within the international community of legitimate practice.[11] As Wheeler notes, "changing norms

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[6] Holzgrefe, "The Humanitarian Intervention Debate."

[7] Jon Mandle, *Global Justice* (Cambridge, UK: Polity Press, 2006), 93.

[8] Ibid., emphasis in the original.

[9] Ibid.

[10] Ibid.; Wheeler notes the key text on constructivism is Alexander Wendt, *Social Theory of International Politics* (Cambridge, UK: Cambridge University Press, 1999).

[11] Ibid., 9.

provide actors with new legitimating reasons to justify actions."[12] However, the change in norms does not determine that an action (such as the new norm) will always take place. This thesis investigates whether a norm of humanitarian intervention has taken root and is shaping state behavior. The following sections of this chapter will discuss legal arguments for and against armed intervention and then presents an outline of the rest of the thesis.

A. LEGITIMACY AND THE LEGAL FRAMEWORK FOR HUMANITARIAN INTERVENTION

International law is rather explicit concerning the use of force in the international system. Opponents of humanitarian intervention point to international law, Article 2(4) of the UN Charter which asserts, "all Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."[13] Moreover, according to the UN Declaration on the Inadmissibility of Intervention, "no State has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State."[14] Aside from that authorization by the UN Security Council, the only lawful use of force is one falling under Article 51 of the UN Charter, which declares "the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations."[15] Humanitarian intervention such as in the case of Iraq in 1991 and Kosovo in 1999 do not, however, fall under either of these two categories.

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[12] Mandle, *Global Justice*; Wendt, *Social Theory of International Politics*.

[13] United Nations Charter, in Murphy, 143. For discussion of the legal prohibitions on the use of force, see also Michael Byers and Simon Chesterman, "Changing the Rules about Rules: Unilateral Humanitarian Intervention and the Future of International Law," in *Humanitarian Intervention*, ed. Holzgrefe and Keohane, 181; in *Global Justice*, ed. Mandle, 192-197.

[14] UN General Assembly Resolution 2131 (XX), 1965.

[15] United Nations Charter, in Murphy *The United States and the Rule of Law in International Affairs*, 142.

Article 2(7) of the UN Charter seemingly prohibits the basis for humanitarian intervention, as it proclaims that, "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the Members to submit such matters to settlement under the present Charter;" however, "this principle shall not prejudice the application of enforcement measures under Chapter VII."[16] Chapter VII addresses action in respect to threats to international peace and security. Therefore, if grave violations of human rights can be characterized as a threat to international peace and security, then the UN Security Council can pass a Chapter VII resolution and decide the measures to be taken in order to solve the humanitarian issue.[17]

Some argue that because of Article 2(4)'s prohibition of the use of force, and because there is not an explicit exception for humanitarian intervention, international law does not recognize the right of humanitarian intervention.[18] However, as Christopher Greenwood points out, the UN Charter must be read in context, without ignoring the underlying principles of the United Nations—respect for human rights and "the dignity and worth of the human person."[19]

In this light, international human rights law has developed immensely since the Second World War and the writing of the UN Charter, including agreements such as the Genocide Convention and the International Covenant on Civil and Political Rights, as well as regional instruments such as the European Convention on Human Rights. Thus, scholars such as Nicholas Wheeler and Martha Finnemore argue that international society has reached a point where a state's violations of the human rights of its own population

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[16] United Nations Charter, in Murphy *The United States and the Rule of Law in International Affairs*, 142.

[17] Nicholas Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford, UK: Oxford University Press, 2000), 42.

[18] Oscar Schachter, "The Legality of Pro-democratic Invasion," *American Journal of International Law*. 78 (1984): 646, by Byers and Chesterman, "Changing the Rules about Rules: Unilateral Humanitarian Intervention and the Future of International Law," 177 and 181.

[19] Christopher Greenwood, "Humanitarian Intervention: the Case of Kosovo," *Finnish Yearbook of International Law* (2000): 22.

are no longer considered an internal matter.[20] Finnemore suggests this internal-external conundrum has become recognized in international institutions including the United Nations, the European Union and the Organization for Security and Cooperation, and by the end of the 1990s, human rights were an indistinguishable part of international security.[21]

B. ARGUMENTS AGAINST FORCEFUL HUMANITARIAN INTERVENTION

Non-interventionists give three reasons against the use of military force for humanitarian intervention. Firstly, they emphasize that the rules of international society provide for order among states which have differing conceptions of justice. This view claims that intervention for humanitarian reasons will always be for the benefit of the intervening state's national interest. Thomas Franck and Nicholas Rodley argue that a doctrine of humanitarian intervention will become a weapon of abuse that the strong will force upon the weak, and that intervention under the guise of human rights should not be permitted as a further exception to Article 2 (4) of the UN Charter on the use of force.[22]

Secondly, non-interventionists point to a dilemma in selectivity. What criteria should states or international organizations use to decide if humanitarian intervention is warranted? Franck and Rodley argue that a problem exists when an agreed moral principle is raised in more than one situation, such as Bosnia and Rwanda, but national interests or public interests dictate two different responses.[23] Similar atrocities have not always received equal attention even when occurring in the same part of the world. For example, UN sanctioned humanitarian relief missions were carried out in Somalia, yet not in Rwanda.

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[20] Wheeler, *Saving Strangers*, 51; Finnemore, *The Purpose of Humanitarian Intervention*, 79-80.

[21] Ibid., 135-36.

[22] Thomas Franck and Nigel Rodley, "After Bangladesh: The Law of Humanitarian Intervention by Military Force," *American Journal of International Law* 67, no. 2 (1973), 290, by Wheeler, *Saving Strangers*, 30.

[23] Ibid., 288.

A third reason given as to why states should not intervene for humanitarian reasons is presented as a normative statement that nations have no need to risk the lives of their soldiers to save the lives of others. States including Western nations are not under any duty to intervene even if they have the capability to prevent or mitigate human suffering. Bhikhu Parekh in "Rethinking Humanitarian Intervention" holds firm to his realist view and remarks that, "citizens are the exclusive responsibility of their state, and their state is entirely their own business. Citizens should be morally concerned only with the activities of their own state, and the latter is responsible to and for its citizens alone."[24]

C.   ARGUMENTS IN FAVOR OF FORCEFUL HUMANITARIAN INTERVENTION

Andrew Mason and Nicholas Wheeler disagree with the arguments of the non-interventionists. The authors state that non-interventionists:

> are unable to show that a properly regulated and suitably constrained practice of humanitarian intervention would be morally impermissible, or create a worse world that the one we currently live in . . . . [A]llowing humanitarian intervention in some cases . . . would promote overall well-being. So far from forbidding humanitarian intervention, consequentialist reasoning will support it . . . .[25]

Holzgrefe notes that international legal scholars who support humanitarian intervention by military force "advance three arguments aimed at reconciling humanitarian intervention with the UN's *jus ad bellum* regime."[26]

Firstly, some legal scholars argue that article 2(4) of the UN Charter does not forbid the threat or use of force summarily. The Charter acts to prevent the use of force when directed against the territorial integrity or political independence of a state.

[24] Bikhu Parekh, "Rethinking Humanitarian Intervention," *International Political Science Review* 18, no. 1 (1997): 54, in Wheeler, *Saving Strangers*, 31.

[25] Andrew Mason and Nicholas Wheeler, "Realist Objections to Humanitarian Intervention," in *The Ethical Dimensions of Global Change*, ed. Barry Holden (Basingstoke, UK: Macmillan Press, 1996), 106, by Holzgrefe, "The Humanitarian Intervention Debate," 25.

[26] Holzgrefe, "The Humanitarian Intervention Debate," 37.

Fernando Teson states that if a "genuine humanitarian intervention does not result in territorial conquest or political subjugation, it is a distortion to argue that [intervention] is prohibited by article 2(4).[27]

Secondly, Holzgrefe suggests that legal realists have argued in favor of humanitarian intervention in their interpretation of Charter's requirement that states not use force ". . . in any other manner inconsistent with the purposes of the United Nations . . ." In their view, this statement "permits unauthorized humanitarian intervention where the Security Council fails to realize one of its chief purposes—the protection of human rights."[28] Furthermore, Holzgrefe notes that the security system of the UN—premised on a consensus among the permanent members of the Security Council—does not function as originally designed. Citing Michael Reisman, she argues that as a result part of the systematic justification for the theory of Article 2(4) has disappeared.[29] According to this standpoint, "if the Security Council fails to end massive human rights violations, states may do so without authorization."[30] It is important to note that Holzgrefe qualifies this statement by noting that "its legal status depends in large measure on the international community's current attitude towards such interventions."[31]

Thirdly, legal realists seek to legitimize humanitarian intervention by a more liberal interpretation of Article 39 of the UN Charter. Article 39 states that the Security Council may authorize the use of force in response to "any threat to the peace, breach of peace or act of aggression."[32] Legal realists argue that threats to international peace and security include internal state security, and hence an end to atrocities or human rights violations. This interpretation finds support in the UN Security Council's actions and acquiescence, as "intervention in Somalia (1992), Rwanda (1994), and Haiti (1994) all

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[27] Fernando Teson, *Humanitarian Intervention: An Inquiry into Law and Morality* (Irvington-on-Hudson, NY: Transnational Publishers, 1997), 151.

[28] Holzgrefe, "The Humanitarian Intervention Debate," 39.

[29] W. Michael Reisman, "Criteria for the Lawful Use of Force in International Law," *Yale Journal of International Law* 10 (1985): 279-80, by Holzgrefe, "The Humanitarian Intervention Debate," 39.

[30] Holzgrefe, "The Humanitarian Intervention Debate," 40.

[31] Ibid., 40.

[32] Article 39, UN Charter, by Holzgrefe, "The Humanitarian Intervention Debate," 40.

support the contention that the Security Council presently believes it is empowered under Chapter VII of the UN Charter to authorize the use of military force to end massive human rights abuses."[33] Holzgrefe states:

> Humanitarian interventions in Liberia (1990), northern Iraq (1991), southern Iraq (1992), and Sierra Leone (1998) neither support nor undermine the proposition that the UN has a right to use military force to end massive human rights abuses. In all four cases, the Security Council acquiesced in, rather than formally authorized, the use of armed force to protect human rights.[34]

Jane Stromseth suggests that the uncertain legal status of intervention provides "fertile ground for the gradual emergence of normative consensus, over time, based on practice and case-by-case decision-making."[35] Moreover, "widespread and systematic violations of human rights involving the loss of life (or threatened loss of life) on the largest scale are now well established as a matter of international concern."[36] Therefore, she argues, it is important to understand that the UN Charter and international law in general are not only about a single dominant principle of the prohibition of the use of force. The UN Charter is also about another equally important principle, promoting human rights: therefore, state sovereignty cannot always and in all cases be given priority over the respect for human rights.[37] The following chapters of this thesis will investigate empirically whether such a normative consensus in favor of humanitarian intervention has emerged and taken root.

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[33] Article 39, UN Charter, by Holzgrefe, "The Humanitarian Intervention Debate," 41.

[34] Ibid.; Holzgrefe, "The Humanitarian Intervention Debate," 41; Holzgrefe cites Security Council Resolution 688, UNSCOR, 2982nd mtg., April 5, 1991; Security Council Resolution 788, UNSCOR, 3138th mtg., November 19, 1992; Security Council Resolution 813, UNSCOR, 3187th mtg., March 26, 1993; Security Council Resolution 1156, UNSCOR, 3861st mtg., March 16, 1998; Security Council Resolution 1162, UNSCOR, 3872nd mtg., April 17, 1998; Security Council Resolution 1181, UNSCOR, 3902nd mtg., July 13, 1998.

[35] Jane Stromseth, "Rethinking Humanitarian Intervention: The Case for Incremental Change," in *Humanitarian Intervention: Ethical, Legal and Political Dilemmas*, ed. Holzgrefe and Keohane, 233-34.

[36] Greenwood, "Humanitarian Intervention: the Case of Kosovo," 12-13.

[37] Stromseth, "Rethinking Humanitarian Intervention," 233-34.

D.   AN EMERGING NORM OF HUMANITARIAN INTERVENTION?

Finnemore argues that, in regards to humanitarian intervention, the nature of international order after the Cold War is still emerging. During the Cold War the "spheres-of-influence system was underpinned as a modus vivendi in large part by a willingness of strong states to decouple certain aspects of the internal behavior of states from assessments of the external threat they posed."[38] The dimension of internal governmental structures of states mattered little in a bipolar world of alliances. As alliances and spheres of influence were set between the two superpowers, "a relatively strong agreement [existed] that the way states treated their citizens was a domestic matter."[39] Furthermore, scholars emphasize that interference from other states was considered a significant violation of sovereignty.[40] Finnemore argues that this is no longer the case: "states that abuse citizens in massive systematic ways are now viewed as security threats both because the flows of refugees and social tensions that such policies create are destabilizing to neighbors and because aggressive behavior internally is seen as an indicator of the capacity to behave aggressively externally."[41]

It is not clear that transboundary flows of refugees are requirements for humanitarian disasters to be termed threats to international peace and security. In the cases of intervention in Somalia and Rwanda, the UN Security Council Resolutions made reference to the "threat to international peace and security" but did not mention flows of refugees pouring across the borders of these two countries. For Somalia, the UN action was to support and protect food relief supplies and aid workers. In Rwanda, the UN Security Council Resolution 929 of June 1994 (after nearly one million Tutsis and moderate Hutus had been massacred) was aimed at ending the acts of genocide and aiding the estimated one and a half million internally displaced persons within Rwanda. In both cases, one benefit of the UN actions was to create conditions for the repatriation of refugees and the return of the internally displaced persons. Holzgrefe states that "no

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[38] Finnemore, *The Purpose of Intervention*, 134-35.

[39] Ibid.

[40] Ibid.

[41] Ibid.

impartial observer could conclude that the Security Council thought that it was only the transboundary effects of the Rwandan genocide, rather than the genocide itself, that permitted it to intervene."[42] The same can be argued for the Somali case.

Many scholars posit that within the emerging norm of humanitarian intervention the "legality of intervention for humanitarian purposes currently rests upon the condition of the Security Council authorization."[43] The importance of multilateralism in the use of force has increased since the end of the Cold War. Referring to multilateralism, the International Committee on Intervention and State Sovereignty (ICISS) report of 2001 stated:

> There is no better or more appropriate body than the United Nations Security Council to authorize military intervention for human protection purposes. The task is not to define alternatives to the Security Council as a source of authority, but to make the Council work better than it has.[44]

Within the UN parameters, a declaration of threat to international peace and security coupled with multilateralism has attained a degree of legitimacy within international society, as exemplified by the clear case of territorial invasion by Iraq into Kuwait in 1991. Here the United States aggressively sought a multilateral response, through the UN, to the blatant violation of international law by Iraq. Finnemore argues, that "even in such a clear case of aggression when provocations were apparent and violations uncontested," Washington's efforts to build a multilateral force in conjunction with the UN "points to an even greater importance for multilateralism norms."[45] Mandle states that the difficulty of intervention "can sometimes be mitigated when the use of military force is authorized by what is seen to be a legitimate body (such as the UN

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[42] Holzgrefe, "The Humanitarian Intervention Debate," 42.

[43] Jennifer Welsh, "Taking Consequences Seriously: Objections to Humanitarian Intervention," in *Humanitarian Intervention in International Relations*, ed. Jennifer Welsh (Oxford, UK: Oxford University Press, 2004), 57.

[44] "The Responsibility to Protect," *The International Commission on Intervention and State Sovereignty* (Ottawa, Canada: International Development Research Centre, 2001), xii.

[45] Finnemore, *The Purpose of Intervention*, 134.

Security Council) or a traditional ally, but it is exacerbated when the use of force is from a traditional adversary or when the intentions of the foreign power are questionable."[46]

However, not all scholars recognize the legitimacy of multilateralism and the UN Security Council. Henry Shue emphasizes that the Security Council is far from ideal as a legitimate body to determine the legal use of force apart from self defense. Shue argues that the UN Security Council is:

> outrageously undemocratic with vetoes in the hands of an odd assortment of five countries, all major powers fifty years ago but similar now mainly in being admitted nuclear powers, including a gargantuan dictatorship with pre-modern delusions about state sovereignty and two faded imperial powers with small populations and insignificant economies.[47]

Such debate begs the question, which the remained of this study will investigate: is there a normative consensus on the legitimacy of UN-authorized armed intervention in a sovereign state for the purposes of relieving human suffering?

E.   THESIS ARGUMENT AND OUTLINE OF CHAPTERS

Despite efforts by the UN in the past two decades, the world has seen numerous intrastate conflicts emerge. Repressive treatment of a country's own citizens by its government is certainly not a new phenomenon. However, immediate worldwide reporting of such atrocities, evoking empathy for the plight of others, has led to an unseen measure of objection to repressive treatment, and the excuse of sovereignty as a defense against inhumane actions is being challenged.

The relevance and importance of this topic is reflected in the origins of humanitarian intervention and the International Commission on Intervention and State Sovereignty's 2001 report titled *The Responsibility to Protect* (R2P) and the United Nations' (UN) subsequent adoption of the report at the World Summit in 2005. During a

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[46] Mandle, *Global Justice*, 95.

[47] Henry Shue, "Let Whatever is Smoldering Erupt? Conditional Sovereignty, Reviewable Intervention and Rwanda 1994," in *Between Sovereignty and Global Governance: The United Nations, the State and Civil Society*, ed. Anthony Paolina, Albert Jarvis and Christian Reus-Smit (New York, NY: St. Martin's Press, 1998), 60-84.

speech to the UN General Assembly in April 2000, Secretary-General Kofi Annan stated, "if humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?"[48] Annan's question describes the challenges being faced by the international community, and is arguably one of the most significant debates in contemporary international relations. As Kalevi Holsti reminds us, "the major problem of the contemporary society of states is no longer aggression, conquest and obliteration of states. It is, rather, the collapse of states, humanitarian emergencies, state terror against segments of local populations, civil wars of various types, and international terrorist organizations."[49]

This thesis will use the constructivist approach to norms and norm development to investigate whether a norm of humanitarian intervention has emerged in the international system that is shaping the behavior of states. Martha Finnemore and Kathryn Sikkink propose that norms develop in a three-stage life cycle.[50] I suggest that the norm of humanitarian intervention has, since the end of the Cold War, developed in a manner which was initially consistent with the norm-life cycle described by Finnemore and Sikkink, but more recently has deviated from the life cycle. This thesis seeks to explain why this is the case and discuss the implications of the norm of humanitarian intervention for international society.

The following chapters will identify why—despite the emergence of the norm of humanitarian intervention, the "tipping-point" of the Bosnian War, and its subsequent "norm cascade" during the NATO-sponsored and American-led war in Kosovo and the adoption of the principles of "sovereignty as a responsibility" by the 2005 UN World Summit Declaration—the Darfur crisis has been permitted to smolder for such a long

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[48] "The Responsibility to Protect," *The International Commission on Intervention and State Sovereignty*, vii.

[49] Kalevi Holsti, *Taming the Sovereigns: Institutional Change in International Politics* (Cambridge: Cambridge University Press, 2004), 318, by Thomas Weiss, *Humanitarian Intervention: Ideas in Action* (Cambridge: Polity Press, 2007), 66-67.

[50] Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998): 887-917.

time without more aggressive intervention by international society. Lastly, the thesis will generate insight into the manner in which norms affect, and in turn are affected by the international system.

Jutta Weldes suggests that norms are both developed through and demonstrated by a process of articulation.[51] The next chapters will identify the various articulations that demonstrate the development of the norm of humanitarian intervention. They present empirical evidence to support the hypothesis that a norm of humanitarian intervention exists, and that the development of the norm was initially consistent with Finnemore and Sikkink's norm life cycle, but more recently deviated from the life cycle. The thesis will then offer explanations for the deviation.

Chapter II provides the theoretical foundation for the rest of the thesis. It contrasts neorealism theory and its arguments that states' primary preoccupation is with survival and power in an anarchical system with the constructivist theory of international relations and its emphasis on norms, norm life cycles, and the question of how national interests, specifically in humanitarian intervention, come to be defined.[52] The chapter describes how the process of articulation informs the emergence and entrenchment of an international norm, or a "standard of appropriate behavior for actors with a given identity," and can lead to the redefinition of national interests.[53] Finnemore and Sikkink emphasize that norm entrepreneurs advance normative change through three stages of a life cycle—emergence, norm cascade, and norm internalization—before a norm becomes ingrained into international society.[54] Using Weldes' process of articulation, I will investigate in later chapters whether a norm of humanitarian intervention has emerged through the norm-cascading phase and progressed into the internalization phase of the norm life cycle.

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[51] Jutta Weldes, "Constructing National Interests," *European Journal of International Relations* 2, no. 3 (1996), 284.

[52] Finnemore, *The Purpose of Intervention*, 52.

[53] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 891. On articulation and national interests, see Weldes, "Constructing National Interests," 284.

[54] Ibid., 894-905.

Chapter III will provide brief snapshots of instances of humanitarian intervention. Utilizing the work by Finnemore, it begins the historical snapshots in the nineteenth century to emphasize the change in the norm of who was to be protected or saved in humanitarian interventions.[55] Emphasizing the work of Weiss and Wheeler, the snapshots will progress to examples of Cold War humanitarian interventions, specifically: India's intervention in what is now Bangladesh; Vietnam's intervention in Cambodia; and Tanzania's intervention in Uganda. Next, Chapter III will move to post-Cold War humanitarian intervention and provide snapshots of U.S. policy of humanitarian intervention from Iraq in 1991 to Kosovo in 1999.

Chapters IV and V conduct an empirical investigation to demonstrate whether the development of the norm of humanitarian intervention has occurred. The data used in these chapters will include arguments in favor of and against humanitarian intervention presented by international organizations such as the UN, Africa Union (AU), and the European Union (EU). The data will also include the view of key leaders of the international organizations and member states to identified norm entrepreneurs.

Chapter VI will look back at the adoption by the UN of the Responsibility to Protect principles at the 2005 World Summit. This analysis will shed some light on international society's inaction in stopping the atrocities and to save those who are suffering in Darfur at the hands of the Sudanese government sponsored genocidal policies. The final chapter will include an analysis of the effect of the 2003 invasion of Iraq on the norm of humanitarian intervention and R2P. The thesis will conclude with a discussion of possible further research that logically progresses from this work.

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[55] Finnemore, *The Purpose of Intervention*, 52.

II.   CONSTRUCTIVISM, NORMS, NORM LIFE CYCLE, AND ARTICULATION

A.   GETTING TO CONSTRUCTIVISM

Three S's—statism, survival and self-help—represent three facets at the heart of the realist tradition that has generally dominated international relations since its emergence as a theory of international relations after World War I and have since encapsulated the primacy of national interests. Classical realists, represented by Hans Morgenthau, describe "the concept of interest defined in terms of power as the main signpost that helps political realism to find its way through the landscape of international politics."[56] Yet this signpost gives little direction without understanding the mechanisms by which statesmen come to understand what constitutes power and threats to it.

The oversimplification of the national interest as something objectively dictated by the state-centered, life-and-death, self-help nature of the international system became even more stark in the hands of the neorealists who dominated international relations in the 1980s. Kenneth Waltz writes, "to say that a country acts according to its national interests means that, having examined its security requirements, it tries to meet them."[57] Waltz's neorealism is based on a material structuralism that assumes that states' actions are determined by insecurities that are inherent in the international environment. Thus, humanitarian intervention by the United States or a European nation to a country outside of the region or even at its distant periphery is the antithesis of the neorealist mantra.

As many critics have since argued, such "neorealists models—however elegant or parsimonious—oversimplified their objects of analysis."[58] Alexander Wendt explains, "where neorealists and constructivist structuralisms really differ is in their assumptions about what structure is made of. Neorealists think it is made only of a distribution of

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[56] Hans Morgenthau, *Politics among Nations* (New York, NY: Knopf Publishing, 1967), 2.

[57] Kenneth Waltz, "Structural Realism after the Cold War" *International Security* 25, no. 1 (2000): 34.

[58] Jutta Weldes, "Introduction: Constructing Insecurity" in *Cultures of Insecurity: States, Communities and Production of Danger*, ed. Jutta Weldes et al. (Minneapolis: University of Minnesota Press, 1999), 4.

material capabilities, whereas constructivists think it is also made of social relationships."[59] These social constructions include national interest itself. As a broad array of scholars who have adopted an approach known as constructivism have argued, national interests are not objectively established but are constructed through social discourse. The validity of this insight is illustrated by dramatic foreign policy reversals in recent years, including the question of whether to intervene in Bosnia and how (or whether) to contain or change the regime in Iraq. As Jutta Weldes argues, "The 'national interest' is created as a meaningful object, out of shared meanings through which the world, particularly the international system and the place of the state in it, is understood."[60] In subsequent chapters, the thesis will demonstrate how, through the process of articulation, and the repetition of phrases by domestic sources as well as leaders and institutions within international society—humanitarian intervention becomes part of the national interest.

Social structures are not disembodied sets of ideas, but patterns of actual practice to which sets of beliefs and attitudes give rise. Wendt illustrates this point by reference to the Cold War when he states, "The Cold War was a structure of shared knowledge that governed great power relations for forty years, but once they stopped acting on this basis, it was 'over'".[61] The Cold War was an actual cluster of practices and material circumstance and did not exist only in people's imaginations; but when it was no longer going on in their heads, it was no longer going on in the real world either. When the Soviet Union ceased to be viewed as a strategic threat, the United States' national interests shifted, even though the Soviet Union's successor states retained all of the nuclear weapons that had previously menaced the West. In specifically explaining how national interests are socially constructed by a state, Weldes argues, "national interests, then, are social constructions that emerge out of a ubiquitous and unavoidable process of

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[59] Alexander Wendt, "Constructing International Politics," *International Society* 20, no. 1 (1995): 73.

[60] Weldes, "Constructing National Interests," 277.

[61] Wendt, "Constructing International Politics," 74.

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representation through which meaning is created. In representing for themselves and others the situation in which the state finds itself, state officials have already constructed the national interest."[62]

The main constructivist argument charges that neorealists and neoliberal institutionalists cannot fully explain or recognize qualitative changes in states' goals and preferences. These latter two theories assume that a state's goals are determined solely by material self-interests. Laura Landbolt notes the power of the constructivist approach derives from its capacity to explain what the other theories cannot, specifically: "visible and wide-ranging shifts in the goals and behavior of states."[63] According to Finnemore, constructivists seek to answer the question: what *kind* of power, wealth, and security do states seek, and most importantly *why* do they seek them?[64]

Christian Reus-Smit suggests that constructivists are divided between modernists and postmodernists; both, however, seek to "articulate and explore three core ontological propositions about social life, propositions which they claim illuminate more about world politics than rival rationalist assumptions."[65] Firstly, constructivists place normative or ideational structures as more important than material structures. Wendt argues that "material resources only acquire meaning for human action through the structure of shared knowledge in which they are embedded."[66] Furthermore, constructivists underline the importance of normative structures because these structures shape the social identities of political actors and therefore, "the norms of the international system condition the social identity of the sovereign state."[67]

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[62] Weldes, "Constructing National Interests," 277.

[63] Laura Landolt, "(Mis)constructing the Third World? Constructivist Analysis of Norm Diffusion," *Third World Quarterly* 25, no. 3 (2004): 580.

[64] Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996), 1.

[65] Christian Reus-Smit, "Constructivism," in *Theories of International Relations*, ed. S. Burchill et al. (New York, NY: Palgrave Publishing, 2001), 216-17.

[66] Wendt, "Constructing International Politics," 73.

[67] Reus-Smit, "Constructivism," 217.

Secondly, constructivists emphasize the understanding of the non-material structures of identity. Explained in a causal chain, an actor's identity transforms interests and those interests can cause or change actions. Specifically, Wendt states "Identities are the basis of interests."[68] The more traditional rationalist theories are not interested in the normative structure of identity. These theories stress how actors strategically pursue material preferences usually for power and wealth. Constructivists, on the other hand, "argue that understanding how actors develop their interests is crucial to explaining a wide range of international political phenomenon that rationalists ignore or misunderstand."[69]

Thirdly, constructivists assert that agents (the state or individuals) and structures (global norms) are mutually constituted. Constitutive theorizing "seeks to establish conditions of possibility for objects or events by showing what they are made of and how they are organized."[70] James Fearon and Alexander Wendt illustrate this point with the master-slave relationship, stating "the nature and meaning of "master" and "slave" as modes of subjectivity are constituted by their relationship in the sense they cannot *be* "masters" and "slaves" except in relation to the other."[71] The institutionalized norms and ideas "define the meaning and identity of the individual actor and the pattern of appropriate economic, political, and cultural activity engaged in by those individuals."[72] Reus-Smit emphasizes yet another example, "the international norms that uphold liberal democracy as the dominant model of legitimate statehood, and which license intervention in the name of human rights and the promotion of free trade, only exist and persist because of the continued practices of liberal democratic states (and powerful non-state actors)."[73]

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[68] Alexander Wendt, "Anarchy is What States Make of It: The Social Construction of Power Politics," *International Organization* 6, no. 2 (1992): 398.

[69] Reus-Smit, "Constructivism," 217.

[70] James Fearon and Alexander Wendt, "Rationalism v. Constructivism: A Skeptical View," in *Handbook of International Relations*, ed. Walter Carlsnaes, et al. (London: Sage Publications, 2005), 58.

[71] Ibid.

[72] Reus-Smit, "Constructivism," 218.

[73] Ibid.

Wendt points out, "it is through reciprocal interaction that we create and instantiate the relatively enduring social structures in terms of which we define our identities and interests."[74] Constructivism seeks to explore the independent causal role of norms and focuses on norm diffusion from the international to national policy level. Landolt notes, "The power of the constructivist approach derives from its capacity to explain what neorealists, neoliberals and realists cannot: visible and wide-ranging shifts in the goals and behavior of states."[75] Finnemore states that "constructivists examine similar action by dissimilar actors in the absence of constraint."[76]

B.   NORMS

The changing nature of the international system since the end of the Cold War has witnessed a normative shift in international security with an entrenchment of human rights regimes and the emergence of a concern for human security. Scholars note the human security paradigm has broadened the scope of security by widening the threats and deepened it by extending the referents of security beyond the traditional state-centric view to the individual and onto supranational groups.[77] Constructivists argue that this shift in the normative framework of security and the change in referent object emphasizes a world of rising non-traditional actors, and non-conventional and transnational issues of concern. The emerging shift in the international norms of relationship between the power of the state and non-state actors in a globalizing world "leaves a clear message: the state is no longer able to monopolize the concept and practice of security."[78]

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[74] Wendt, "Anarchy is What States Make of It," 406.

[75] Landolt, "(Mis)constructing the Third World? Constructivist Analysis of Norm Diffusion," 579.

[76] Finnemore, *National Interests in International Society*, 6.

[77] For a discussion of the human security debate, see: Alexandra Amouyel, "What is Human Security?," *Human Security Journal* no. 1 (2006): 17; Fen Hampson et al., *Madness in the Multitude: Human Security and World Disorder* (Oxford, UK: Oxford University Press, 2002); Pauline Kerr, "Human Security," in *Contemporary Security*, ed. Alan Collins (Oxford, UK: Oxford University Press, 2007); Taylor Owen, "Human Security—*Conflict*, Critique and Consensus: Colloquium Remarks for a Threshold-Based Definition," *Security Dialogue* 35, no. 3 (2004): 368-390; Roland Paris, "Human Security: Paradigm Shift or Hot Air?," *International Security* 25, no. 2 (2001): 87-1-2.

[78] Gerd Oberleitner, "Human Security: A Challenge to International Law?," *Global Governance* 11, no. 2 (2005): 190.

The term "norm" is defined by Finnemore and Sikkink as "a standard of appropriate behavior for actors with a given identity."[79] Scholars recognize different types of norms. The most common distinction "is between regulative norms, which order and constrain behavior, and constitutive norms, which create new actors, interests, or categories of action."[80] Finnemore and Sikkink note that it is the prescriptive quality of "oughtness" that sets norms apart from other kinds of rules and Annika Bjorkdahl emphasizes that an "element of repetitive action is often stressed as crucial to the formation of an international norm."[81]

While neorealism and neoliberalism have increasingly come to acknowledge the role of norms in the international system, neither theory gives much importance to their emergence, development and institutionalization. The realist paradigm suggests that norms are little more than opportune justifications for rational action in maximizing a state's national interests. To neoliberals, the importance of norms includes the ability to make a state's behavior more transparent and predictable in the international system. Jeffrey Checkel states, "neoliberal and regime theorists do accord a role to norms, it is limited: they facilitate cooperation among self-interested actors."[82] However, for constructivists, norms are social constructs within the international system, and unlike neorealists and neoliberals, constructivists hold the view that norms structure and shape the perception of what constitutes a state's national interest.[83] Neorealism and neoliberalism continue to emphasize state-centric approaches, for example the shifting global balance of power, the development of the growing importance of international

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[79] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 891.

[80] Ibid.

[81] Annika Bjorkdahl, *From Idea to Norm: Promoting Conflict Prevention* (Lund: Lund University Press, 2002), 159.

[82] Jeffery Checkel, "Norms, Institutions, and National Identity in Contemporary Europe," *International Studies Quarterly* 43, no. 1 (1999): 84.

[83] Bjorkdahl, *From Idea to Norm: Promoting Conflict Prevention*, 17-18; Finnemore, *The Purpose of Humanitarian Intervention*, 5.

organizations, or the promotion of the spread of democracy. However, "such approaches prove inadequate in generating sufficient insight into the normative structure of the international system."[84]

Norm researchers, such as Finnemore and Sikkink, have made advances specifically because other paradigms have been unable or unwilling to provide satisfactory explanations for dilemmas in international relations.[85] From a constructivist perspective, "the structure of the international system is determined by the international distribution of ideas, and shared ideas, expectations and beliefs about appropriate behavior are what gives the world structure, order and stability."[86]

Norms enable or constrain state behavior and therefore become integral to state calculations of interest and action.[87] Scholars have demonstrated that the development of norms in the international system has come to affect state behavior. For example, Finnemore argues that norms have shaped behavior globally, regionally and domestically in regard to such issues as slavery, colonialism, women's suffrage, poverty, and humanitarian intervention.[88] Therefore, it is reasonable to argue that norms matter in the international system.[89]

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[84] Walter Loze, "The Right, The Responsibility, and the Refusal to Protect: The Case of Humanitarian Intervention in Darfur," *Conference of the British International Studies*, (2007): 2.

[85] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 890.

[86] Ibid., 894.

[87] Martha Finnemore and Kathryn Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," *Annual Review of Political Science* 4 (2001): 396-400; and Ty Solomon, "Norms and Human Rights in International Relations," *Political Studies Review* 4, no. 1 (2006): 36-37.

[88] For a further discussion from Finnemore on how norms have shaped global behavior see: "Constructing Norms of Humanitarian Intervention," in *The Culture of National Security: Norms and Identity in World Politics*, ed. Peter Katzenstein (New York: Columbia University Press, 1996); *National Interests in International Society*, and *The Purpose of Intervention: Changing Beliefs about the Use of Force*.

[89] For example, see Jeffery Legro, "Which Norms Matter? Revisiting the 'Failure' of Internationalism," *International Organization* 51, no. 1 (1997): 31-63; Audie Klotz, *Norms in International Relations: The Struggle Against Apartheid* (Ithaca, NY: Cornell University Press, 1995); Hans Schmitz and Kathryn Sikkink, "International Human Rights," in *Handbook of International Relations*, ed. W. Carlsnaes, et al. (London: Sage, 2005), 521; *The Power of Human Rights: International Norms and Domestic Change* ed. Thomas Risse, Stephen Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999).

C.   NORM LIFE CYCLE

As human rights norms have expanded, including those promoted by the United Nations and other international institutions, norms concerning intervention for humanitarian purposes have changed. Finnemore and Sikkink have illustrated the constructivist advancement that forms the theoretical rationale for the strategy of norm promotion.[90] The authors emphasize that norm entrepreneurs advance normative change through three stages of the "norm life cycle": norm emergence—where entrepreneurs persuade actors to support new norms; norm acceptance (or norm cascade)—where a large number of states or international institutions begin to accept the norms; and norm internalization—where norms become ingrained into international society.[91]

In the first stage—norm emergence—norm entrepreneurs and norm brokers elevate and make known a particular problematic circumstance. This is meant to persuade actors, either states or international institutions, to take steps in accordance with their prescriptive recommendations. It is important to note that norms do not simply appear in the international system. Norms must be "actively built by agents having strong notions about appropriate or desirable behavior in their community."[92] Furthermore, norm entrepreneurs are essential for "norm emergence because they call attention to issues or even "create" issues by using language that names, interprets, and dramatizes them."[93] Finnemore and Sikkink note that new norms do not emerge in a normative vacuum. Instead, norms "emerge in a highly contested normative space where they must compete with other norms and perceptions of interest."[94] Lastly, in the first stage, after norm entrepreneurs have persuaded a critical mass of states to adopt a new norm, the norm has reached what he authors call a "tipping point" and the norm enters the second stage.

The second stage—norm cascade—involves broad norm acceptance. It is characterized by a "dynamic of imitation as the norm leaders attempt to socialize other

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[90] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 894-905.

[91] Ibid.

[92] Ibid., 896.

[93] Ibid., 897.

[94] Ibid.

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states to become norm followers."[95] During the cascading phase, the norm will proceed through a process of international socialization. This process is intended to shift norm breakers into norm followers and finally into norm brokers. Over time, the norm becomes increasingly entrenched through socialization "by pressuring targeted actors to adopt new policies and laws and to ratify treaties and by monitoring compliance with international standards."[96] Finnemore and Sikkink argue that states comply with the second stage of the norm life cycle for reasons that relate to their identities as members of the international community. It is state identity that "fundamentally shapes state behavior, and that state identity is, in turn, shaped by the cultural-institutional context within which states act."[97]

In the third stage—norm internalization—norms become so entrenched they reach a "taken-for-granted" quality and are rarely questioned. Violations and punishment are widely supported by international mechanisms. Finnemore and Sikkink state that "internalized norms can be both extremely powerful (because behavior according to the norm is not questioned) and hard to discern (because actors do not seriously consider or discuss whether to conform)."[98] Examples of such taken-for-granted norms include: market exchange, sovereignty, and individualism.

D.   ARTICULATION

The process of articulation is integral to the emergence of norms. As mentioned in Chapter I, according to Weldes, "the term 'articulation' refers to the process through which meaning is produced out of extant cultural raw materials or linguistic resources."[99] The meanings of words and phrases are created by establishing "chains of connotations"

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[95] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 895.

[96] Ibid., 902.

[97] Ibid.

[98] Ibid., 904.

[99] Ibid.

and therefore, "different terms and ideas come to connote one another and thereby to be welded into associative chains."[100] Through articulation, these words and phrases become taken for granted within society and derive a particular meaning.

Weldes emphasizes the process of articulation to explain how the national interest is fused together out of the realm of security. She argues that the national interest draws on numerous articulations. In the post-Cold War U.S., for example, "these linguistic elements included nouns such as 'terrorist' and 'puppet,' adjectives like 'totalitarian', 'expansionary' and 'defensive,' metaphors like 'the market' or 'dominos' and analogies to 'Munich' or 'Pearl Harbor'".[101] Weldes continues by explaining that the chosen use of the "language of the national interest furnishes the rules according to which these articulations are forged." [102] In each of the terms mentioned, a specific and often negative connotation is subscribed to it. Through repetition, over time, these pairings can appear natural and part of common sense.

Weldes uses the articulated phrases of Cold War terminology to exemplify her point. During the Cold War, the term "totalitarianism" was articulated to imply "expansion" and "aggression" and was further articulated with phrases such as "puppet of the Kremlin" and "international communism." Placed together, many phrases "constituted a particular representation of the international system."[103] Weldes argues that the process of articulation creates particular linguistic chains that have meanings, and in turn actions result from the articulated meanings. With their "successful repeated articulation, these linguistic elements come to seem as though they are necessarily connected and the meanings they produce come to seem natural, to be an accurate description of reality."[104] Margaret Keck and Kathryn Sikkink emphasize that the element of repetitive action is crucial to the formation of an international norm.[105]

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[100] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 904.

[101] Weldes, "Constructing National Interests," 284.

[102] Ibid., 98.

[103] Ibid., 284-85.

[104] Ibid.

[105] Margret Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998), 35.

Through the identification of the process of articulation, I will investigate in later chapters whether a norm of humanitarian intervention has emerged through the norm-cascading phase and progressed into the internalization phase of the norm life cycle.

Articulation has been contested, and the "contestability has two important consequences."[106] Firstly, articulations are not fixed, and to "prevent them from coming unglued, or from being forcibly pried apart, they have always to be reproduced and sometimes quite vigorously."[107] Secondly, articulations can be uncoupled. The linguistic terms can then be rearticulated to form a significant meaning. Weldes uses the example of "dissenters from U.S. orthodoxy, both from within and outside of the U.S.," who she says have "persistently sought to disarticulate "the U.S." from "freedom" and instead to couple "the U.S." with "imperialism" and "aggression"."[108] If successful, this articulation builds a significantly different description of the international system—one in which "the U.S. does not exercise leadership in the global defense of freedom but instead exercises its self-interest in the imperial or neo-imperial expansion of its influence."[109]

E.   CONCLUSION

This second chapter has discussed the constructivist approach to international relations, illustrating the importance constructivists place on norms and Finnemore and Sikkink's norm life cycle. The chapter demonstrated Weldes' use of the process of articulation in the emergence of a norm. The next chapter will provide snapshots of examples of humanitarian interventions beginning in the nineteenth century. Subsequent chapters will use Weldes' process of articulation to demonstrate the emergence of the norm of humanitarian intervention.

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[106] Weldes, "Constructing National Interests," 285.

[107] Ibid.

[108] Ibid.

[109] Ibid., 285.

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III. HUMANITARIAN INTERVENTION: A CHRONOLOGICAL SET OF INTERVENTIONS

This chapter will present three groups of examples of humanitarian intervention in chronological order: pre-Cold War, Cold War, and post-Cold War. The purpose of these snapshots is to demonstrate the emergence of the norm of humanitarian intervention as described by scholars such as Finnemore, Wheeler, and Weiss.[110] Each snapshot will focus upon events that pushed the norm forward, halted the norm, or effectively reversed the norm. In some cases, the norm of humanitarian intervention can be seen to have both progressed and have been halted during the same case.

A.   HUMANITARIAN INTERVENTION IN THE NINETEENTH CENTURY

Finnemore's *The Purpose of Intervention*, emphasizes the incremental changes in international intervention since the nineteenth century.[111] Her analysis begins with examples of Western European states intervening to collect debts rather than to support human rights. The norm in international society of collecting debt by force changed over time. Her emphasis on the change in the norm for the collection of debts is important to this study of the emergence of the contemporary norm of humanitarian intervention.

In a very similar fashion to the changing norm of collecting foreign debt by force, Finnemore illustrates three cases of the use of force for humanitarian purposes by European powers in the nineteenth century. In each of the cases, European states used force to relieve fellow Christians suffering under persecution, primarily by the Muslim Ottoman Empire. Her study includes the Russian Empire coming to the aid of the Greeks—fellow Orthodox Christians—in their struggle for independence from Ottoman rule in the 1820s. Finnemore continues with the French expedition in 1860 to aid Maronite Christians in Lebanon and Syria. In 1877, the Russians again came to the aid of their fellow Orthodox Christians and used human rights abuses as justification for their

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[110] Finnemore, *The Purpose of Intervention*; Wheeler, *Saving Strangers*; Weiss, *Humanitarian Intervention*.

[111] Finnemore, *The Purpose of Intervention*, Chapter 3.

use of force. Lastly, Finnemore discusses a case of non-intervention. For more than twenty years—between 1894 and 1917—the Armenians suffered severe persecution from the Ottomans. Yet, "no European state used force on their behalf. Armenians were Christians, but as Monophysites, they were not in communion with any European churches, including the Russian Orthodox."[112] This thesis will continue by addressing one specific pre-Cold War case of humanitarian intervention—the case of Russian intervention in Greece.

Each of the nineteenth century cases of intervention added momentum to the emergence of the norm of humanitarian intervention. In considering Russian assistance to the Greeks in the 1820s, Finnemore makes three observations about humanitarian intervention norms. First, the case illustrates the "circumscribed definition of who was 'human' in the nineteenth-century conception."[113] Specifically, she notes the atrocities committed by both the Greeks and the Ottomans. However, atrocities committed against Christians were considered by the European powers to be a humanitarian disaster while massacring Muslims was not. Second, though the intervention primarily came from Russia, other countries provided assistance suggesting a need for multilateralism. But the multilateral intervention is noted to have been for geostrategic reasons—specifically, to restrain any Russian temptation from moving past the humanitarian intentions of the intervention. However, as subsequent cases will show, "multilateralism as a characteristic of legitimate intervention becomes increasingly important" although for different reasons.[114] Third, as was expected in the norm entrepreneur and norm cascade cycles of the norm life cycle (in Chapter II), Finnemore stresses that public reaction and public opinion mattered. She states:

> Not only did public opinion influence policy making in a diffuse way, but publics were organized transnationally in ways that strongly foreshadow humanitarian activity by nongovernmental organizations (NGOs) in the late twentieth century.

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[112] David Dessler and John Owen, "Constructivism and the Problem of Explanation: A Review Article," *Perspectives on Politics* 3, no. 3 (2005): 600.

[113] Finnemore, *The Purpose of Intervention*, 59.

[114] Ibid., 60.

Gary Bass emphasizes that the London Greek Committee was determined to do more than just rally public opinion. This organization wanted to defend the Greeks by armed intervention and "unlike Human Rights Watch or Amnesty International, this was an organization with an active military subcommittee."[115] Bass describes the London Greek Committee as radical, as "to them Ottoman sovereignty scarcely mattered, any more than Serbian sovereignty would matter to liberals as Milosevic scourged Kosovo in 1999."[116]

The identification of nineteenth century efforts by European powers to stop incredible atrocities by intervening with military force is instrumental to this study's understanding of the roots of the norm of humanitarian intervention in the twenty-first century. The four interventions discussed by Finnemore illustrate the emergence of the norm—albeit with a dose of geostrategic emphasis as well—of humanitarian intervention to save the lives of fellow Christians. Finnemore's work continues to demonstrate the evolution of the norm of intervention, and the fact that by the "end of the twentieth century, most of the protected populations were non-white, non-Christian groups."[117]

B.   HUMANITARIAN INTERVENTION DURING THE COLD WAR

Due to the bipolarity of the Cold War, instances of humanitarian intervention from 1945 to 1989, though grounded in humanitarian intent, were primarily unilateral in operation and best explained through the lens of security. Briefly investigating three interventions provides the basis for a comparative understanding and analysis of post-Cold War cases of intervention.[118] Wheeler states that the "legitimating reasons employed by governments are crucial because they enable and constrain actions."[119] In

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[115] Gary Bass, *Freedom's Battle: The Origins of Humanitarian Intervention* (New York, NY: Knopf, 2008), 85-86.

[116] Ibid., 81.

[117] Finnemore, *The Purpose of Intervention*, 53.

[118] Wheeler, *Saving Strangers*, 14.

[119] Ibid., 287.

arguing that legitimacy is constitutive of state actions, Wheeler stresses that "state actions *will be constrained if they cannot be justified in terms of plausible legitimating reason*."[120]

The three primary cases of unilateral intervention with humanitarian bases during the Cold War are India's use of armed force to stop the atrocities in East Pakistan in 1971; Vietnam's defeat of the Pol Pot regime in Cambodia in 1979; and Tanzania's overthrow of Idi Amin's brutal regime in Uganda in 1979. This chapter will focus on one specific Cold War case of humanitarian intervention—the case of Indian intervention in East Pakistan.

Since the independence and partition of the Indian sub-continent in 1947, Pakistan had been divided into West and East Pakistan, both ruled from Islamabad. In March of 1971, political unrest, due to the lack of adequate representation and voice in the National Assembly, erupted in East Pakistan. Without warning "the West Pakistani army started killing unarmed civilians indiscriminately, raping women, burning homes, and looting or destroying property."[121] At least one million people were killed and an estimated nine to ten million refugees fled across the border into West Bengal, India.

Wheeler starkly notes that "in the face of mass killing in East Pakistan, the overwhelming reaction of the society of states was to affirm Pakistan's right to sovereignty and the rule of non-intervention."[122] He further notes the Cold War bipolarity, with the U.S. and China aligned with Pakistan and the Soviet Union supporting India. This presence of two opposing camps within the UN Security Council prevented effective pressure being placed upon Pakistan to end the growing conflict.[123] Following what Finnemore describes as months of tension, border skirmishes, and increased pressure due to the vast flow of refugees—and before the indecisive Security

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[120] Wheeler, *Saving Strangers*, 287, emphasis in the original.

[121] Finnemore, *The Purpose of Intervention*, 75.

[122] Wheeler, *Saving Strangers*, 58.

[123] Ibid., 59.

Council decided to act—India deployed troops to East Pakistan. After just twelve days of fighting the Pakistani army surrendered at Dacca, and "thereby enabled the birth of an independent Bangladesh."[124]

Initially, the Indian delegation to the UN articulated humanitarian grounds for their justification of intervention to support the Bangladeshis.[125] This claim was rejected by a varied group of states including the United States, Argentina, Tunisia, China, and Saudi Arabia. These countries argued "that principles of sovereignty and noninterference should take precedence and that India had no right to meddle in what they all viewed as an internal matter."[126] In response, the Indian delegation retracted all statements to the effect of humanitarianism, and India "justified its action as lawful self-defense against the floods of refugees unleashed by Pakistan's brutality."[127] Ambassador Sen argued that Pakistan had committed a new crime of "refugee aggression." and asserted that "the meaning of 'aggression' should also encompass the aggression that resulted from ten million people coming into India as refugees."[128] Wheeler quotes Ambassador Sen saying:

> Now, was that not a kind of aggression? If aggression against another foreign country means that it strains its social structure, that it ruins its finances, that it has to give up its territory for sheltering the refugees . . . what is the difference between that kind of aggression and the other type, the more classical type, when someone declares war or something of that sort.[sic][129]

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[124] Thomas Franck, "Interpretation and Change in the Law of Humanitarian Intervention," in *Humanitarian Intervention*, ed. Holzgrefe and Keohane, 216.

[125] UN SCOR (XXVI), 1608th mtg., December 6, 1971, by Franck, "Interpretation and Change in the Law of Humanitarian Intervention," 216.

[126] Finnemore, *The Purpose of Intervention*, 76.

[127] Franck, "Interpretation and Change in the Law of Humanitarian Intervention," 216.

[128] UN SCOR, 1606th Meeting, December 4, 1971, 15, by Wheeler, *Saving Strangers*, 61.

[129] Ibid.

India's initial justification for intervention under humanitarian grounds is significant. This was the first time during the Cold War that such claims, even if eventually revoked, were presented to the UN to justify the use of force. Wheeler notes, "by invoking global humanitarian norms in its defense, India appealed for its use of force to be treated as an exceptional case."[130]

The Cold War notion that humanitarian reasons alone do not justify intervention, as exemplified in the justifications given by states to legitimate their actions, are crucial because these legitimating reasons enable and constrain actions. The Indian, Vietnamese, and Tanzanian cases of intervention during the Cold War are similar in that the governments could have justified their use of force under humanitarian grounds. Therefore, proponents of armed humanitarian intervention such as Wheeler argue that "India's, Vietnam's and Tanzania's actions were all justifiable because the use of force was the only means of ending atrocities on a massive scale, and the motives/means employed were consistent with a positive humanitarian outcome."[131]

From a humanitarian perspective, the most promising difference between the cases of intervention by India, Vietnam, and Tanzania and the post-Cold War cases discussed in the next section of this chapter is the emphasis on the requirement of multilateralism for the intervention to be considered legitimate by international society. This is due primarily but not entirely to the removal of the threat of superpower war. In all the cases below, save Kosovo, UN Security Council authorization was granted. Before the end of the Cold War, Hedley Bull noted the era of increased attention to human rights and an increased focus on the UN was bound to see a resurgence of principles of humanitarian intervention. Bull stated, "ultimately, we have a rule of non-intervention because unilateral intervention threatens the harmony and concord of the society of sovereign states." Bull continues, "if, however, an intervention itself expresses the collective will of the society of states, it may be carried out without bringing that

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[130] Wheeler, *Saving Strangers*, 64-65.

[131] Ibid., 295.

harmony and concord into jeopardy."[132] Some might wonder if Bull had a U.S.-led and NATO-sponsored humanitarian operation such as Kosovo—that did not receive a tacit UN Security Council authorization—in mind.

C. HUMANITARIAN INTERVENTION FROM IRAQ IN 1991 TO KOSOVO IN 1999

The end of the bipolar world allowed for numerous large-scale interventions to be carried out claiming humanitarian justifications as their rational. Addressing the post-Cold War interventions, Finnemore states, "although these efforts have attracted varying amounts of criticism concerning their effectiveness, their legitimacy has received little or no criticism."[133] It is important to this study of the norm emergence of humanitarian intervention to understand the normative shift in the determination of the legitimate use of armed intervention for humanitarian purposes within international society.

1. Iraq

Saddam Hussein responded to uprisings in the Kurdish north and Shiite south in Iraq with brutal campaigns of suppression in clear violation of the 1949 Geneva Convention on armed conflict and other human rights agreements.[134] This resulted in hundreds of thousand of refugees in Iraq whose plight, especially the Kurds in the north, attracted special international attention. The UN Security Council responded with the adoption of Resolution 688 in April of 1991 condemning "the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated

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[132] Hedley Bull, "Conclusion," in *Intervention in World Politics*, ed. Hedley Bull, 195.

[133] Finnemore, *The Purpose of Intervention*, 78.

[134] Mark Weller, Martin Griffiths and Iain Levine, "Sovereignty and Suffering," in *The Politics of Humanitarian Intervention*, ed. J. Harriss (London, UK: Pinter Publishers, 1995), 45.

areas, the consequences of which threaten international peace and security."[135] The resolution demanded that Iraq end the repression "as a contribution to removing the threat to international peace and security in the region."[136]

Resolution 688 was groundbreaking as it identified a humanitarian crisis and a state's mistreatment of its own nationals as a threat to international peace and security, thus pushing aside the formerly established norm of non-intervention and thus pushing forward the boundaries of international law.[137] Even though it was not a Chapter VII resolution calling for enforcement, the U.S., the UK, and several other countries sent military forces to northern Iraq in order to create "safe havens" for the Kurdish refugees and created no-fly-zones with aircraft patrolling over Iraq. The UN Security Council received international criticism because the safe havens were not specifically authorized in Resolution 688.[138]

Two members of the UN Security Council, one permanent (China) and one non-permanent (India) abstained in the vote to approve Resolution 688, because, it can be suggested, of minority ethnic populations within their own sovereign borders. China and India deemed the UN action a gradual global political attempt to chip away at the Westphalian sovereign state system.[139] Iraq's ambassador to the UN argued that Resolution 688 was a violation of Article 2 of the UN Charter because it sanctioned interference in Iraq's internal affairs. The Yemeni Ambassador argued that the humanitarian crisis inside of Iraq did not pose a threat to international peace and security and "the whole issue is not within the competence of the Security Council."[140]

One can easily conclude that the Western powers rightfully undertook humanitarian intervention in Iraq in 1991. However, Mayall suggests that action was only

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[135] Murphy, *The United States and the Rule of Law in International Affairs*, 151; Wheeler, *Saving Strangers*, 153. For an apposing view, see Robert Jackson, *Global Covenant* (Oxford, UK: Oxford University Press, 2000), 260-263.

[136] Murphy, *The United States and the Rule of Law in International Affairs*, 151.

[137] Wheeler, *Saving Strangers*, 169.

[138] Jackson, *The Global Covenant*, 260-263.

[139] Wheeler, *Saving Strangers*, 143-144.

[140] Jackson, *The Global Covenant*, 261.

taken "because the attention devoted by the Western media to the plight of the Kurds threatened the political dividends Western governments had secured from their conduct of the war itself."[141] Nonetheless, the safe havens created by the UN and the elimination of the remnants of the Iraqi Army wreaking havoc on the Kurdish refugees did ease their suffering.

2.   Somalia

In the UN intervention in Somalia in 1992, President George H. W. Bush did not intend to send troops until there was overwhelming pressure from Americans and the international community.[142] The U.S. deployed over thirty thousand soldiers to help secure the delivery of humanitarian aid in Somalia. The manner in which that force was used created an environment in which the antagonisms between the UN and local warlords grew, and internal security was further undermined as U.S. troops were not seen as impartial. The situation moved from an international response to a humanitarian crisis, where large amounts of emergency food aid and medicine were delivered, to a situation in which the troops who had been sent to distribute that material became targets, as without armed protection of food convoys, significant amounts were looted by warlords and failed to reach the intended recipients.

The humanitarian intervention in Somalia was "unprecedented in UN history" because Resolution 814 "authorized UN forces under Chapter VII to use force to implement its mandate."[143] Chapter VII was used because the country was in such a state of anarchy and chaos that there did not exist a government to ask for a formal invitation to intervene.[144] Under the Chapter VII mandate, the stated goals of the intervention were twofold. The first goal was to distribute food to the starving population without the

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[141] James Mayall, "Non-Intervention, Self-Determination and the 'New World Order,'" *International Affairs* 67, no. 3 (1991): 426; and Wheeler, *Saving Strangers*, 165.

[142] John Hirsch and Robert Oakley, *Somalia and Operation Restore Hope: Reflections on Peacemaking and Peacekeeping* (Washington: United States Institute of Peace, 1995), 42-43; Wheeler, *Saving Strangers*, 180-81.

[143] Wheeler, *Saving Strangers*, 193.

[144] Murphy, *The United States and the Rule of Law in International Affairs*, 188.

warlords ceasing the foodstuff and using them for their own political goals.[145] The second goal of the Bush Administration in its humanitarian efforts in Somalia was to bring order and to disarm the lawless country. Disarmament and the capture of warlords that were interfering with the distribution of food later led to U.S. air attacks on arms caches and against clan leadership.[146] This culminated in the battle of Mogadishu with nineteen U.S. Rangers killed in action. President Clinton responded by "accelerating their departure, and the United Nations suspended the mission in the spring of 1995."[147]

The intervention and the Battle of Mogadishu had significant secondary effects, as we will see in the next sections on Rwanda and Bosnia. The norm of humanitarian intervention made significant strides within the UN as exemplified by the Chapter VII mandate. However, the media broadcast of the Somalis—those whom the UN blue-helmeted soldiers came to save—chanting "Down with the U.S., down with the UN" served as a vivid reminder to the UN and the countries that had provided troops that humanitarian intervention is a complex mission.

3.   Rwanda

As the unsuccessful UN intervention in Somalia was ending, "the world was confronted with an even more grotesque humanitarian nightmare in the African state of Rwanda."[148] From 6 April through to mid-July 1994—less than three months—an estimated 800,000 Rwandans were killed in a genocidal terror instigated by Hutu extremists against the Tutsi minority and moderate Hutus.

The United Nations, having just failed to provide relief effectively in Somalia considered "a concerted peacekeeping effort in Rwanda was out of the question," and shamefully the UN fell silent in the face of the growing tragedy as no one wanted to cross

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145 Wheeler, *Saving Strangers*, 173.

146 Ibid., 206.

147 Steven Hook and John Spanier, *American Foreign Policy since World War II*, 17th ed. (Washington: CQ Press, 2007), 262.

148 Ibid.

"the Mogadishu-line."[149] In an article discussing U.S. national interests, Nye states that "one of the direct effects of the Somalia *disaster* was America's failure (along with other countries) to support and reinforce the United Nations peacekeeping force in Rwanda that could have limited a true genocide."[150]

In late 1993, the UN sent in a small force to oversee a ceasefire between the Rwandan government's military forces and the forces of the Tutsi-dominated Rwandan Patriotic Front (RPF). Rather than enlarge the number of troops being used to protect foreign nationals and thousands of Rwandans in hiding, the UN made the tragic decision to withdraw its forces. This decision "condemned the Rwandans to their fate."[151] Under what one author describes as "a cloak of self-interest," the UN Security Council authorized the French to intervene by sending troops to protect the refugees.[152] This resolution was under Chapter VII of the Charter and responded to the growing threat to international peace and security from the "internal displacement" of 1.5 million Rwandans, primarily at the borders of neighboring countries.[153] Wheeler argues, "the point is not that lives were saved but that more lives could have been saved had France selected military means that were appropriate to its humanitarian claims."[154]

The paralysis of the UN to act in a timely matter emphasizes the difficulty of the norm of humanitarian intervention as it competes with other state interests. However, Finnemore notes that "the episode also reveals something about the normative terrain on which these interventions are debated."[155] In contrast to the instances of humanitarian intervention during the bipolar tensions of the Cold War, "no significant constituency was claiming that intervention in Rwanda for humanitarian purposes would have been

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[149] Michael Barnett, "The UN Security Council, Indifference, and Genocide in Rwanda," *Cultural Anthropology* 12, no. 4 (1997): 559.

[150] Joseph Nye, "Redefining the National Interest" *Foreign Affairs* 78, no. 4 (1999): 32, (emphasis in the original).

[151] Wheeler, *Saving Strangers*, 208-09.

[152] Barnett, "The UN Security Council, Indifference, and Genocide in Rwanda," 559-61.

[153] Holzgrefe, "The Humanitarian Intervention Debate," 42.

[154] Wheeler, *Saving Strangers*, 239.

[155] Finnemore, *The Purpose of Intervention*, 79.

illegitimate or an illegal breach of sovereignty."[156] Finnemore emphasizes a "shift in the normative burdens to act" produced by the case of Rwanda. Afterwards, "states understood that they had not just a right but a duty to intervene. That the Americans apologized substantiates this."[157]

4.   Bosnia

Before the Somalia debacle was over and just before the Rwandan genocide of 1994, a further crisis in Bosnia gained international attention. American politicians did not have the stomach to, and could not at that time, justify sending more troops into harms' way to save strangers. Secretary of State Lawrence Eagleburger made the following statement:

> But the fact of the matter is that a thousand people are starving to death every day, and this is not going to get better if we don't do something about it, and it is in an area where we can affect events. There are other parts of the world where things are equally tragic, but where the cost of trying to change things would be monumental. In my view, Bosnia is one of those.[158]

The most significant figure in the demise of the Yugoslav ideal was Slobodan Milosevic, the Serbian president. After taking power in 1987, he began forging alliances with other Serbian nationalists who dreamed of a "Greater Serbia." Milosevic's central concerns from 1992-95 were how much of Bosnia to annex in the face of growing international criticism and hostility, and on the other hand, the "success of Bosnian Serbs, whose calculations and ambitions might not accord with his own."[159]

The creation of safe areas by the UN Security Council Resolution 819 in April 1993 represented an important departure for UN involvement and a continuing normative shift in humanitarian intervention. Before this critical step, the UN had purposely limited

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[156] Finnemore, *The Purpose of Intervention*, 79.

[157] Ibid., 80.

[158] Lawrence Eagleburger in Adam Roberts, "Humanitarian War: Military Intervention and Human Rights," *International Affairs* 69, no. 3 (1993): 442.

[159] Wheeler, *Saving Strangers*, 343.

itself to providing humanitarian aid. For the first time "the international community had committed itself—morally, if not in any effective practical sense—to the protection of one side in the war against another."[160] The UN Security Council Resolution 819 did not provide the protection it offered but aligned the UN with one side in the conflict. This was the single biggest step down the path by Western nations who had vowed not to take—"the path by which they would be drawn into the conflict in a series of unplanned, unthought-out, and incremental steps."[161] In July of 1995, the designated safe area of Srebrenica was over-run, and "some seven-thousand males were summarily massacred and dumped in mass graves."[162]

Principal U.S. policymakers differed sharply over the U.S. national interests at stake in Bosnia. While the U.S. State Department and the Department of Defense argued that the national interests were too minimal to justify the risks, U.S. Ambassador to the United Nations, Madeleine Albright and National Security Advisor Anthony Lake maintained that what was at stake was "nothing less than American credibility around the world."[163] Clearly, materialist interests and a realist argument would be wholly inadequate to account for these two views of the national interest and much less of Clinton's support of the decision to intervene.

5. Kosovo

Once again, Kosovo raised the issue of humanitarian intervention in the Balkans. Both UN Security Council Resolutions on Kosovo—1160 in March 1998 and 1199 in September of the same year—that were passed, prior to the NATO bombardment, were Chapter VII resolutions. Therefore, their provisions were binding on all states, including the Federal Republic of Yugoslavia (FRY). Since the resolutions were adopted under Chapter VII, they characterized the situation in Kosovo as one threatening international

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[160] Laura Silber and Alan Little, *The Death of Yugoslavia* (New York: Penguin, 1996), 274.

[161] Ibid.

[162] Brendan Simms, *Unfinest Hour: Britain and the Destruction of Bosnia* (London, UK: Penguin Books, 2002), 316.

[163] Ivo Daalder, *Getting to Dayton: The Making of America's Bosnia Policy* (Washington, D.C.: The Brookings Institution, 2000), 108.

peace and security and excluding the option of treating it as an internal domestic conflict. These resolutions also explicitly determined serious violations of human rights by the Federal Republic of Yugoslavia in Kosovo, and an impending humanitarian catastrophe. The resolutions condemned the use of excessive force by Serbian security forces and the Yugoslav army, demanding "immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe."[164]

The UN Security Council clearly held the view that the Kosovo situation constituted a humanitarian crisis long before March of 1999 and the initial NATO intervention. In addition, these resolutions imposed numerous obligations on the Federal Republic of Yugoslavia, such as the request to remove all Serbian forces from Kosovo. Belgrade, however, failed to comply with these obligations. The importance of this failure was emphasized at the press conference announcing the beginning of the NATO intervention in Serbia. Humanitarian intervention and Belgrade's refusal to comply was offered as the justification for the military action.

None of these UN resolutions explicitly authorized the use of military force. It was evident from previous negotiations that some permanent members of the UN Security Council, notably Russia and China, would have invoked veto power against such an authorization. Therefore, the organizers of the Kosovo humanitarian intervention had to construct another legal justification for their action. The United Kingdom repeatedly argued that the NATO intervention was justified because of the legal precedents of the use of military force in Somalia and Bosnia and that the Security Council authorization for military intervention in cases of grave humanitarian necessity is now widely accepted.[165] As previously stated, Russia and China vigorously opposed the NATO intervention in Kosovo. Russia, with the support of China proposed a resolution condemning NATO's "flagrant violation" of the UN Charter and international law and demanded an immediate end to the campaign.[166] Franck notes the resolution was

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[164] United Nations Security Council Resolutions 1160 (1998) and 1199 (1998); Wheeler, *Saving Strangers*, 259-263; Greenwood, "Humanitarian Intervention: the Case of Kosovo," 17.

[165] Greenwood, "Humanitarian Intervention: The Case of Kosovo," 17.

[166] Franck, "Interpretation and Change in the Law of Humanitarian Intervention," 224.

defeated by an impressive majority of three to twelve—Argentina, Bahrain, Brazil, Canada, France, Gabon, Gambia, Malaysia, the Netherlands, Slovenia, the United Kingdom and the United States voted against it.[167] Franck further notes the Security Council must have appreciated the view of Sir Jeremy Greenstock, the British Ambassador to the UN, the NATO's intervention was "justified as an exceptional measure to prevent an overwhelming humanitarian catastrophe."[168]

6.   Darfur

Currently there is an ongoing humanitarian crisis in the Darfur region of Sudan. The sub-Saharan country of Sudan, the largest country in Africa and roughly the size of France, has a population divided into two distinct groups—an Arab Muslim north and black African Christian south. Objecting to domination and government control by the Sudanese Arabs, the Sudanese People's Liberation Army (SPLA) has waged an on-and-off civil war for over twenty years. The U.S. helped to negotiate an end to the fighting between the north and the south; and in 2004, the Comprehensive Peace Agreement was signed, giving the south significant autonomy.

However, as the north-south conflict was ending in 2003, Arab tribes in the Darfur region attacked black (Muslim) tribesmen. With the desire of increasing their autonomy as well, black guerrillas from the Darfur region began military operations in response to the attacks. The government of Sudan responded by arming some of the Arab tribes, legitimizing them as militias. These actions drew international media attention as the most vicious of the militias, known as the Janjaweed, were shown to be systematically driving blacks out of villages, destroying homes, raping women, and killing tens and even hundreds of thousands of people.[169]

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[167] UN SCOR (LIV), 3988th mtg., March 24, 1999, by Franck, "Interpretation and Change in the Law of Humanitarian Intervention," 224.

[168] Statement of Sir Jeremy Greenstock, British Ambassador to the UN, UN SCOR (LIV), 3988th mtg., March 24, 1999, by Franck, "Interpretation and Change in the Law of Humanitarian Intervention," 224.

[169] Patrick Morgan, *International Security: Problem and Solutions* (CQ Press: Washington, D.C., 2006), 89-90.

International organizations including the UN, the EU, and the AU were slow to react and it is important to note that it was not until pressure was felt from aid agencies and the media that the United States brought the matter to the attention of the UNSC, urging a strong and aggressive response. Eventually, under a Chapter VII mandate, the AU sent a small peacekeeping force of less than two thousand troops. This extension of the role of the UN Mission in Sudan (UNMIS), already in the country to monitor the ceasefire agreement between the north and the south, could do very little. Consistent with the normative framework of state sovereignty, Sudan objected to this outside interference with what was arguably a strictly internal conflict. As aid agencies and the media reported horrific atrocities, African governments sent in more troops.

In May of 2004, the U.S. State Department, after a full investigation of the atrocities, declared the killings Darfur to be "genocide". De Waal emphasizes the importance of such as label, "because it broadens the usage of the term 'genocide' to include ethnically targeted killings, rapes and displacement perpetuated in the course of counter-insurgency, a significant expansion on the customary usage of the term to refer to attempts to eliminate entire populations."[170] Even as the U.S. officially labeled the killings as genocide, the EU and AU along with INGOs such as Amnesty International and Human Rights Watch could not agree to the term of genocide.

Sadly, all that these organizations could agree on was that a huge number (over a million and probably closer to two million) of Sudanese had been forcibly removed from their homes. Many of the displaced persons had fled to neighboring Chad. At least fifty-thousand and perhaps as many as three-hundred-thousand people have been killed and just as many are in danger of malnutrition and disease.[171]

In an effort to bring the situation under control, the UNSC passed several resolutions since the development of the fighting in Darfur in 2004. The first resolution, UNSCR 1564 (July 2004) added Darfur as an additional mandate under the existing UN

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[170] Alexander de Waal, "Darfur and the Failure of the Responsibility to Protect," *International Affairs* 83, no. 6 (2007): 1041.

[171] Morgan, *International Security: Problem and Solutions* (CQ Press: Washington, D.C., 2006), 89-90.

Mission in Sudan (UNMIS), which was overseeing the north-south peace process. In early 2005, the UNSC passed resolution 1590 to establish a committee to monitor the implementation of the measures in Darfur. In May 2006, the UNSC unanimously passed the implementation of a new Darfur Peace Agreement, a carry-over from the Comprehensive Peace Agreement of 2004. However, it was not until UNSCR 1769 in July 2007 that all members of the Security Council finally agreed on a UN/AU Hybrid Operation in Darfur—UN Africa Union Mission in Darfur (UNAMID).[172]

The multilateralism of the post-Cold War cases of intervention demonstrates the growing legitimacy of using military force to support human rights. Finnemore notes that the intervening states "use [multilateralism] to demonstrate that their purpose in intervening is not merely self-serving and particularistic but is joined in some way to the community interests that other states share."[173] In emphasizing the necessity of multilateralism to generate political support within international society, she argues:

> One testament to the power of these multilateral norms is that states adhere to them even when they know that doing so compromises the effectiveness of the mission. . . . That UN involvement continues to be a central feature of these operations, despite the UN's apparent lack of military competence, underscores the power of multilateral norms.[174]

D.   CONCLUSION

This chapter has shown that humanitarian intervention, multilateral or unilateral, is not a new phenomenon. In the first section, this chapter demonstrated cases of humanitarian intervention that were multilateral in reference to European powers' legitimizing intervention, but unilateral in practice. These included cases of intervention by European powers in order to protect fellow Christians at the mercy of the Muslim

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[172] "Darfur: Bernard Kouchner's Statement Following Adoption of UNSCR 1769," France in Canada, http://www.ambafrance-ca.org/spip.php?article1898 (accessed November 18, 2008).

[173] Finnemore, *The Purpose of Intervention*, 82.

[174] Ibid., 81.

Ottoman Empire. The atrocities were horrific, and the intervention defined as humanitarian, however, with an obvious geostrategic advantage to the intervening country.

The second section described three cases of intervention during the Cold War. Each case ended genocidal atrocities and, according to proponents of humanitarian intervention, were "*all justifiable because the use of force was the only means of ending atrocities on a massive scale, and the motives/means employed were consistent with a positive humanitarian outcome*" though this view was not shared by other states at the time.[175] Two of the interventions resulted in regime change and the third in the creation of a new state. Two were debated at length by the UN Security Council, emphasizing the force of bipolarity during the Cold War era, which allowed for a "relatively strong agreement that the way they treated their citizens was a domestic matter" and that interference from another state was "a significant violation of sovereignty."[176] Wheeler argues that the lack of humanitarian justification presented by the intervening countries during the Cold War calls attention to the legitimacy of the multilateral humanitarian intervention of the first decade of the post-Cold War era.[177]

The end of the Cold War allowed for states to view the internal aggression of state behavior as an indicator of external policy. Finnemore argues:

> States that abuse citizens in massive or systematic ways are now viewed as security threats because of the flows of refugees and social tensions that such policies create are destabilizing to neighbors and because aggressive behavior internally is seen as an indicator of the capacity to behave aggressively externally.[178]

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[175] Wheeler, *Saving Strangers*, 295, emphasis in the original.

[176] Finnemore, *The Purpose of Intervention*, 134-35.

[177] Wheeler, *Saving Strangers*, 285.

[178] Finnemore, *The Purpose of Intervention*, 135.

As demonstrated in the post-Cold War cases, what used to be labeled as atrocities or genocide are now characterized as threats to international peace and security. This style of argument was not used in the nineteenth-century cases. The intervening countries in the three Cold War cases relied on customary international law and border incursions as justification for intervention.

The post-Cold War era emphasizes that humanitarian intervention must be multilateral to be viewed as legitimate in international society.[179] The following two chapters will demonstrate the process of articulation and its key role in emergence of the norm of humanitarian intervention. Chapter IV will begin with the post-Cold War intervention in northern Iraq following the removal of Iraqi forces in Kuwait and end with the Bosnian War in the mid-1990s. Chapter V, demonstrating the process of articulation, will carry on in the Balkans from Bosnia to the Kosovo War. This chapter will specifically discuss the role the Kosovo War had on the implementation of the International Committee on State Sovereignty (ICSS) determination of sovereignty as a responsibility.

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[179] Welsh, "Conclusion: The Evolution of Humanitarian Intervention in International Society," 186.

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IV. ARTICULATING THE NORM LIFE CYCLE OF POST-COLD WAR HUMANITARIAN INTERVENTION

Using the process of articulation described in Chapter II, the next two chapters will trace the emergence and the life cycle, as suggested by Finnemore and Sikkink,[180] of the norm of humanitarian intervention from the early 1990s to the eventual tipping point and norm cascade of the NATO intervention in Kosovo in 1999. In the first stage of norm emergence, "norms are actively built by agents having strong notions about appropriate or desirable behavior in their community."[181] These agents, termed "norm entrepreneurs" by Finnemore and Sikkink, "are critical for norm emergence because they call attention to issues or even 'create' issues by using language that names, interprets, and dramatizes them."[182] By means of articulation and the construction of cognitive phrases, norm entrepreneurs "resonate with the broader public understandings [which become] adopted as new ways of talking about and understanding issues."[183]

Tal Alkopher notes that it was the "discourse of 'the new interventionism' and subsequent General Assembly and Security Council resolutions during the conflicts in northern Iraq in 1991, Somalia in 1992, and Bosnia-Herzegovina in 1992-5 that laid the ground" for a new, military form of interventionism.[184] Furthermore, she states, the resolutions "constituted a breakthrough in which human rights discourse took root, and the practice of military humanitarian intervention emerged."[185] This chapter discusses the norms articulated over the course of each of these conflicts in turn. It ends with the Bosnian war and illustrates the norm entrepreneurship of U.S. National Security Advisor

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[180] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 895.

[181] Ibid., 896.

[182] Ibid., 897.

[183] Ibid.

[184] Tal Alkopher, "The Role of Rights in Social Construction of Wars: From the Crusades to Humanitarian Intervention," *Journal of International Studies* 36, no. 1 (2007): 21.

[185] Ibid.

Anthony Lake and his efforts to encourage decisive action in the Balkans, thus pushing the norm of humanitarian intervention to what Finnemore and Sikkink describe as the "tipping point."[186]

A. THE BEGINNING OF THE POST-COLD WAR NORM OF HUMANITARIAN INTERVENTION

The first post-Cold War incarnation of humanitarian intervention came in the aftermath of the first Gulf War of 1991, a war fought with the explicit aim of defending Kuwait's sovereignty.[187] After the ground war, nearly 600,000 Kurds, fleeing retribution from Iraqi soldiers, took refuge in the mountains on the Iraqi-Turkish border. Strobe Talbott notes that President George H. W. Bush was reluctant to intervene; however, pressure came from four sources: constant media attention to the starving masses; President Halil Turgut Ozal of Turkey, who now had over half a million internally displaced persons on his border; Prime Minister John Major of Great Britain and President Francois Mitterrand of France, who both had been indispensable in the ground war to remove Hussein from Kuwait; and lastly, and most surprisingly, from Secretary of State James Baker.[188] Talbott states that Baker—"a self-avowed realist"[189]—visited a refugee camp on the Turkish-Iraqi border for a brief twelve minutes and realized the gravity of the humanitarian situation and the need for the United States to pressure the UN to do something to alleviate the suffering.[190]

On April 5, 1991, the Security Council passed Resolution 688, insisting on "unfettered access for humanitarian agencies and demanding an end to the repression of civilian populations."[191] It is important to note that Resolution 688 did not proceed

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[186] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 901.

[187] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 63.

[188] Strobe Talbott, "Post-Victory Blues," *Foreign Affairs* 71, no. 1 (1991/1992): 64.

[189] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 65.

[190] Talbott, "Post-Victory Blues," 64.

[191] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 65.

through the Security Council easily. Lori Damrosch notes that "some UN representatives argued that the gravity of the repression itself constituted a threat to the peace,[192] while others emphasized the transboundary consequences of massive refugee flows."[193] She notes that some states would have found the notion of intervention against the sovereignty of Iraq to be unthinkable, apart from the egregious cross-border annexation attempt recently committed by Iraq. Resolution 688 passed despite China and India abstaining from voting. Writing in 1993, Damrosch concludes that "these factors indicate that the UN is far from a consensus on the conditions that would warrant a repetition of this precedent."[194]

Resolution 688 stressed the effects of Iraq's actions, against its Kurdish population, on other nations in the region, stating that the UN was:

> gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas which led to a massive flow of refugees toward and across international frontiers and to cross border incursions, which threaten international peace and security in the region.[195]

It is important to note the phrase "threaten international peace and security." Resolution 688 did not invoke a Chapter VII authorization; it only insisted on the unfettered access of humanitarian relief. Supporters of future UN Security Council Resolutions would utter the same phrase, and demand that the crisis was a "threat to international peace and security." The repetition of this phrase by advocates of the norm of humanitarian intervention is a critical part of norm emergence. From UNSR 688, the

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[192] France, the United Kingdom, and several other Western states not serving on the Security Council articulated this position. The debates in the Security Council are detailed by Jane Stromseth in *Enforcing Restraint: Collective Intervention in Internal Conflicts*, ed. Lori Damrosch (New York, NY: Council on Foreign Relations Press, 1993), by Lori Damrosch, in *Emerging Norms of Justified Intervention*, "Changing Concepts of Intervention in International Law," ed. Carl Reed and Laura Kaysen, 109.

[193] Damrosch, "Changing Concepts of Intervention in International Law," 103.

[194] Ibid.

[195] UNSCR 688 (April 5, 1991), in Damrosch, "Changing Concepts of Intervention in International Law," 104.

norm of intervention to aid those oppressed by their own governments emerged and future resolutions would not fall short of formal invocation of Chapter VII and the authorization to use force.

The emergence was not, however, uncontested. There was criticism because the safe havens created to convince the Kurds to leave the frigid cold of the mountains were not specifically authorized in Resolution 688.[196] France, Great Britain and the United States repeatedly justified this intervention as legal by claiming that the measures taken were consistent with the stated mandate of Resolution 688.[197] In addition, the operation was not performed with the consent of the government in Baghdad, which continually claimed that Iraqi sovereignty was violated by the intervention.

The debate regarding Resolution 688 illustrates Weldes argument of the process of articulation. For example, French President Mitterrand, declared that the failure of the UN to protect the Kurds would "severely affect the political and moral authority" of the Council.[198] French Foreign Minister Dumas pleaded that the society of states had a "duty to intervention."[199] He paralleled the plight of the Kurds with the Nazi genocide of the Jews and argued that the Iraq attacks on the Kurds were "crimes against humanity."[200] The demands of Mitterrand and Dumas illustrated the growing demands of "French society that sovereignty should be no barrier to the relief of suffering."[201]

Prime Minister Major of Great Britain received an increasing amount of pressure from the media and from the opposition party. Martin Shaw notes that in relation to British television coverage, "it was overlaid with an unremitting commentary pinning responsibility simply and directly on Western leaders, especially [President George H. W.] Bush and [Prime Minister John] Major."[202] Furthermore, former Prime Minister

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[196] Jackson, *The Global Covenant*, 260-263.

[197] Murphy, *The United States and the Rule of Law in International Affairs*, 151.

[198] "UN Abandons Kurds," *Independent*, April 4, 1991, by Wheeler, *Saving Strangers*, 141.

[199] Ibid.

[200] Wheeler, *Saving Strangers*, 141-42.

[201] Ibid.

[202] Martin Shaw, "Global Voices," in *Human Rights in Global Politics*, ed. Thomas Dunne and Nicholas Wheeler (Cambridge, UK: Cambridge University Press, 1999), 229.

Margaret Thatcher, had met with a Kurdish delegation, and afterwards, told a reporter, "it is not a question of standing on legal niceties. The people need help and they need it now."[203] Wheeler notes that five days later, "Major decided that he had to respond to the growing pressures for action to save the Kurds."[204]

The next development in the emergence stage of the life cycle of the norm of humanitarian intervention was in Somalia in 1992. Prior to the UN mission to Somalia, UN Secretary Boutros Boutros-Ghali's *An Agenda For Peace* identified humanitarian reasons as driving the deployment of UN military force to alleviate suffering. The report noted that the deployment of UN troops rested on a number of key criteria. Firstly, on the premise that the violence among the factions in the region was limited or controlled; secondly, that humanitarian aid was impartially provided; and thirdly, that it could save lives and would add to the development of "conditions of safety in which negotiations could be held."[205] The use of force was predicated on the UN having autonomous command over participating troops. This was not always achievable as member states lacked "the political will to match their rhetorical commitments with intellectual and material resources."[206]

The situation in Somalia had been deteriorating for some time when the first of five UN Security Council resolutions, all under Chapter VII guidelines, placed an arms embargo on the African nation in January of 1992.[207] Wheeler notes that the humanitarian tragedy that had overcome the Somali people in 1991-1992 was a "result of the civil war and subsequent disintegration of the state that followed the fall of the government of Siad Barre in January 1991."[208] Pressure in the United States for action to

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[203] "Haven from the Hell-Holes," *Sunday Times*, London, April 21, 1991, in Wheeler, *Saving Strangers*, 149.

[204] Ibid.

[205] Boutros Boutros-Ghali, *An Agenda For Peace* (New York, United Nations, 1992), 17.

[206] Alex Bellamy, Paul Williams, and Stuart Griffin, *Understanding Peacekeeping* (Cambridge, UK: Polity, 2004), 81

[207] Fernando Teson, *Humanitarian Intervention: An Inquiry into Law and Morality*, 3rd ed. (Ardsley, NY: Transnational Publishers, 2005), 299-300; UN Security Council Resolution 733, 47th Session, 3039th meeting, January 23, 1992.

[208] Wheeler, *Saving Strangers*, 173.

help those starving in the Horn of Africa first came in late April 1991 when U.S. Senators Nancy Kassebaum and Paul Simon held hearings on Somalia and "urged an immediate cease-fire and relief effort."[209] Rice and Loomis note the effect that cable television had on President George H. W. Bush's decision to take the case to the United Nations. Secretary of State Lawrence Eagleburger acknowledged that "television had a great deal to do with President Bush's decision to go in in the first place."[210] Eagleburger continues, emphasizing that a primary reason was "because of the television pictures of those starving kids."[211] In addition, National Security Advisor Brent Scowcroft, comparing the advantages of intervening in Somalia over Bosnia, stated "It was not that we were afraid to intervene abroad; it was just that the circumstances weren't right in Bosnia."[212] He added, "Somalia gave us [the George H. W. Bush administration] the ability to show they [critics of the first Bush administration] were wrong. It was a Southern Hemisphere state; it was black; it was non-Christian; it was everything that epitomized the Third World."[213] Furthermore, Bush had lost the 1992 presidential election. This statement suggests that today, humanitarian intervention is not intended to defend the rights of Christians or whites, but human rights and claims inherent to all humans without distinction. This statement illustrates the fact that for the U.S. and the European nations the norm had emerged past the saving of fellow Christians as was witnessed in the nineteenth century. Also evident in this statement is that the intervention in Somalia did not include a geostrategic advantage as did the Cold War examples.

On December 3, 1992, the UN Security Council unanimously adopted Resolution 794, authorizing a U.S.-led UN force to "use all necessary means to establish as soon as

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[209] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 66-67.

[210] Marvin Kalb, quoting Lawrence Eagleburger, "'The CNN Effect': How 24-Hour News Coverage Affects Government Decisions and Public Opinion," (Brookings-Harvard Forum: Press Coverage and the War on Terrorism, January 23, 2002), by Rice and Loomis "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 67.

[211] Ibid.

[212] Samantha Powers, *A Problem from Hell: American and the Age of Genocide* (New York, NY: Basic Books, 2002), 293.

[213] Ibid.

possible a secure environment for humanitarian relief operations in Somalia."[214] However, the American experience in the Horn of Africa ended in tragedy with the death of eighteen service members on October 3, 1993. With both the new U.S. administration of President William J. Clinton and the U.S. Congress furious over these deaths, and unwilling to sustain additional casualties, the United States withdrew its military forces in March 1994.[215]

B. THE EFFECT OF NON-INTERVENTION ON THE NORM OF HUMANITARIAN INTERVENTION

In January 1995 as the last of the UN peacekeepers left Somalia, Secretary-General Boutros-Ghali authored a supplement to his *An Agenda for Peace*, that UN missions were gradually becoming involved more in intrastate rather than interstate conflicts. The supplement noted that, of the five humanitarian operations underway in 1988, only one involved an intrastate conflict.[216] Of the twenty-one UN missions since 1988, Teson notes, "thirteen (62 percent) involved intrastate conflict. The trend is growing even more pronounced in the UN's most recent operations. Of the eleven operations since January 1992, nine (82 percent) involve intrastate conflicts."[217]

Darren Brunk emphasizes that the Somalia intervention was "a warning shot across the international community's bow—it tempered enthusiasm for humanitarian intervention . . . [and highlighted that] interventions are not without risks, and these risks were not without their domestic political consequences."[218] Key lessons of the Somalia intervention were carried over, both in practice and in the arguments presented for and

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[214] United Nations Security Council Resolution 794, 47th Session, 3145th Meeting, December 3, 1992, in Teson, *Humanitarian Intervention*, 298.

[215] Ibid., 302.

[216] United Nations, *Supplement to An Agenda for Peace: Position Paper of the Secretary-General on the Occasion of the Fiftieth Anniversary of the United Nations*, UN Document A/50/60, S/1995, January 3, 1995, in Teson, *Humanitarian Intervention: An Inquiry into Law and Morality*, 302.

[217] Ibid.

[218] Darren Brunk, "Curing the Somalia Syndrome: Analogy, Foreign Policy Decision Making, and the Rwandan Genocide," *Foreign Policy Analysis* 4 (2008): 302.

against, the eventual humanitarian intervention in Rwanda in June of 1994. Speaking to the UN General Assembly in September 1993, President Clinton cautioned the international community:

> In recent weeks in the Security Council, our nation has begun asking harder questions about proposals for new peacekeeping missions. Is there a real threat to international peace? Does the proposed mission have clear objectives? Can an exit point be identified of those who will be asked to participate? How much will it cost? From now on, the United Nations should address these and other hard questions for every proposed mission before we vote and before the mission begins.[219]

The lessons were further emphasized in the rhetoric of U.S. Congressman, Western leaders, and the media during the debates of when and how the UN should intervene to stop the genocide in Rwanda. Speaking on the floor of Congress only days after the U.S. casualties in Mogadishu, Congressman Harold Rogers remarked:

> Even as the President this minute is trying to justify to American parents why their sons and daughters are sacrificing their lives in Somalia, I have learned that the night before last his United Nations Ambassador voted in the United Nations, and they approved, another peacekeeping operation. This one is in Rwanda. . . . Where does it end? Can anyone in this room tell me where Rwanda is, or why we are going there, or what vital American interest is at stake in Rwanda? . . . We are told we are going to be patrolling between the majority Hutus and the minority Tutsis in Rwanda. Why, Mr. Speaker?[220]

Great Britain's Ambassador to the UN opposed reinforcing the United Nations Assistance Mission for Rwanda (UNAMIR), and reminded the members to "think back to Somalia and think about what you would ask these troops to do."[221]

Historians Spanier and Hook use the phrase "Somalia syndrome"—a combination derived partly from the calamity of Somalia and partly from the term "Gulf War

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[219] Brunk, "Curing the Somalia Syndrome: Analogy, Foreign Policy Decision Making, and the Rwandan Genocide," 315.

[220] Congressman Harold Rogers, Administration on Disastrous Course, Remarks before the House of Representatives, October 7, 1993, *Congressional Record*. 103rd Congress, by Brunk, "Curing the Somalia Syndrome," 314.

[221] Wheeler, *Saving Strangers*, 221.

syndrome" describing adverse post-war effects—to illustrate President Clinton's frame of mind as he signed Presidential Decision Directive (PDD) 25 in May 1994. The directive placed strict conditions on U.S. support for UN peacekeeping missions.[222] It stated that "the USA would contribute to operations only where its national interests were engaged and that its soldiers would always remain under national command and control."[223] The underlying theme of PDD 25 included the need for full public and Congressional support.[224] Brunk notes the resultant chilling effect of PDD 25 in comments made by former UN Secretary-General Boutros-Ghali in a 2003 interview. According to the Secretary-General, because of PDD 25:

> the United States would say, 'We don't allow you to do a peacekeeping operation even without the United States. Why? Because, one, we have to contribute thirty percent of the budget of this peacekeeping operation, and two—and let us be objective—it is true in the case that you will have problems in this peacekeeping operation, you will ask our assistance, and we will be compelled to give you this assistance.' . . . So practically, it was a return to the [non-intervention] policy of the United States.[225]

When referring to Rwanda, the Clinton Administration avoided the word "genocide." Brunk emphasizes that although the Secretary of State Warren Christopher and his staff clearly recognized the nature of the violence in Rwanda, "State Department officials were forbidden from employing the term 'genocide' until June [1994]."[226] The administration was afraid that to use the word genocide "would raise the awkward legal question as to whether the USA was obliged to intervene under the 1948 Convention [Against Genocide]."[227] According to then-Assistant Secretary of State George Moose, the State Department was conflicted "over what obligations might flow . . . [and] about how might we be viewed if we declared that there is genocide and then do nothing about

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[222] Hook and Spanier, *American Foreign Policy since World War II*, 263.

[223] Wheeler, *Saving Strangers*, 224.

[224] Brunk, "Curing the Somalia Syndrome," 315.

[225] Boutros-Ghali, *PBS Frontline Interview*, in Brunk, "Curing the Somalia Syndrome," 316.

[226] Brunk, "Curing the Somalia Syndrome," 316.

[227] Wheeler, *Saving Strangers*, 224-225.

it."[228] The United States policy makers' resistance to use the genocide term was not due to a misperception of the conflict in Rwanda, but rather "a conscious decision to avoid representations that might conceivably necessitate greater interventionist action."[229]

Wheeler chronicles the personalities and the events that pushed the UN Security Council to finally take action in Rwanda. Under pressure from the Secretary-General and the Czech and New Zealand representatives, the Security Council met informally on April 28th and 29th to discuss the alarming situation.[230] At the same time, Czech Ambassador Karel Kovanda, convened a number of the non-permanent members to hear first-hand experiences of the carnage from Alison des Forges, a human rights advocate for Human Rights Watch Africa. After hearing her testimony, the Czech Ambassador pressed the Security Council to declare the actions in Rwanda genocide. Wheeler notes, "Kovanda's family were survivors of the Holocaust and his words must have carried considerable moral force when he likened the UN's current approach as 'rather like wanting Hitler to reach a ceasefire with the Jews'".[231]

Ambassador Kovanda gained support in the Security Council from a number of non-permanent members but found strong opposition from China, the United States, and Great Britain. Only after Ambassador Keating of New Zealand threatened to table a draft resolution for the General Assembly was a compromise reached. Wheeler notes that this "would require a vote and would expose members' position to the glare of world public opinion."[232] Keating and the permanent members of the Security Council compromised by issuing a Presidential Statement that used language from the Genocide Convention, but did not explicitly invoke the term genocide.[233]

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[228] George Moose, *PBS Frontline Interview*, in Brunk, "Curing the Somalia Syndrome," 316.

[229] Brunk, "Curing the Somalia Syndrome."

[230] Wheeler, *Saving Strangers*, 225.

[231] Wheeler, *Saving Strangers*, 226; Linda Melvern, "Genocide Behind the Thin Blue Line," *Security Dialogue* 28, no. 3 (1997): 341.

[232] Wheeler, *Saving Strangers*, 226.

[233] Ibid.

Their fears of the glare of international public opinion were well founded for, as Finnemore notes, "the Genocide Convention actually makes action mandatory. Signatories must stop genocide, defined as 'acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group'".[234] She argues that although the UN failed to intervene in Rwanda until most of the killing had stopped, the debate demonstrates the normative terrain of humanitarian intervention. Finnemore identifies that in contrast to prior Cold War cases of intervention, "no significant constituency was claiming that intervention in Rwanda for humanitarian purposes would have been illegitimate or an illegal breach of sovereignty. States did not fear the kind of response India received when it intervened in East Pakistan."[235] Finnemore argues, "states understood that they had not just a right but a duty to intervene"[236] in Rwanda. Furthermore, in emphasizing the buildup of stage one of the emergence of the norm of humanitarian intervention, Finnemore states that "a shift in normative burdens to act, intervention norms now place strict requirements on the ways humanitarian interventions can be carried out."[237]

In June 1994 the UN Security Council passed Resolution 925, authorizing France to deploy a force to stop the now sporadic killing and to protect the roughly one million internally displaced persons on the border of neighboring Zaire. Media attention to the new humanitarian crisis of the internally displaced persons led to U.S. public pressure for direct U.S. military involvement. In July "the U.S. government [with multilateral authorization from the UN] finally mobilized its forces to assist the million refugees crammed into unsanitary, cholera-prone camps."[238] At the height of the UN relief operation in Rwanda, the United States contributed twenty-six hundred troops and staff to various points in East Africa.

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[234] Finnemore, *The Purpose of Intervention*, 79.

[235] Ibid., 80.

[236] Ibid.

[237] Ibid.

[238] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 73-74.

Comments from U.S. Congressman and international leaders would lead one to think that the norm of humanitarian intervention died as the last troops left Somalia, exemplified in the extremely belated and reluctant response of the international community to intervene to stop further genocide in Rwanda. However, as tragic as the international community's reaction to mass killing in Rwanda was, scholars note the reference to not allowing another "Rwandan" genocide in our lifetime, demonstrates that the norm, although not acted upon, was still in existence.[239]

C. BOSNIA—A TIPPING POINT AND NORM ENTREPRENEURS

The first UN Security Council Resolution to provide humanitarian support in the growing crisis in the Balkans was Resolution 770, adopted on August 13, 1992. This resolution was the result of media reports of a Serb detention center for Muslim prisoners. Great Britain and France provided armed escorts for the humanitarian aid workers and the relief convoys, all in support of the office of the United Nations High Commissioner for Refugees. Wheeler notes that "both governments were determined to avoid deploying ground troops in a combat role, but at the same time neither felt that it could be seen to be doing nothing in the face of the worst abuses of human rights in Europe since the end of the Second World War."[240]

Throughout the Bosnian crisis, Clinton's National Security Advisor Anthony Lake pressed for increased American leadership and involvement. Daalder describes him as a "policy entrepreneur."[241] Up against hardened realists such as Secretary of State Warren Christopher and earlier on, the Chairman of the Joint Chiefs of Staff, Colin

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[239] Alex Bellamy, "Conflict Prevention and the Responsibility to Protect," *Global Governance* 14 (2008): 135-156; Ben Kioko, "The Right of Intervention Under the African Union's Constitutive Act: From Non-Interference to Non-Intervention," *The International Review of the Red Cross* 85, no. 852 (2003): 807-825; Brunk, "Curing the Somalia Syndrome," 301-320; Rebecca Hamilton and Chad Hazlett, "Not on Our Watch: The Emergence of the American Movement for Darfur," in *War in Darfur: and the Search for Peace*, ed. Alex de Waal (Cambridge, MA: Harvard University Press, 2007), 337-366.

[240] Wheeler, *Saving Strangers*, 251.

[241] Daalder, *Getting to Dayton*, 171.

Powell, "Lake put in place a policy process that [. . .] encouraged the president to conclude that the course of action being pursued by the U.S. was heading nowhere."[242]

Lake developed an endgame strategy which began with the withdrawal of the UNPROFOR troops, lifting the arms embargo, providing training and much-needed arms to the Bosnians, and eventually conducting airstrikes on Bosnian Serb ground forces. Once Clinton was on board with Lake's endgame strategy, the national security advisor worked to convince other members of the foreign policy staff of the merits of different aspects of the plan. Daalder explains, "after having given them his ideas, Lake requested that Christopher, Perry, Shalikashvili and Albright each come up with their own strategy."[243] After vetting by the president's principal foreign policy advisors, the four policy papers were presented to Clinton on August, 4 1995, and discussed at a series of meetings over three days. Daalder emphasizes, "In the end, Lake succeeded in being the true policy entrepreneur: his approach became policy with the full backing not only of the president but all senior advisors engaged in the formulation of U.S. policy toward Bosnia."[244]

Its should be noted that Daalder's description of Lake as a "policy entrepreneur" for his work in advocating a major policy shift to Clinton is not entirely the same as the "norm-entrepreneur" described by Finnemore and Sikkink. However, Finnemore and Sikkink's description of norm-entrepreneurs as those who "attempt to convince a critical mass of states (norm leaders) to embrace new norms"[245] can also include those who attempt to convince those who are highly influential in national governments and in international society. It is argued that the West, the UN, and NATO had to "do something." Lake saw that "the time was ripe to propose a change in direction" of U.S. foreign policy.[246] His work undoubtedly pushed along the norm of humanitarian intervention.

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[242] Daalder, *Getting to Dayton*, 171.

[243] Ibid., 172.

[244] Ibid.

[245] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 895.

[246] Daalder, *Getting to Dayton*, 171.

Karin Fierke argues that the United States drew on four sets of past experiences to "name the Bosnian context."[247] She states that "the constructs are based on clusters of related categories, identifiable by their family resemblance with a particular historical context."[248] All of the words and phrases have been used repeatedly in public accounts of the Bosnian conflict. Fierke states that this repetition illustrates "the coherence underlying these interpretations because of rules projected from a past context."[249]

The first analogy demonstrated by Fierke is that of World War II. The Bosnian Serbs were compared to the Nazis, the Bosnian Muslims to the Jews, and the United States and NATO to the Allied forces. The second analogy, for doing nothing to stop Serbian aggression, is the appeasement that arguably allowed the rise of Hitler. In this interpretation, the United States' "appeasement is a sign of weakness which will only increase the strength of the aggressor. Intervention would lead to liberation of those who suffer and thereby result in a winning strategy."[250]

Comparing Bosnia to Vietnam, was the third analogy, as did Colin Powell as Chairman of the Joint Chiefs of Staff and other senior officers of his generation. From this perspective, Bosnia looked like a quagmire in which the U.S. had no clear war aims and no exit strategy. According to Fierke, the Vietnam comparison prevailed in the U.S. from the spring of 1992 until the summer of 1995. During the Bosnian conflict, "the hesitation of the United States to become involved on the ground was coupled with arguments that the arms embargo should be lifted so that the Bosnians could more effectively defend themselves against the Bosnian Serbs."[251]

The fourth analogy, echoing the view of many European statesmen, was one of the First World War, suggesting the danger that violence in Sarajevo could draw the

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[247] Karin Fierke, "Multiple Identities, Interfacing Games: The Social Construction of Western Action in Bosnia," *European Journal of International Relations* 2, no. 4 (1996): 473-75.

[248] Ibid., 473.

[249] Ibid., 474.

[250] Ibid.

[251] Ibid.; Fierke also notes "The positive historical example that should be repeated, and which might help the U.S. go beyond the paralysis of Vietnam, it is argued, is the Reagan Doctrine, by which freedom fighters around the world, such as the Nicaraguan Contras and the Afghani Mujahadeen, were supplied with arms by the United States.

Great Powers into a major conflagration.[252] Kierke notes the analogy reinforced action, specifically that a "great power conflict is to be avoided by involving the major contemporary powers directly in decision-making over this conflict in a peaceful way within the Security Council."[253]

In norm development, Annika Bjorkdahl emphasizes an "element of repetitive action is often stressed as crucial to the formation of an international norm."[254] The repetitiveness of activities and phrases relating to humanitarian intervention increased in 1995 as the Clinton administration and the U.S. Congress differed on the desired approach to the continuing crisis in the Balkans.

This element of repetition is evident in the articulation and choice of words used by policy makers and the media during the entire Balkan crises. Articulated initially in relation to the Jewish concentration camps of the Second World War, then used in relation to the UN's belated response to the genocide in Rwanda in April and May of 1994, and finally in relation to the Srebrenica massacre in July of 1995 was the phrase "never again." The continued use of the phrase convinced Senator Robert Dole to lead Congress into action. Daalder states, "bolstered by the horrifying stories emerging from Srebrenica, the U.S. Congress challenged the Clinton administration to change course by voting overwhelmingly to lift the arms embargo against Bosnia."[255]

Fierke articulates a "word game" over the Bosnian Serbs taking UN peacekeepers en masse as hostages.[256] The media and Western policy makers described them as "human shields" as they were handcuffed to military targets. From these actions, the Bosnian Serbs earned the description as "terrorists." Fierke states, while "applying the name 'terrorist' to the Bosnian Serbs, Western or UN actors made moves that were to the contrary [. . .], that is, they 'made concessions', against the background of threats by the Bosnian Serbs that any attempt to 'liberate' the hostages would be writing their death

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[252] Fierke, "Multiple Identities, Interfacing Games," 473-80.

[253] Ibid., 476.

[254] Bjorkdahl, *From Idea to Norm: Promoting Conflict Prevention*, 159.

[255] Daalder, *Getting to Dayton*, 165.

[256] Fierke, "Multiple Identities, Interfacing Games," 485.

warrant."[257] Furthermore, as the lack of impartiality of the UNPROFOR became more apparent, Western "appeasement" to the Bosnian Serbs was combined with "conceding" and "bowing" and set against the background of criminal acts—specifically "ethnic cleansing." As Fierke notes, these terms were "structured around an 'aggressor', 'victim', and potential 'liberator'".[258]

The repeated occurrences of atrocities committed by the Bosnian Serbs heightened Western moral imperative to "do something." In this context, "there is a direct relationship between moral outrage, expressed in international public opinion" and distractions from a hands-off approach of doing as little as possible in order to keep the conflict from spreading out of the Balkans.[259] As atrocities in Bosnia mounted, Fierke illustrates that "the articulation of the threat of air strikes emerged immediately in response to international outrage over the death of 58 civilians in Sarajevo."[260]

Fierke emphasizes a critical point in the international moral outrage and then action of the NATO forces. She states, "after the Bosnian Serb attack on Sarajevo at the end of August 1995, killing 36 civilians and wounding 90, NATO was finally authorized to actualize the air strike campaign against Bosnian Serb targets."[261] NATO air strikes clearly place the UN in the role of a combatant.[262] In illustrating norm emergence, Finnemore and Sikkink state "after norm entrepreneurs have persuaded a critical mass of states to become norm leaders and adopt new norms, we can say the norm reaches a threshold or tipping point."[263]

For norm entrepreneurs to further the norm emergence, Finnemore and Sikkink suggest the entrepreneur needs an organizational platform. In this instance it would be the UN and NATO—the UN by authorizing and giving legitimacy to the air strikes and

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[257] Fierke, "Multiple Identities, Interfacing Games."

[258] Ibid.

[259] Ibid., 488.

[260] Ibid., 489.

[261] Ibid.

[262] Wheeler, *Saving Strangers*, 255.

[263] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 901.

NATO for carrying them out. UN Security Council Resolution 836, passed on June 4, 1993 with two abstentions (Russia and China), extended UNPROFOR's mandate to deter the attacks against the safe areas.[264] To fulfill this mandate, NATO, "under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR," was empowered to take "all necessary means, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina."[265]

D. CONCLUSION

The attacks on Sarajevo and the international community's acceptance of NATO's authorized use of air power initiated the tipping point of the norm of humanitarian intervention. The norm was pushed past the tipping point and closer to the norm cascading stage after the safe havens of Zepa, Bihac, and Srebrenica were overrun in 1995. In the case of Srebrenica, "at least 7,414 Muslim men were systematically rounded up and killed by Mladic's forces in the worst war crime of the whole war."[266]

This chapter has traced development of the norm of humanitarian intervention through the first half of the post-Cold War interventions of the 1990s, demonstrating the willingness of Western countries, through the multilateral use of UN Chapter VII authority to use military force to save not only Christians, as in the case of the nineteenth century, but Kurds in northern Iraq and starving Somalis in the Horn of Africa. The UN stood by as genocide took place in Rwanda with the Clinton Administration still furious over Somalia. The reluctance to intervene in Rwanda pushed President Clinton into developing a new strategy for the Bosnian crisis. National Security Advisor Anthony Lake took on the mantle and initiated a change in course by lifting the arms embargo and striking Bosnian Serb positions. The decision by the UN to use force and specifically to use NATO to bomb targets in the Balkans pushed the norm of humanitarian intervention past the tipping point and toward the second stage of the norm life cycle—norm cascade.

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[264] Wheeler, *Saving Strangers*, 254.

[265] Ibid.

[266] Ibid., 255.

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V. GETTING TO THE THIRD AND FINAL STAGE—NORM INTERNALIZATION

This chapter describes the normative shift of humanitarian intervention from the tipping point in of the Bosnian war (the first stage of the norm life cycle), illustrated in the previous chapter, all the way to the doorstep of the third stage of the norm life cycle—norm internalization. The norm shifted into the second stage—norm cascade—after the culmination of the Kosovo conflict and the subsequent finding of the Independent International Committee on Kosovo of the war as "illegal but legitimate."[267] The final stage—norm internalization—began with the international community's enunciation of the Responsibility to Protect (R2P), as suddenly the principles of R2P acquired normative status. The chapter progresses to describe the principles of R2P as a norm. Lastly, the chapter identifies Secretary-General Kofi Annan as he acted as a norm entrepreneur and took steps to move the emerging norm of humanitarian intervention onto the doorstep of the third stage of the norm life cycle—norm internalization. His articulation emphasized the responsibility of a state to protect its citizens, rather than the right and duty of humanitarian intervention, and thus set the grounds for multilateral protection, should a state fail to uphold its responsibility.

A. KOSOVO

Despite agreements made by Slobodan Milosevic regarding the Kosovar province of Serbia during a series of exhaustive diplomatic negotiations in the fall of 1998 through the winter of 1999, "nearly 80,000 Albanians were forced by Serb forces to flee their homes between the end of December and mid-March 1999."[268] In order to stop the widespread violence, on March 24, 1999, NATO launched Operation Allied Force. The campaign consisted of an air war targeting Serb military positions and Serb leadership in

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[267] Independent International Commission on Kosovo, *The Kosovo Report* (New York, NY: Oxford University Press, 2001), 4.

[268] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 78.

Belgrade. The NATO-led bombardment lasted until June 11, 1999, when Milosevic relented and agreed to "end all violence in Kosovo, withdraw all Serb forces, and submit to an international presence under UN auspices."[269]

The bombing campaign against Milosevic and Belgrade in support of the Kosovar Albanians, without UN Security Council authorization, remains controversial among scholars and diplomats.[270] While the United States and its NATO allies initially sought a Security Council resolution specifically authorizing the use of force, most recognized that would be impossible because of strong disagreements from both Russia and China. However, the United States and Western European governments determined their cause just and legitimated by the collective action of NATO, and as not requiring a further vote by the Security Council. These governments "cited a long series of UN resolutions challenging Serbian treatment of the Albanian population in Kosovo, in particular UNSCR 1199, approved on September 23, 1998, by a vote of 14-0, which called for the immediate withdrawal of Serbian forces from Kosovo."[271]

In Resolution 1199, passed under Chapter VII, the Security Council advocated that the threat to peace and security in the Balkans centered on the "deterioration of the situation in Kosovo."[272] The resolution was not one sided, it demanded that the Milosevic regime and Kosovo Albanians cease hostilities in order to "avert the impending humanitarian catastrophe."[273] The United States and Great Britain argued for a more strongly worded resolution. Wheeler notes that after states had settled on a much less forceful resolution, Russian Ambassador to the UN Lavrov stated that "no use of force

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[269] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 78.

[270] Byers and Chesterman, "Changing the Rules About Rules? Unilateral Humanitarian Intervention and the Future of International Law," 184, Allen Buchanan, "Reforming the International Law of Humanitarian Intervention," in *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas*, ed. Holzgrefe and Keohane, 163-64; Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 78-80; Catherine Guicherd, "International Law and the War in Kosovo," *Survival* 41, no. 3 (1999): 29; Alex Bellamy, "Motives, Outcomes, Intent, and the Legitimacy of Humanitarian Intervention," *Journal of Military Ethics* 3, no. 3 (2004): 219.

[271] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 78-79.

[272] UNSCR 1199, in Wheeler, *Saving Strangers*, 260.

[273] Wheeler, *Saving Strangers*, 260.

and no sanctions are being imposed by the Council at the present stage . . . the use of unilateral measures of force in order to settle the conflict is fraught with the risk of destabilizing the Balkan region and of all of Europe and would have long-term adverse consequences."[274] China, also reluctant to sign Resolution 1199, did not believe the situation in Kosovo to be a threat to international peace and security. Furthermore, the Chinese Ambassador argued that resolution 1199 had "invoked Chapter VII of the United Nations Charter all too indiscreetly in order to threaten the Federal Republic of Yugoslavia" and the resolution "would adversely affect the possibilities for a peaceful settlement of the conflict."[275]

The lack of unanimous support from the UN and a specific resolution to use force against the Federal Republic of Yugoslavia complicated the issue but did not stop the United States and European leaders from agreeing to confront Serbian forces with air power. Though the NATO countries agreed that a Security Council mandate with explicit authorization would have been preferable, "in the end the humanitarian conditions in Kosovo persuaded European states to join in the effort to protect civilians."[276] Arguing in favor of military force, French President Jacques Chirac argued that action was justified in the face of a humanitarian crisis:

> In this particular case, we have a resolution which does open the way to the possibility of military action. I would add, I repeat, that the humanitarian situation constitutes a ground that can justify an exception to the rule, however strong and firm it is. And if it appeared that the situation required it, then France would not hesitate to join those who would like to intervene in order to assist those that are in danger.[277]

Echoing Chirac's remarks, Italian Prime Minister Romano Prodi and French Foreign Minister Hubert Vedrine jointly stated:

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[274] S/PV.3930, September 23, 1998, in Wheeler, *Saving Strangers*, 261.

[275] Wheeler, *Saving Strangers*, 261.

[276] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 79.

[277] Press conference at Palais Vecchio, Forence, October 6, 1998, *Actualite et Droit International*, 1998, in Guicherd, "International Law and the War in Kosovo," *Survival* 41, no. 3 (1999): 28.

> Our shared position of principle . . . is that, before any military intervention . . . the Security Council must adopt a Resolution authorizing that intervention. But in the specific case of Kosovo, on which a Resolution citing Chapter VII has already been adopted, we must . . . keep a very close eye on the humanitarian aspect of the situation . . . which can demand very rapid . . . implementation of measures to deal with an emergency."[278]

When Milosevic accepted NATO's terms and the aerial bombardment ended, Chirac asserted, "human rights is a notion which today has imposed itself and has opposed the normal centrifugal forces in the life of nations and the relations they might have."[279]

British Prime Minister Tony Blair emphasized his backing of a U.S.-led air campaign against Milosevic's regime when he stated, "there are no half-measures to his brutality, and there can be no half-measures about how we deal with it. No compromises, no fudge, no half-baked deals."[280] Defending a U.S.-led NATO sponsored action, Blair continued, "America has once again shown that it has the vision to see that instability, chaos and racial genocide in the heart of Europe will never affect Europe alone."[281]

The German Chancellor Gerhard Schroder argued in favor of NATO air strikes stating that, in reference to UN Resolution 1199, NATO was "not [giving] itself a mandate, it [was] acting within the reference framework of the United Nations."[282] However, Guicherd notes that Schroder hoped that in the future the Security Council would be able to come to an agreement on stopping mass abuses of human rights as Schroder reasserted the "UN monopoly on the use of force and the responsibility of the Security Council for the preservation of world peace and international security."[283] Furthermore, Wheeler notes the German Foreign Minister Klaus Kinkel, argued in favor

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[278] Richard Mcallister, "French Perceptions," in *Kosovo: Perceptions of War and Its Aftermath*, ed. Mary Buckley and Sally Cummings (New York, NY: Continuum Publishing, 2001), 94, in Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 79.

[279] Jacques Chirac, "A Press Conference," http://www.info-france-usa.org/nato50/chi2399a.htm (accessed December 2, 2008) by Alkopher, "The Role of Rights in Social Construction of Wars," 23.

[280] British Prime Minister Tony Blair as quoted in Warren Hoge, "Crisis in the Balkans: Blair under Domestic Pressure on Ground Forces," *New York Times*, May 18, 1999, A10.

[281] Ibid.

[282] Gerhard Schroder quoted in Guicherd, "International Law and the War in Kosovo," 27.

[283] Ibid., 27.

of Resolution 1199 justifying NATO action. Kinkel stated, "under these unusual circumstances of the current crisis situation in Kosovo, as it is described in Resolution 1199 of the UN Security Council, the threat of and if need be the use of force by NATO is justified."[284] It is important to note that Kinkel emphasized that Kosovo was a special case and that "NATO has not created a new legal instrument which could be the basis for a general license for NATO to do interventions [. . .] NATO's decision must not become a precedent."[285] The NATO air campaign was the first time the German military participated in combat since World War II.

Rice and Loomis note that UN Secretary-General Kofi Annan "contributed to the sense that the humanitarian norm of protecting human lives had outpaced the norm of sovereign inviolability."[286] In June 1998, Annan, speaking at an annual retreat for elite figures in British diplomacy and international relations, closed by reminding his audience of the failure to act effectively in Bosnia and Rwanda:

> Each of us as an individual has to take his or her share of responsibility [. . .] no one will be able to say that they were taken by surprise. All our professions of regret; all our expressions of determination to never again permit another Bosnia; all our hopes for a peaceful future for the Balkans will be cruelly mocked if we allow Kosovo to become another killing field.[287]

Annan maintained that the Security Council was solely responsible for military action other than defense of a nation under Article 51 of the Charter; however, he acknowledged that "there are times when the use of force may be legitimate in the pursuit of peace."[288]

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[284] See Deutscher Bundestag: Plenarprotokoll 13/248, October 16, 1998, 21329, in Wheeler, *Saving Strangers*, 262.

[285] Ibid.

[286] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 80.

[287] James Traub, *The Best Intentions: Kofi Annan and the UN in the Era of American World Power* (New York, NY: Farrar, Straus and Giroux, 2006), 93.

[288] Ivan Daalder and Michael O'Hanlon, *Winning Ugly: NATO's War to Save Kosovo* (Washington, D.C.: Brookings Publishing, 2000), 127-128.

James Traub quotes the Secretary-General as saying: "When you look at the Declaration of Human Rights, the principle behind intervention in Kosovo was quite legitimate. The fact that the council couldn't come together doesn't make it not legitimate."[289]

Alex Bellamy states that in the past decade since NATO action in Kosovo, there has been growing evidence of acceptance "that intervention can be legitimate in humanitarian emergencies."[290] Kieran Prendergast, the chief of the UN's political affairs department, had a different view than that of the Secretary-General. According to Traub, Prendergast stated "for those of us who care about multilateralism and collective action, this action by NATO was a crossing of the Rubicon, because for the first time countries like Norway and Denmark and the Netherlands, that had always given primacy to the international rule of law, were willing to go along with the action."[291] Therefore, the emerging view is that, if humanitarian intervention is not possible with the authorization of the Security Council, then military action may be justified and lawful in cases of proven imminent humanitarian catastrophe such as in the case of the creation of the safe havens in Iraq in 1991 and Kosovo in 1999.[292] Finally, it is important to note that neither during nor after the NATO intervention in Serbia did the UN Security Council adopt a resolution condemning NATO's use of military force.[293]

The debate as to whether or not NATO should use force without a UN resolution explicitly authorizing it to do so illustrates Weldes' argument of the process of articulation.[294] U.S. Secretary of State Madeleine Albright emphasized the recent action in Bosnia when she stated, "We are not going to stand by and watch the Serb authorities do in Kosovo what they can no longer get away with in Bosnia."[295] Other authors note

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[289] Traub, *The Best Intentions*, 96.

[290] Alex Bellamy, "Legitimacy of Humanitarian Intervention," *Journal of Military Ethics* (2004): 219.

[291] Traub, *The Best Intentions*, 97.

[292] Greenwood, "International Law and the NATO Intervention in Kosovo," 933-34.

[293] Martin Shaw, *International Law* (Cambridge, UK: Cambridge University Press: 2003), 1047.

[294] David Auerswald, "Explaining Wars of Choice," *International Studies Quarterly* 48 (2004): 637.

[295] Madeline Albright as quoted in Mary Kaldor, *New and Old Wars: Organized Violence in a Global Era* (Cambridge: Polity Press, 2004), 159.

the experiences that prevented action in Rwanda that could have significantly limited the butchery.[296] This amplified a "never again" idiom which arose from inaction in Rwanda and resulted in action in Kosovo.

Alkopher notes that NATO's intervention in Kosovo for humanitarian reasons is not the first time a collective group of European countries have sought to protect the rights of a minority. However, it is correctly viewed as differing substantially from past humanitarian interventions. Alkopher states "it marked the first time an international organization intervened because of intersubjective norms—rather than subjective or personal ideas—that are embedded in the international political social structure and are capable of placing the protection of human rights before the preservation of a state's political and territorial sovereignty."[297] Wheeler notes "it is hard to resist the conclusion that Germany [and other NATO allies] found itself in the difficult position of supporting an action on ethical grounds, knowing that this at best had a dubious basis in international law, and at worst was illegal."[298]

Humanitarian reasoning for intervention was repeatedly offered by NATO leaders.[299] In a televised speech, U.S. President Bill Clinton proclaimed that NATO's action was a result of the "moral revulsion at the killing in Kosovo and to prevent genocide in the heart of Europe."[300] On March 24, 1999, the Canadian Minister for Foreign Affairs Lloyd Axworthy in a speech to the House of Commons, stated, "Humanitarian considerations are the main impulse for our action. We cannot stand by

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[296] Richard Betts, "The Delusion of Impartial Intervention" *Foreign Affairs* 73, no. 6 (1994): 32-33.

[297] Alkopher, "The Role of Rights in Social Construction of Wars," 19.

[298] Wheeler, *Saving Strangers*, 262.

[299] For a balance survey of the arguments given by governments, see Christine Gray, *International Law and the Use of Force* 2nd ed. (Oxford, UK: Oxford University Press, 2004), 37-45.

[300] J. Broder, "President's Reasons: Moral Revulsion and Weight of U.S. Interests," *New York Times*, March 25, 1999, A15.

while an entire population is displaced, people are killed, villages are burned and looted, and a population is denied its basic rights because it does not belong to the 'right' ethnic group."[301] On the same day, French President Jacque Chirac told his country:

> I would like to explain to the French people why NATO is going to conduct an operation against the Serb forces of President Milosevic. . . . Everything has been done to achieve a rational solution, one of peace. One complying with human rights. Everything. In the face of President Milosevic's unjustifiable and incomprehensive obstinacy, the allies unanimously took the view that there were no longer any other options than to intervene militarily against clearly targeted Serb objectives in order to contain a tragedy which is gradually threatening the stability of the whole Balkan region.[302]

The German Chancellor Gerhard Schroder also deemed it necessary to explain to his nation the necessity of the NATO mission to stop the pending atrocities by the Serbs against the Kosovar Albanians. Schroder stated, "Over the weeks and months before the air strikes began the international community left no stone unturned to bring about a political solution to the conflict." Schroder continued, describing the atrocities, "The campaign of ethnic cleansing we are witnessing today was planned by the Yugoslav Government from the outset. It has cost thousands in Kosovo their lives."[303] The humanitarian rationale was echoed by the Netherlands, "Over half a quarter million Kosovars have fled the indiscriminate violence inflicted by the Yugoslav troops. The victims are innocent civilians. This situation cannot be allowed to continue."[304] British Prime Minister Tony Blair, speaking to the House of Commons, described the atrocities and the humanitarian reasons for military action. Blair stated, "Families are being

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[301] Statement by Lloyd Axworthy, Minister for Foreign Affairs, before the Canadian House of Commons, Ottawa, March 24, 1999, reprinted in Heike Krieger, *The Kosovo Conflict and International Law: An Analytical Documentation, 1974-99* (Cambridge, UK: Cambridge University Press, 2001), 391.

[302] Statement by President Jacques Chirac, Berlin, March 24, 1999; Ibid., 393.

[303] Statement by Gerhard Schroder, Chancellor, Deliberations in the *Bundestag*, April 15, 1999; Ibid., 400.

[304] Statement by the Minister of Foreign Affairs in the Lower House of Commons, The Hague, March 1999; Ibid., 406.

uprooted and driven from their homes. There are reports of masked irregulars separating out the men: we don't know what has happened to them. The House will recall that at Srebrenica, they were killed."[305]

Czech President Vaclav Havel described NATO's actions to save the Kosovar Albanians from impending atrocities as a war fought over "principles and values rather than over national interests" and as demonstrating "not disrespect for international law, but respect for the higher law of human rights over state sovereignty."[306] Havel continues by stating, "if one can say any war that is ethical, or that it is being waged for ethical reasons, then it is true of this war."[307]

Russia was emphatically against the use of force by NATO to stop the atrocities against the Kosovar Albanians. Speaking to a meeting of the UN General Assembly, Russian Ambassador Sergey Lavrov made his nation's disappointment clear arguing that

> The Russian Federation is profoundly outraged at the use by the North Atlantic Treaty Organization of military force against the Federal Republic of Yugoslavia. In recent weeks, when we were constantly hearing threats—detrimental to the negotiating process—that there would be missile strikes against Serbian positions in Kosovo and other parts of Serbia, the Russian Government strongly proclaimed its categorical rejection of the use of force in contravention of decisions of the Security Council and issued repeated warnings about the long-term harmful consequences of this action not only for the prospects of a settlement of the Kosovo situation and for safeguarding security in the Balkans, but also for the stability of the entire modern multi-polar system of international relations.[308]

Also speaking the UN General Assembly, the Chinese Ambassador Qin Huasun also denounced the NATO air campaign stating it "amounts to a blatant violation of the United Nations Charter and of the accepted norms of international law. The Chinese

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[305] Statement by Prime Minister Tony Blair, House of Commons, March 23, 1999; Ibid., 408-409.

[306] In a speech originally delivered to a joint sitting of Canada's houses of parliament in Ottawa on April 29, 1999, subsequently reprinted as Vaclav Havel, "Kosovo and the End of the Nation-State," *New York Review of Books* 46:10 (June 10, 1999): 6, in Traub, *The Best Intentions*, 207.

[307] Ibid.

[308] Statement by Ambassador Sergey Lavrov of Russia to the UN General Assembly, March 24, 1999, reprinted in Krieger, *The Kosovo Conflict and International Law*, 424.

Government strongly opposes this act." The Chinese ambassador emphasized that the Security Council "bears primary responsibility for the maintenance of international peace and security." Lastly, he stated, "The Chinese Government vigorously calls for an immediate cessation of the military attacks by NATO against the Federal Republic of Yugoslavia."[309]

The IICK determined that despite bypassing a paralyzed UN Security Council, NATO alleviated a foreseen humanitarian disaster. "The intervention was justified," the commission found, "because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression under Serbian rule."[310] Rice and Loomis state that "NATO violated the letter of the law but acted in accordance with the spirit of the UN Charter."[311]

The American-led and NATO-sponsored war over Kosovo in 1999 pushed the norm of humanitarian intervention further along the norm life cycle. The Independent International Commission on Kosovo (IICK), a committee endorsed by UN Secretary-General Annan, reflected on the legality and legitimacy of the war, and found the intervention to be unprecedented, as it was both "illegal but legitimate."[312] Alex Bellamy observes that this view "accurately reflects sentiment in international society."[313] Another author notes that there is little question that the primary motivation of NATO was to remove the ongoing repression of the Kosovars by the Milosevic regime.[314]

Alkopher states that NATO's war in Kosovo is a "microcosm of the events taking place in the larger international social structure and to a greater extent a by-product of them."[315] He continues stating that "human rights were conceived by leaders as universal

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[309] Statement by Ambassador Qin Huasan of China to the UN General Assembly, March 24, 1999; Ibid., 429.

[310] Independent International Commission on Kosovo, *The Kosovo Report*, 4.

[311] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 80; Independent International Commission on Kosovo, *The Kosovo Report*, 169.

[312] Independent International Commission on Kosovo, *The Kosovo Report*, 4.

[313] Bellamy, "Legitimacy of Humanitarian Intervention," 219.

[314] Teson, *Humanitarian Intervention*, 381.

[315] Alkopher, "The Role of Rights in Social Construction of Wars," 22.

and inclusive, thus encompassing the Albanian population as well; they were also conceived as absolute, thus justifying—to put a stop to ethnic cleansing—the violation of the exclusive right of the state, in this case Serbia's right to political and territorial independence."[316] NATO Secretary-General Javier Solana announced that for the first time, "an alliance of sovereign states fought not to conquer or preserve territory but to protect the values on which the alliance was founded."[317]

By the majority of the international community stating the NATO intervention in Kosovo was "illegal but legitimate" the intervention dramatically moved the norm of humanitarian intervention from the tipping point shown in the Bosnian war to the second stage of the norm life cycle—norm cascade. Finnemore and Sikkink state that "networks of norm entrepreneurs and international organizations . . . act as agents of socialization by pressuring targeted actors to adopt new policies and laws and to ratify treaties."[318] In this case, the Clinton Administration (pushed primarily by Secretary of State Madeline Albright) served as the norm entrepreneur and the North Atlantic Treaty Organization served as the international organization that stood up to a polarized UN Security Council and pressured its members and the international community to protect a minority from atrocities such as mass murder and rape, ethnic cleansing and genocide. In Secretary Albright's role, she made her desire to threaten, and if needed to, use force against the Milosevic regime. In March of 1998, she stated that "we believe that in 1991 the international community stood by and watched ethnic cleansing [in Bosnia] . . . . We don't want that to happen again this time."[319] The implication was that the Clinton Administration would defend the human rights of Kosovars, even with the threat of a Russian and Chinese veto.

In emphasizing the role the NATO intervention had on pushing the norm of humanitarian intervention and human rights further along the norm life cycle, Rice and

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[316] Alkopher, "The Role of Rights in Social Construction of Wars," 22.

[317] Javier Solana, "NATO's Success in Kosovo," *Foreign Affairs* 78, no. 6 (1999): 114.

[318] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 902.

[319] Quoted in Wheeler, *Saving Strangers*, 258.

Loomis declare Kosovo as "a crowning moment."[320] Within the norm cascade stage of the norm life cycle, Finnemore and Sikkink emphasize three possible motivations for responding to the "peer pressure" of a normative shift—legitimation, conformity, and esteem.[321] Rice and Loomis note that in order for states to intervene, they risked "the charge of illegality in pursuit of what they deemed legitimate humanitarian imperatives."[322] Kosovo was a humanitarian war, waged by an international security organization of which the legitimacy to use force stemmed from it being an agent of the defense of human rights.[323] Although some UN member states vigorously protested the NATO intervention in Kosovo, "after the military campaign ended, the UN Security Council passed Resolution 1244 that in effect, legalized NATO action retroactively."[324] It is my argument that these actions firmly placed the norm of humanitarian intervention into the second stage of the norm life cycle—norm cascade.

B.   R2P & KOFI ANNAN—A NORM ENTREPRENEUR AND SHIFT IN THE NORM LIFE CYCLE

In 1994, the UN Security Council neglected to send troops into Rwanda in time to stop the murderous atrocities. Later, in 1999, NATO sidestepped the Council and waged war in Kosovo. To some observers, they deemed "the 78-day bombing effort as being too much and too early, perhaps creating as much suffering as it relieved."[325] Thomas Weiss notes that in both cases, the Security Council "failed to act expeditiously and authorize the use of deadly force to protect vulnerable populations."[326]

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[320] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 80.

[321] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 902-903.

[322] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 80.

[323] Alkopher, "The Role of Rights in the Social Construction of Wars," 27.

[324] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 81.

[325] Weiss, *Humanitarian Intervention*, 88.

[326] Ibid.

In the wake of the NATO intervention in Kosovo, Secretary-General Annan addressed the General Assembly and asked the question: ". . . if 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?"[327] In response to the Secretary-General's challenge, the Canadian government, on the initiative of Foreign Minister Lloyd Axworthy, sponsored the International Commission on Intervention and State Sovereignty (ICISS). The commission's initial aims were to "wrestle with the whole range of questions—legal, moral, operational and political—rolled up in this debate, to consult with the widest possible range of opinion around the world, and to bring back a report that would [. . .] find some new common ground."[328] The ICISS was launched in September 2000, and in a little more than a year, the commission published its 90-page report and a 400-page supplementary appendix of research essays, a bibliography, and background material—under the title of *The Responsibility to Protect* (R2P).[329]

Given the disparity of views of the legitimacy of intervention across the global North and South, Thomas Weiss notes the ICISS was co-chaired by the former Australian Foreign Minister Gareth Evans and Mohamed Sahnoun—a respected Algerian diplomat.[330] In addition to Evans:

> the "North" included Lee Hamilton (USA), Michael Ignatieff (Canada), Klaus Naumann (Germany), Cornelio Sommaruga (Switzerland), and Gisele Cote-Harper (Canada). In addition to Sahnoun, the "South" included Ramesh Thakur (India), Cyril Ramaphosa (South Africa), Fidel Ramos (Philippines), and Eduardo Stein (Guatemala). Russia's Vladimir Lukin completed the group.[331]

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[327] Kofi Annan, *We the Peoples: The Role of the United Nations in the 21st Century* (New York, NY: United Nations, 2000), 48.

[328] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, vii. The quote is from the forward by the co-chairs Gareth Evans and Mohamed Sahnoun.

[329] Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes for the Last Time* (Washington, D. C.: Brookings Institute Press, 2008), 38.

[330] Weiss, *Humanitarian Intervention*, 99.

[331] Ibid.

The commission met five times and hosted eleven regional roundtables in cities across five continents. Gareth Evans lists them as: "Beijing, Cairo, Maputo, New Delhi, and Santiago in the global South, and Brussels, Geneva, London, Ottawa, Paris, St. Petersburg, and Washington in the North."[332]

The lesson that many draw upon from the Kosovo intervention is the "importance of making the Security Council work better so that it can avoid a future situation where the permanent members are divided on the merits of using force to end a humanitarian crisis."[333] From the lessons of past humanitarian operations in the 1990s, the ICISS report "proposed that the Council agree on the principles that should determine when military intervention is justifiable on humanitarian grounds."[334]

The ICISS, Bellamy notes "recommended replacing 'the right to intervene' debate with 'the responsibility to protect', which looks at the issue from the point of view of those needing help."[335] It sought to redefine the correlation between state sovereignty and the protection from excessive human rights abuses. The ICISS established three essential findings that served to shift the normative debate on humanitarian intervention in the international system. Firstly, having coined the "R2P" term, the commission determined that sovereignty implied not only a right, but a fundamental responsibility to the people over which state leaders are sovereign. This implies that sovereignty is a dual concept—external as well as internal. States must respect the sovereignty of other states and sovereign borders, while at the same time respecting the dignity and "basic rights of all the people within the state."[336]

Secondly, the concept of the R2P advanced the claim that in situations that "shocked the conscience of mankind"—including mass starvation, ethnic cleansing and genocide—which a state is either unable or unwilling to prevent, "the responsibility to

332 Evans, *The Responsibility to Protect*, 38.

333 Nicholas Wheeler, "The Humanitarian Responsibilities of Sovereignty: Explaining the Development of a New Norm of Military Intervention for Humanitarian Purposes in International Society," in *Humanitarian Intervention and International Relations*, ed. Jennifer Welsh, 46.

334 Wheeler, "The Humanitarian Responsibilities of Sovereignty," 46.

335 Bellamy, "Legitimacy of Humanitarian Intervention," 220.

336 International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, 8.

protect the citizens from such atrocities falls to the international community."[337] Thirdly, the report emphasized a responsibility of the international community to rebuild the shattered nations in the wake of conflict, especially after international intervention.

In addition, the International Commission on Intervention and State Sovereignty challenged the question of whether military intervention to stop violence can be deemed legitimate without UN Security Council authorization. Rice and Loomis note that the R2P report "concluded that council authorization is the gold standard of legitimacy and should be sought in all instances."[338] If the UN Security Council members are unable or unwilling to come to an agreement on the use of force, three alternatives are recommended by the ICISS. In lieu of a Council resolution, the Commission recommends UN General Assembly approval under the Uniting for Peace procedure.[339] Next, Rice and Loomis note, "action should be taken under the jurisdiction of a relevant regional organization under Chapter VIII of the UN Charter, with Security Council approval sought subsequently."[340] Lastly, if the Security Council neglected to act "in conscience-shocking situations [. . .] concerned states may not rule out other means to meet the gravity and urgency of that situation—and that the stature and credibility of the United Nations may suffer thereby."[341]

Bellamy argues that the R2P norm has emerged from the rhetoric of many states and organizations, and has had a considerable impact on state practice.[342] He emphasizes that since 1999, a significant number of military operations with humanitarian justifications have been launched without specific UN Security Council authorization.

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[337] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, viii.

[338] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 84.

[339] Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge, UK: Cambridge University Press, 2006), 261.

[340] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 84.

[341] International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, viii.

[342] Bellamy, "Legitimacy of Humanitarian Intervention," 220.

Bellamy states, with the notable exception of the U.S. invasion of Iraq in 2003, "these interventions have been widely accepted as legitimate by international society."[343] The interventions include:

> In 2001, South African intervention in Burundi; in 2002, the multinational intervention in the Central African Republic, the French intervention in Cote d'Ivoire and the U.S.-led intervention in Afghanistan; and in 2003 the African Union intervention in Burundi, the ECOWAS intervention in Liberia, the EU operation in Macedonia, and the Australian-led intervention in the Solomon Islands.[344]

From the above discussion of the objectives of the R2P report and the examples of interventions under humanitarian precepts since 1999, one can argue that international society now recognizes two types of interventions. In the first, "the Security Council has a broad right to identify almost any human tragedy as a threat to the peace and to authorize enforcement action."[345] In the second, international society recognizes a much narrower moral—but not legal—"right of unauthorized intervention in cases of large-scale human suffering."[346]

1. Kofi Annan—A Norm Entrepreneur and a Shift in the Norm Life Cycle

Finnemore and Sikkink state that "norm entrepreneurs are critical for norm emergence because they call attention to issues and even "create" issues by using language that names, interprets, and dramatizes them."[347] This is precisely what Secretary-General Kofi Annan did as he pushed the norm of humanitarian intervention from the tipping point of the delayed action in the Bosnian war to the norm cascade stage of the air war over Kosovo. As previously stated, during the Kosovo war, Annan asserted that the UN Security Council was solely responsible for authorizing nondefensive

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[343] Bellamy, "Legitimacy of Humanitarian Intervention," 220.

[344] Ibid., 220-221; Thomas Weiss, "The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era," *Security Dialogue* 35, no. 2 (2004): 144, notes that the Bush administration gave a soft humanitarian justification for removing the Taliban regime from Afghanistan.

[345] Bellamy, "Legitimacy of Humanitarian Intervention," 221.

[346] Ibid.

[347] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 897.

military force; however, he acknowledged that "there are times when the use of force may be legitimate in the pursuit of peace."[348] Annan endorsed the Independent International Commission on Kosovo's finding that the U.S.-led war in Kosovo was "illegal but legitimate."[349]

The Secretary-General emphasized the norm of humanitarian intervention in calculated steps before sponsoring the International Commission on Intervention and State Sovereignty. In 1998, Annan professed: "The Charter protects the sovereignty of peoples. It was never meant as a license for governments to trample on human rights and human dignity. Sovereignty means responsibility, not just power."[350] Already, Annan implied that the systematic violations of human rights could degrade a state's sovereignty.[351]

The Secretary General's next step in the norm emergence process came in September 1999 when he published a controversial article in the *The Economist* titled "Two Concepts of Sovereignty." Weiss states Annan's "black-and-white challenge to traditional state sovereignty emerges from changing the balance between states and people as the source of legitimate authority." He continues that the two concepts of sovereignty "helped launch the intense debate on the legitimacy of intervention on humanitarian grounds."[352] More specifically, Annan's controversial article stated:

> State sovereignty, in its most basic sense, is being redefined—not least by the forces of globalization and international cooperation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time individual sovereignty—by which I mean the fundamental freedom of each individual, enshrined in the Charter of the UN and subsequent international treaties—has been enhanced by a

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[348] Daalder and O'Hanlon, *Winning Ugly*, 127-128.

[349] Independent International Commission on Kosovo, *The Kosovo Report*, 4, by Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 80.

[350] Kofi Annan, "Reflections on Intervention," 35th Ditchley Foundation Lecture (June 26, 1998), in *The Question of Intervention: Statements by the Secretary-General* (New York: United Nations, 1999), 6, in *Intervention in Contemporary World Politics*, Adelphi Paper no. 350, S. Neil MacFarlane (Oxford, UK: Oxford University Press for the IISS, 2002), 52.

[351] Ibid.

[352] Weiss, *Humanitarian Intervention*, 96.

renewed and spreading consciousness of individual rights. When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them.[353]

Even before Annan addressed the General Assembly in September 2000 and asked the question: ". . . how should we respond to a Rwanda, to a Srebrenica . . ?" and the Canadian government sponsored the ICISS project, the Secretary-General was setting the scene for the presentation of a new policy on intervention. In the Millennium Report, presented to the UN General Assembly on April 23, 2000, the Secretary-General declared:

> We must protect vulnerable people by finding better ways to enforce humanitarian and human rights law, and to ensure that gross violations do not go unpunished. National sovereignty offers vital protection to small and weak States, but it should not be a shield for crimes against humanity. In extreme cases the clash of these two principles confronts us with a real dilemma, and the Security Council may have a moral duty to act on behalf of the international community.[354]

Annan, by presenting these comments to the General Assembly before the ICISS project was underway, was arguably able to maneuver the outcome in the direction of his choosing. In December 2001, as the ICISS report was published, Annan, having won the Nobel Prize for Peace, used his Nobel Lecture to argue that "the sovereignty of states must no longer be used as a shield for gross violations of human rights."[355]

Thakur states that "the roots of the R2P lay in statements by Secretary-General Kofi Annan; R2P itself is directed primarily at the UN policy community in New York; it gives pride of place to the UN if the international community is to honor its international responsibility to protect; and, if R2P is to be the basis of a new international consensus, this can only come about in the UN forum."[356] The ICISS report also delivered in

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[353] Kofi Annan, "Two Concepts of Sovereignty," *The Economist*, September 18, 1999, 49-50.

[354] United Nations, http://www.un.org/millennium/sg/report/ (accessed November 18, 2008).

[355] Kofi Annan, Nobel Lecture, December 10, 2001, www.nobel.se/peace/laureates/2001/annan-lecture.html (accessed November 18, 2008) by Bellamy, "Legitimacy of Humanitarian Intervention," 220.

[356] Thakur, *The United Nations, Peace and Security*, 244-45.

December 2001 continues Annan's focus as it "provides a fresh conceptual template for reconciling both the tension in principle between sovereignty and intervention, and the divergent interests and perspectives in political practice."[357]

In September 2003, Secretary-General Annan addressed the General Assembly and indicated that the organization had "come to a fork in the road, presenting member states with a moment no less decisive than 1945 itself, when the United Nations was founded."[358] The fork in the road was undoubtedly the U.S. doctrine of preemption and the subsequent U.S.-led invasion of Iraq.[359] To examine the foreseen challenges ahead, Annan announced the formation of a High Level Panel of "eminent personalities with a broad mandate to examine today's global threats and provide an analysis of future challenges to international peace and security."[360]

The panel's report, published in December 2004, titled *A More Secure World: Our Shared Responsibility*, endorses the norm of humanitarian intervention as a collective international responsibility to protect people from mass atrocities. The report recommended guidelines governing the use of force. These guidelines have a striking resemblance to those proposed in the ICISS's R2P report. Annan supported the panel's recommendation that the UN Security Council and the General Assembly adopt its guidelines on the use of force. The report *A More Secure World* stated

> The successive humanitarian disasters in Somalia, Bosnia and Herzegovina, Rwanda, Kosovo and now Darfur, Sudan, have concentrated attention not on the immunities of sovereign Governments but their responsibilities, both to their own people and to the wider international community. There is a growing recognition that the issue is not the "right to intervene" of any State, but the "responsibility to protect" of every State when it comes to people suffering from avoidable catastrophe—mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease. And there is a growing acceptance that while sovereign Governments have the primary

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[357] Thakur, *The United Nations, Peace and Security*, 244-45.

[358] Address of the UN Secretary-General to the General Assembly, September 23, 2003, http://www.un.org/apps/sg/sgstats.asp?nid=517 (accessed November 18, 2008).

[359] Mats Berdal, "The UN after Iraq," *Survival* 46, no. 3 (2004): 85.

[360] Ibid.

responsibility to protect their own citizens from such catastrophes, when they are unable or unwilling to do so that responsibility should be taken up by the wider international community."[361]

As demonstrated here, the High Level Panel's report indicates a strong and clear support for the norm of R2P. Gareth Evans, co-chair of the ICISS commission, was appointed a member of the High-Level Panel. Evans notes that over half of the sixteen-member panel was from the global South, and there was "remarkably ready acceptance of the vitality and utility of the basic principles."[362] The panel included former Norwegian prime minister Gro Harlem Brudtland, British diplomat Sir David Hannay, former U.S. National Security Adviser Brent Scowcroft, High Commissioner Refugees Sadako Ogata, former Organization of African Unity secretary-general Salim Salim, Satish Nabiar of India, and former vice premier and foreign minister of China, Qian Qichen. It is important to note the diversity of the panel both in geographic parameters and in ideological scope; for example, the U.S. representative, Brent Scowcroft is known as a stanch realist. Evans also emphasizes the role the Chinese representative played in the panel. Evans states, "without his immense prestige back in Beijing, it is difficult to believe that, given the traditional strength of its concerns about nonintervention, China would have been quite as relaxed on this issue as it proved to be at the [2005 UN] World Summit."[363]

In Evans' recent book describing the evolution of R2P, he acknowledges his good fortune to having been appointed to the key panel in 2003 that continued to push the normative language of R2P.[364] Evans states "the critical link between the ICISS report and the [UN Sixtieth Anniversary World] Summit outcome document was the work of

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361 High-Level Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility* (New York, NY: United Nations, 2004), 66, http://www.un.org/secureworld/report.pdf (accessed November 18, 2008).

362 Evans, *The Responsibility to Protect,* 45.

363 Ibid.

364 Ibid., 44.

the UN Secretary-General's High-Level Panel on Threats, Challenges, and Change."[365] Furthermore, Evans notes the crucial recommendation was expressed in terms of a Responsibility to Protect:

> The Panel endorses the emerging norm that there is a collective international responsibility to protect, exercisable by the Security Council authorizing military intervention as a last resort, in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of humanitarian law which sovereign governments have proved powerless or unwilling to prevent.[366]

The High-Level Panel's report did not address what should be done when the UN Security Council is at loggerheads and does not act. Subsequently, to continue to push the norm of R2P, in March 2005, the Secretary-General published his own report, *In Larger Freedom*. Annan's report built on the High-Level Panel's *A More Secure World*, and prepared the stage for the upcoming UN sixtieth anniversary summit.[367] In his report presented to the UN General Assembly, the Secretary-General stated:

> I urge all states to agree to strengthen the rule of law, human rights and democracy in concrete ways. In particular, I ask states to embrace the principle of the "Responsibility to Protect," as a basis for collective action against genocide, ethnic cleansing and crimes against humanity— recognizing that this responsibility lies first and foremost with each individual state, but also that, if national authorities are unable or unwilling to protect their citizens, the responsibility then shifts to the international community; and that, in the last resort, the United Nations Security Council may take enforcement action according to the Charter.[368]

The Secretary-General emphasized that the challenge for states was not to work around the Security Council but to make the council system work in future decision making for the better of international society. Annan knew he had pushed the norm further, as he

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365 Evans, *The Responsibility to Protect,* 45.

366 High-Level Panel on Threats, Challenges, and Change, *A More Secure World*, annex 1, recommendation 55, 106, by Evans, *The Responsibility to Protect*, 44-45.

367 Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 84.

368 Annan, *In Larger Freedom: Toward Development, Security and Human Rights for All*, A/59/2005 (United Nations, 2005), http://www.un.org/largerfreedom/sg-statement.html (accessed November 18, 2008).

states in the report that "while I am well aware of the sensitivities involved in this issue [.

. .] I believe that we must embrace the responsibility to protect, and, when necessary, we

must act on it."[369]

The UN World Summit gathered in September 2005 to commemorate the sixtieth

anniversary of the United Nations. More than 150 heads of state and governments,

presidents, and prime ministers gathered in New York City. Evans notes that for many

months prior to the summit, tense "in-house wrangling" took place "about nearly every

one of Annan's sixty or so recommendations."[370] The Secretary-General's R2P

recommendation survived almost unscathed. The Summit Declaration stated:

> Each individual State has the responsibility to protect its population from
> genocide, war crimes, ethnic cleansing and crimes against humanity. [. . .]
> We accept that responsibility and will act in accordance with it. The
> international community should, as appropriate, encourage and help States
> to exercise this responsibility and support the United Nations in
> establishing an early warning capability.[371]

Thus, the UN Summit Declaration of 2005 adopted by the General Assembly declared

that the UN has the *responsibility to protect* populations from man-made atrocities.

Furthermore, the General Assembly agreed, stating:

> We 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 manifestly failing to protect their
> populations.[372]

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[369] Annan, *In Larger Freedom: Toward Development, Security and Human Rights for All*.

[370] Evans, *The Responsibility to Protect*, 46.

[371] United Nations General Assembly, "2005 World Summit Outcome," October 24, 2005,
http://data.unaids.org/Topics/UniversalAccess/WorldSummitOutcome_Resolution_24Oct2005_en.pdf, 30.

[372] Ibid.

Although the UN World Summit document uses the phrase "responsibility to protect," some scholars note a key difference between it and Annan's report *In Larger Freedom*.[373] The ICISS and Annan's *In Larger Freedom* states "if national authorities are unable or unwilling to protect their citizens, the responsibility then shifts to the international community." The UN World Summit document does not make such a reference to the responsibility of the international community.

Evans does not see any significance to omitting the above phrase, as the summit document does not diverge from the core R2P principles in any significant way. He states the "unanimous agreement on this language at the World Summit was an enormous achievement by the many diplomats who worked to craft it" and emphasizes that the document "should be seen absolutely as an occasion for celebration rather than disappointment by supporters of the responsibility to protect norm."[374] The only disappointing omission from the World Summit Outcome document, as noted by Evans, is "the failure to adopt any criteria for the use of military force, leaving the argument for such guidelines to be made another day."[375] In April 2006, the UN Security Council passed Resolution 1674 and reaffirmed the R2P principles. This remains the current reflection of R2P as UN policy.

It would be hard for one not to call Annan a norm entrepreneur for his work pushing the norm of humanitarian intervention and subsequently the norm of R2P along the contours of the second stage of the norm life cycle—norm cascade. James Traub in his work on Kofi Annan in the UN, notes John Ruggie (an international relations theorist and key advisor to Annan) describing the Secretary-General as "a 'norm entrepreneur' who understood precisely when and how far he could press a large and controversial principle, whether the universality of human rights or the doctrine of intervention."[376]

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[373] See for example, Bellamy, "Whither the Responsibility to Protect?," 167-169; Nicholas Wheeler, "A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit," paper presented at the conference on "The UN at Sixty: Celebration or Wake?" University of Toronto, October 6-7, 2005.

[374] Evans, *The Responsibility to Protect*, 47.

[375] Ibid., 48.

[376] Traub, *The Best Intentions*, 102.

Finnemore and Sikkink note that norm entrepreneurs need an organizational platform, which in this case was the Secretariat of the UN.[377] Weiss notes "Secretary-General Kofi Annan's own use of the bully pulpit is also an essential chapter in the story, and the acknowledgement by the 2005 World Summit (preceded by the work of the High-Level Panel on Threats, Challenges and Changes) of R2P has reinforced the legitimacy of humanitarian intervention as a policy option."[378] Continuing his emphasis on Annan using his influence to advance the normative shift of R2P, Weiss notes "more than his predecessors, Secretary-General Kofi Annan (1997-2006) took human rights seriously and preached about humanitarian intervention from his bully pulpit. A series of speeches in 1998-99 are widely viewed as having placed the issue squarely on the intergovernmental agenda."[379]

C.   CONCLUSION

Annan pushed the emerging norm of humanitarian intervention onto the doorstep of the third stage of the norm life cycle—norm internalization. He did this by articulating the emphasis away from the right and duty of humanitarian intervention to the responsibility of a state to protect its citizens. Thakur states "where humanitarian intervention raises fears of domination based on the international power hierarchy, R2P encapsulates the element of international solidarity."[380] He continues, noting the dynamic of R2P to refocus "the international searchlight back on the duty to protect the villager from murder, the woman from rape, and the child from starvation and being orphaned."[381]

Annan shouldered the mantle of the norm of R2P while persuading others to discuss and argue the concept. He did this in a series of steps. Firstly, with the Independent International Commission on Kosovo determining the humanitarian war as

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[377] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 899.

[378] Weiss, *Humanitarian Intervention*, 89.

[379] Ibid., 96.

[380] Thakur, *The United Nations, Peace and Security*, 251.

[381] Ibid.

illegal but legitimate. Secondly, with the publication of a controversial article in *The Economist* titled "Two Concepts of Sovereignty." Thirdly, the Secretary-General sponsored the International Commission on Intervention and State Sovereignty. Before the ICISS document *Responsibility to Protect* was published, he used his Millennium Report and then his Nobel Lecture as an opportunity to argue that "the sovereignty of states must no longer be used as a shield for gross violations of human rights."[382] After the ICISS's R2P report was published, Annan continued to emphasize its key points. This was first done by his creation of the High-Level Panel on Threat, Challenges and Change and by appointing one of the ICISS co-chairs—Gareth Evans—to the panel. For this maneuver, Thakur states, "Annan has also been uniquely skilled in norm generation and entrepreneurship. One technique for the transmission of ideas into international policy is by means of blue-ribbon international commissions."[383] Fourthly, the Secretary-General presented the R2P norm in his own report, *In Larger Freedom*. Fifthly, in 2005, Annan articulated the key R2P principles into the UN World Summit Declaration. Finally, in April 2006, the Secretary-General pressed the UN Security Council to reaffirm the R2P principles, "giving it additional weight under international law in UNSC Resolution 1674."[384] It is my argument that the addition of the norm of R2P in the UN World Summit Declaration and the authorization of UN Security Council Resolution 1674 has firmly planted this norm over the threshold and into the third and final stage of the norm life cycle-norm internalization.

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[382] Annan, Nobel Lecture, December 10, 2001, www.nobel.se/peace/laureates/2001/annan-lecture.html (accessed November 18, 2008).

[383] Thakur, *The United Nations, Peace and Security*, 334.

[384] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 85.

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VI.   R2P IN THE THIRD STAGE OF THE NORM LIFE CYCLE: A CLOSER LOOK AT THE 2005 UN WORLD SUMMIT

The last chapter ended with a description of the UN Secretary-General Kofi Annan pushing the norm of R2P, as a norm entrepreneur, from inception with the launching of the International Commission on Intervention and State Sovereignty to unanimous adoption of the principle of responsibility to protect by the UN General Assembly at the 2005 World Summit. With respect to the norm life cycle of humanitarian intervention and responsibility to protect, the adoption of the principles of R2P by the UN suggests that the norm has cascaded and is currently in the third and final stage—norm internalization.

However, although the norm has entered the final stage, it is still has room to grow achieving what Finnemore and Sikkink describe as "a 'taken-for-granted' quality that makes conformance with the norm almost automatic."[385] This chapter will demonstrate that although the principles of responsibility to protect were unanimously adopted by the UN General Assembly in September 2005, the norm of humanitarian intervention has not been widely internalized.

This chapter will be in four parts. The first section will investigate how the three most vocal and powerful players in the UN—Russia, China, and the United States—view R2P and specifically sovereignty as a responsibility prior to the 2005 UN World Summit. The second section will investigate how the Non-Aligned-Movement (NAM), the Group of 77 (G-77), South America, the EU, and the AU, perceive the responsibility to protect. Next, the chapter will look at remarks made by Russian and Chinese leaders since the 2005 UN World Summit Declaration. Lastly, the chapter will identify supporters of the norm and discuss remarks made by them at key meetings within the UN, specifically statements from government leaders, officials of regional intergovernmental

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[385] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 904.

organizations, ambassadors to the United Nations, and scholars from particular non-governmental organization (NGOs) that have analyzed the progress of the principles of responsibility to protect since its inception with the ICISS report in December 2001.

A. THE RESPONSIBILITY TO PROTECT NORM: VIEWS OF RUSSIA, CHINA, AND THE U.S.

The greatest challenges to the principles of R2P, prior to the 2005 World Summit Outcome Declaration, came from Russia, China, and the United States. The first challenge concerns criteria or precautionary principles to determine the use of force. The High-Level Panel commissioned by Secretary-General Annan determined the precautionary principles for military intervention as: "proper purpose (right intention), last resort, proportional means, and balance of consequences (likelihood of success)."[386] Wheeler notes, "the fact that Russian and Chinese representatives on the High-Level Panel were prepared to accept such language, when their governments had opposed British attempts in 1999-2000 to reach an agreement on criteria in the [Security] Council" is a significant achievement.[387] This statement in the High-Level Panel is matched by a further compromise agreement among the members of the Panel that the use of force would have to be authorized by the Security Council under Chapter VII provision.

Continuing the momentum, the Secretary-General's *In Larger Freedom* pressed for the Security Council to agree to a set of guidelines for intervention. Annan's *In Larger Freedom* stated there should be a "common view on the seriousness of the threat; proper purpose proportionally; and a reasonable chance of success."[388] The Secretary-General noted in his report that the R2P principles added a set of criteria for intervention, and thus would "add transparency to [Security Council] deliberations and make its

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[386] "Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?," Research Paper 08/55, International Affairs and Defence Section, House of Commons Library, June 17, 2008, Appendix B; The United Kingdom Parliament, www.parliament.uk (assessed November 18, 2008).

[387] Wheeler, "A Victory For Common Humanity? The Responsibility to Protect after the 2005 World Summit."

[388] "Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?," Research Paper 08/55, International Affairs and Defence Section, House of Commons Library.

decisions more likely to be respected, by both governments and world public opinion."[389] The 2005 World Summit Declaration, however, omits a set of precautionary principles or criteria for military intervention.

Before diplomats and scholars of Annan's High-Level Panel met, discussions of R2P took place among the five permanent members of the Security Council at their 2002 annual retreat. Alex Bellamy states, "the United States rejected the idea of criteria on the grounds that it could not offer pre-commitments to engage its military where it had no national interests, and that it would not bind itself to criteria that would constrain its right to decide when and where to use force."[390] China and Russia had different fears. China insisted that all issues relating to military intervention be deferred to the Security Council, and Russia and China opposed setting criteria that could lead to increased UN humanitarian intervention. Russia argued that "the UN was already equipped to deal with humanitarian crises, and suggested that, by countenancing unauthorized intervention," R2P risked undermining the UN Charter.[391] Wheeler states, "the combined opposition of these states killed any attempt to develop agreed guidelines at the summit."[392]

The lack of inclusion of criteria for military intervention in the Summit Declaration is of little surprise. Between February 2004 and July 2006, the Brookings Institution organized a series of regionally based roundtable events for a project titled "Force and Legitimacy" to discuss the theory and application of the principles of the responsibility to protect. Susan Rice, Senior Fellow at the Brookings Institution and Andrew Loomis, Lecturer at Georgetown University, describe the nuanced attitudes of the participants (experts from the United States, Europe, Mexico, China, South Asia, the

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[389] Annan, *In Larger Freedom.*

[390] Alex Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," *Ethics & International Affairs* 20, no. 2, (2006): 151.

[391] Ibid., 152.

[392] Wheeler, "A Victory For Common Humanity?," 7.

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Middle East, and Africa).[393] The participants of the discussions were former government officials, academics and scholars. They discussed the question of "when is it legitimate and appropriate to use force in international affairs."[394]

Rice and Loomis point out, "while conversations in small groups of experts cannot be extrapolated to serve as indicators of entire national attitudes, the conversations do shed light on how policy elites in different countries approach the responsibility to protect."[395] Furthermore, the authors note that "most international interlocutors embraced R2P, at least in principle; however, they differed substantially over its importance, urgency, appropriate threshold for action, and whether prior UN Security Council approval of intervention was necessary."[396]

These interpretations run parallel to those described by Ramesh Thakur from a roundtable discussion of the International Commission on Intervention and State Sovereignty in Beijing in June 2001 and in St. Petersburg in July 2001.[397] Thakur notes that the Chinese delegates, which also included former government officials and academics, took the "hardest line against intervention and in defense of sovereignty."[398] The summary of the discussions states quite clearly that the views of the Chinese present depicted "the conceptualization of humanitarian intervention is a total fallacy" and "actions of humanitarian intervention pose grave problems for international law and international relations."[399] The opposition from the Chinese delegates at the ICISS roundtable is not surprising in light of their strong resentment over the NATO campaign

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[393] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 59-95.

[394] The Brookings Institution, "Darfur at a Crossroads: Global Public Opinion and the Responsibility to Protect," panel discussion (Washington, D. C.: April 5, 2007), www.brookings.edu/events/2006/1011terrorism.aspx (accessed November 18, 2008).

[395] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 85.

[396] Ibid.

[397] ICISS Roundtable Consultation, Beijing, June 14, 2001. The reports from all ICISS regional discussions, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

[398] Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge, UK: Cambridge University Press, 2006), 268.

[399] ICISS, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

against Kosovo. While the International Independent Commission on Kosovo declared the humanitarian action "illegal but legitimate," both Russia and China made their objections clear.[400]

Similarly, the summary of the ICISS roundtable meeting in St. Petersburg present an unequivocal feeling of hostility from the Russian participants. The ICISS summary states:

> A discussion paper was presented [by the Russian delegates] that gave an objective analysis of Russia's generally negative position on interventions of all kinds. Recently, concern has arisen over Western unilateralism, which has characterized some interventions in the past decade and has seen the Security Council sidelined and double standards involved.[401]

The summary paper discussed Russia's emphasis on sovereignty. It stated, "the central point was that while understandings of sovereignty might have changed, the basic rules are still there and are still the organizing principle for international relations."[402] It is important to note that the delegates recognized that the norm of state sovereignty has had to loosen its grip in order for the norm of humanitarian intervention to take hold. This is evident in two statements made in the ICISS roundtable summary report from St. Petersburg. Firstly, the report states, "The central point [during a discussion on sovereignty] was that while understandings of sovereignty might have changed, the basic rules are still there and are still the organizing principle for international relations."[403] Secondly, the report notes the Russian delegates' emphasis that "the Russian Constitution seems to give priority to human rights over sovereignty, as it stipulates that international law should prevail when there is a conflict with national law."[404] However, despite prompting by the ICISS Commissioners, "there was no discussion by the Russian

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[400] See, for example, the statements by the Chinese and Russian delegates in the debate in the U.N. Security Council, March 24, 1999, in *The Kosovo Conflict and International Law*, ed. Krieger, 424-25, 429-30.

[401] ICISS Roundtable Consultation, St. Petersburg, July 16, 2001, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

[402] Ibid.

[403] Ibid.

[404] Ibid.

delegates at the roundtable of the "responsibility to protect" theme being considered by the ICISS. The summary notes do acknowledge that "the Russian Constitution seems to give priority to human rights over sovereignty, as it stipulates that international law should prevail when there is a conflict with national law."[405]

Russia and China, as permanent members of the UN Security Council, continued to insist on the paramount role of the Security Council. The Chinese roundtable delegates claimed that "there is no basis for it in the UN Charter which recognizes only self-defense and the maintenance and restoration of international peace and security as legitimate grounds for the use of force."[406] One Russian participant noted that "the "Uniting for Peace" procedure might not be liked by the P-5 [five permanent members of the UN Security Council] including Russia, but that it would certainly be preferred by most of the remaining 184 members of the UN."[407] The Russian delegate's statement demonstrates that R2P and human rights have a place over and above the veto power of the Security Council. However, the Chinese delegates rejected the assertion that the rights of people transcend the rights of states. They asserted that "humanitarian intervention is a fallacious concept, tantamount to marrying evil to good. Humanitarianism is an admirable virtue, but intervention is a red herring and widely condemned by the world."[408]

The United States remained opposed to any guidelines or a set of criteria that might constrain its freedom of action (or inaction) when it came to the use force.[409] During the ICISS roundtable in Washington, D.C., the American delegates—who included Senator Chuck Hagel and two junior members of the State Department along with more than twenty others from various prominent think tanks and NGOs—noted the

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[405] ICISS Roundtable Consultation, St. Petersburg, July 16, 2001, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

[406] Thakur, *The United Nations, Peace and Security*, 268.

[407] ICISS Roundtable Consultation, St. Petersburg, July 16, 2001, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

[408] Ibid.

[409] Wheeler, "A Victory for Common Humanity?"

"debate in the U.S. is not so much as over whether there is a responsibility to intervene, *but whether there is an obligation to do so*."[410] The summary also emphasized a need to follow a more consistent application of values. The roundtable panelists stated:

> Changing the terms of the debate to a "responsibility to protect," as suggested by ICISS, was greeted positively. It widens the scope of discussion, since local actors, including the government of the country that is the subject of possible intervention, also have a responsibility to protect. In some cases, moreover, these actors also have greater authority than international ones. Defining the success of an action or intervention is also easier if protection is the central focus. One participant said that ICISS should stress the point about local actors having primary responsibility to protect. Otherwise, there is the risk that people would automatically start looking outside their own borders for others to protect them.[411]

Having ironed out, and as one scholar notes—watered-down—most of the critical issues of the principles of R2P before the commencement of the 2005 UN World Summit, both Russia and China were very cordial during the event.[412] The People's Republic of China's Position Paper on UN Reform, 2005 stated "we need a consensus on the responsibility to protect people from genocide, ethnic cleansing and crimes against humanity. To this end, force should only be used when all other means have failed."[413] The Chinese ambassador purposely kept the terms vague, stressing the importance of using other means before employing force. Russian President Vladimir Putin spoke at the UN World Summit and never mentioned R2P, specifically.[414] The Russian president

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[410] For a list of roundtable delegates and summary of discussions see ICISS Roundtable Consultation, Washington, D.C. May 2, 2001, emphasis added, www.iciss.ca/05_Background-en.asp (accessed November 18, 2008).

[411] Ibid.

[412] Bellamy, "Whither the Responsibility to Protect?," 167-169.

[413] "People's Republic of China's Position Paper on UN Reform, 2005," www.r2pasiapacific.org/index (accessed November 18, 2008).

[414] "Statement by His Excellency Mr. Vladimir V. Putin President of the Russian Federation at the High-Level Plenary Meeting of the United Nations General Assembly, September 15, 2005, www.un.org/webcast/summit2005/statement.html (accessed November 18, 2008).

emphasized the sanctity of the Security Council to "further strengthen the authority and legitimacy of the United Nations as well as its capability to respond more effectively to the challenges of the 21st century."[415]

B. THE RESPONSIBILITY TO PROTECT NORM: VIEWS OF THE NON-ALIGNED MOVEMENT, LATIN AMERICA, EUROPE, AND SUB-SAHARAN AFRICA

1. Non-Aligned Movement and the Group of 77

Prior to the summit, the Non-Aligned Movement (NAM) and the Group of 77 (G-77) expressed strong reservations concerning R2P. Bellamy states that India "argued that the council was already sufficiently empowered to act in humanitarian emergencies and observed that the failure to act in the past was caused by a lack of political will, not a lack of authority."[416] Malaysian minister, Radzi Rahman, speaking on behalf of the NAM at the plenary meeting of the Draft Outcome Document three months before the World Summit, argued that R2P potentially represented a reincarnation of humanitarian intervention. Specifically, Rahman and the NAM stated:

> The Ministers reaffirmed the commitment of the Non-Aligned Movement to the United Nations Charter and underscored the need to preserve and promote its principles and purposes, including the principles of respect for the sovereignty, territorial integrity and non-interference in the internal affairs of States. In this regard, they reiterated the rejection by the Movement of the so-called "right" of humanitarian intervention, which has no basis either in the Charter or in international law. . . . They also observed similarities between the new expression "responsibility to protect" and "humanitarian intervention" and requested the Co-ordinating Bureau to carefully study and consider the expression "responsibility to protect" and its implications on the basis of the principles of non-interference and non-intervention as well as the respect for territorial

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[415] "Statement by His Excellency Mr. Vladimir V. Putin President of the Russian Federation at the High-Level Plenary Meeting of the United Nations General Assembly, September 15, 2005, www.un.org/webcast/summit2005/statement.html (accessed November 18, 2008).

[416] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 152.

integrity and national sovereignty of States, bearing in mind the provisions of the Charter of the United Nations, international law and international humanitarian law.[417]

Speaking five months before the World Summit, on the behalf of the Group of 77, Stafford Neil of Jamaica, did not offer a joint position on R2P; however, he did suggest that the report ought to be revised to emphasize the principles of territorial integrity and sovereignty.[418] Mr. Neil stated, "the recommendations that we [the G-77] support and the decisions we take will be geared to strengthen multilateralism, to uphold the principles of international law and policies which promote equity and protect the rights and interests of all states."[419] Significantly, the statement from the G-77 emphasizes the role of sovereignty over human rights.

2. Latin America

Some Latin American states demonstrated their caution towards the R2P principles prior to the World Summit. Christine Gray notes that those Latin American and Caribbean nations that are generally hostile to the United States were initially opposed to R2P. Cuba stated, "It would be suicidal to endorse the so-called 'right to intervention,' which had been invoked recently in circumstances of a unipolar global order, characterized by an economic and military dictatorship by a super-power seeking to impose its own model of society."[420] Gray notes that Venezuela also expressed suspicion stating, "The responsibility to protect was supposed to be a starting point for protecting against genocide and other human rights violations, while in reality, it aimed at seizing

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[417] Statement by Radzi Rahman, Charge d' Affaires, Permanent Mission of Malaysia to the United Nations, Chairman of the Coordinating Bureau of the Non-Aligned Movement, at the Informal Meeting of the Plenary of the General Assembly Concerning the Draft Outcome Document, June 21, 2005, www.un.int/malaysia/NAM/nam210605.html (accessed November 28, 2008).

[418] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 152; see statement by Stafford Neil, Permanent Representative of Jamaica to the United Nations and Chairman of the Group of 77, on Report of the Secretary-General entitled "In Larger Freedom," April 6, 2005, www.g77.org/Speeches/040605.htm (accessed November 28, 2008).

[419] Statement by Stafford Neil, Permanent Representative of Jamaica to the United Nations and Chairman of the Group of 77, on Report of the Secretary-General entitled "In Larger Freedom," April 6, 2005.

[420] Christine Gray, "A Crisis of Legitimacy For the UN Collective Security System?," *International and Comparative Law Quarterly* 56, no. 1 (2007): 167.

the right to adopt coercive measures against states in the South."[421] Prior to affirming in favor of the Summit Declaration, at the 2005 UN World Summit, President Hugo Chavez Frias of Venezuela had these words to say:

> Let's not allow a handful of countries try to reinterpret with impunity the principles of the International Law to give way to doctrines like "Preemptive War", how do they threaten us with preemptive war!, and the now so called "Responsibility to Protect", but we have to ask ourselves who is going to protect us, how are they going to protect us?[422]

Not all Latin American nations were as hostile or as vocal as Chavez of Venezuela. Peruvian Ambassador Jorge Voto-Bernales stated in January 2007, at the Security Council debate on Threats to International Peace and Security:

> The threat of the recurrence of genocide, war crimes, ethnic cleansing and crimes against humanity has sharpened our resolve to recognize that we have a *responsibility to protect* people from such scourges. Thus States, Members of the United Nations, including Council members, must be vigilant in order to fulfill our mandate to protect peoples when the State concerned is unable to do so or unwilling to comply with its obligations.[423]

Argentine Ambassador Garcia Moritan spoke in favor of the principles of R2P. Less than a year after the summit, he emphasized:

> in the case of the protection for civilians, the considerations of a mechanism of this nature could also mean an initial step regarding the implementation of the final part of paragraph 138 of the Outcome Document of the 2005 Summit that indicates that the international community must support the United Nations to establish an early warning capability regarding the *responsibility to protect*.[424]

Thakur notes that in the twentieth century, Latin America was the most frequent recipient of intervention by the United States. Their skepticism of R2P, he says is not

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[421] Gray, "A Crisis of Legitimacy For the UN Collective Security System?."

[422] Responsibility to Protect—Engaging Civil Society, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

[423] Ibid., emphasis added.

[424] Ibid., emphasis added.

unwarranted.[425] He quotes Maria Soledad Alvear of Chile during the ICISS Round Table in Santiago in May 2001 stating, "For Chile, the United Nations Charter constitutes the only possible legal framework, the condition sine qua non, governing humanitarian intervention."[426] Lastly, Thakur notes that most of the Latin American countries came to agree on the principles of R2P primarily concurring "that the UNSC is the most acceptable institution for authorizing intervention, but disagreed on what was permissible when circumstances called for intervention but the Council failed to act."[427]

3.   Europe

The key objective of the European Security Strategy (ESS) of 2003 is stability.[428] Felix Berenskoetter emphasizes that the ESS has significant humanitarian normative underpinnings and includes a responsibility for a level of international security. The ESS explicitly notes that in order to create and maintain a peaceful continent, the ESS has the "responsibility for promoting political order in the EU's immediate neighborhood, as it is in the European interest that countries on our borders are well governed."[429] Furthermore, the author highlights the ESS's "repeated voicing of responsibility for strengthening international law and multilateral order as an end in itself."[430] Lastly, the ESS emphasizes cooperation as a normative goal when "delegating the primary responsibility for international security to the UN Security Council."[431]

European participants supported Secretary-General Annan's plea for the principles of R2P and its appropriate application. Rice and Loomis note that the European

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[425] Thakur, *The United Nations, Peace and Security*, 273.

[426] Maria Soledad Alvear, "Humanitarian Intervention: How to Deal with Crises Effectively," introductory remarks at the ICISS Round Table Consultation, Santiago, May 4, 2001, by Thakur, *The United Nations, Peace and Security*, 273.

[427] Thakur, *The United Nations, Peace and Security*, 274.

[428] Felix Berenskoetter, "Mapping the Mind Gap: A Comparison of U.S. and European Security Strategies," *Security Dialogue* 36, no. 71 (2005): 77.

[429] European Council, *A Secure Europe in a Better World: European Security Strategy*, 7, http://europa-eu-un.org/articles/en/article_3987_en.htm (accessed November 30, 2008); Berenskoetter, "Mapping the Mind Gap," 77.

[430] Berenskoetter, "Mapping the Mind Gap," 77.

[431] European Council, *A Secure Europe in a Better World: European Security Strategy*, 10.

countries agreed that "the lack of political will and of international peace enforcement capacity were the most significant factors inhibiting effective international action rather than the constraints of international law."[432] The lack of political will is exacerbated by the impression that the European Union's (EU) security and defense capabilities are still under development.[433] Concerning the EU's military capability for humanitarian intervention, a British House of Commons research paper dated June 2008 states:

> In 2003 the EU agreed to create European Union Battlegroups (EU BGs) which became fully operational on January 1, 2007. Each of the fifteen Battlegroups is made up of 1500 troops under EU control. The aim was for the EU to be able to deploy an autonomous operation within 15 days in response to a crisis. The forces are to have the capability to operate under a Chapter VII mandate and could be deployed in response to a UN request to stabilize a situation or otherwise meet a short-term need until peacekeepers from the United Nations, or regional organization acting under a UN mandate, could arrive or be reinforced.[434]

David Mepham and Alexander Ramsbotham argue that the new European Union Battlegroups appear to be highly relevant for instances when a rapid military intervention for humanitarian protection purposes is needed in Africa.[435] The authors note that the December 2005 EU *Strategy for Africa* "pledged to deploy operations involving EU Battlegroups to promote African peace and security."[436]

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[432] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 86.

[433] "Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?," Research Paper 08/55, International Affairs and Defence Section, House of Commons Library, 45; for further background see, House of Commons Library Research Paper, "European Security and Defence Policy: Developments Since 2003," 06/32, August 6, 2006, www.parliament.uk (assessed November 18, 2008).

[434] Ibid.

[435] David Mepham and Alexander Ramsbotham, *Safeguarding Civilians: Delivering on the Responsibility to Protect in Africa*, Institute of Public Policy Research, May 2007, 58.

[436] European Union, *European Union Factsheet: the EU Battlegroups and the EU Civilian and Military Cell*, (2005), www.consilium.europa.eu/uedocs/cmsUpload/Battlegroups.pdf (accessed November 30, 2008), by Mepham and Ramsbotham, *Safeguarding Civilians*, 58.

The EU's support for humanitarian intervention and the principles of R2P was evident at the UN General Assembly's debate over Annan's *In Larger Freedom*. Speaking on behalf of the Union, Jean-Marc Hoscheit of Luxembourg stated that he shared the Secretary-General's view that development, security and human rights went hand in hand. Furthermore:

> maintenance of international peace and security, and promotion and protection of human rights were core missions of the United Nations. . . . The Union was strongly resolved to pursue effective multilateralism, with the United Nations at its center, as emphasized in the European security strategy.[437]

Mr. Hoscheit continued, emphasizing the EU's support for military action in cases of genocide and ethnic cleansing, specifically stating:

> flagrant human rights violations and acts of genocide call for a strong international response. In that regard, the Union emphasizes strengthening the rule of law at national and international levels, as well as combating impunity. It also stresses its support for the International Criminal Court and other war crimes tribunals, and called for Member States to cooperate. . . . The Union is a strong supporter of the United Nations reform, with the objective of strengthening the international community's capacity to face new threats and the broad spectrum of present-day challenges.[438]

Given the opportunity to represent their respective nations, other European ambassadors to the UN were more specific in their support for R2P. Ambassador Johan Lovald of Norway stated "when a State ignores its responsibility towards its population, the international community must not remain passive."[439] Mr. Lovald continued, "Norway endorses the Secretary-General's appeal to embrace the principle of the *responsibility to protect* as a norm of collective actions in cases of genocide, ethnic cleansing and crimes against humanity."[440] The French ambassador also expressed his support stating, "the

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[437] Statement of Ambassador J. Hoscheit of Luxembourg, Fifty-Ninth General Assembly, April 6, 2005, www.un.org/News/Press/docs/2005/ga10337.doc.htm (accessed November 30, 2008).

[438] Ibid.

[439] Statement of Ambassador J. Lovald of Norway, Fifty-Ninth General Assembly, April 7, 2005, www.un.org/News/Press/docs/2005/ga10337.doc.htm (accessed November 30, 2008).

[440] Ibid.

promotion of the dignity of people was something that was a crucial part of the United Nations' mission. That dimension is gaining ever greater importance in today's world. France believes in the *responsibility to protect*."[441] Lastly, Iceland's ambassador emphasized, "in order to achieve human dignity, States must be ready to embrace the *responsibility to protect*."[442]

One stumbling block, noted by many scholars, for building a consensus among some European and especially developing nations during the run-up to the 2005 UN World Summit were humanitarian arguments proclaimed by the United States and Great Britain to justify the invasion of Iraq.[443] The concern among Europeans, and African and Asian states, in particular, is that an identified criteria defined by the UNSC "would be used by the powerful to justify armed intervention against the weak."[444] Evans suggests that the "poorly and inconsistently" argued humanitarian justifications for the war in Iraq "almost choked at birth what many were hoping was an emerging new norm justifying intervention on the basis of the principles of 'responsibility to protect.'"[445] David Clark, former special advisor to the British Foreign Office, declared that "Iraq has wrecked our case for humanitarian wars. As long as U.S. power remains in the hands of the Republican right, it will be impossible to build a consensus on the left behind the idea that it can be a power for good."[446] Furthermore, Clark argues that, "Those who continue to insist that it can, risk discrediting the concept of humanitarian intervention."[447]

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[441] Statement of Ambassador M. Duclos of France, Fifty-Ninth General Assembly, April 7, 2005, emphasis added, www.un.org/News/Press/docs/2005/ga10337.doc.htm (accessed November 30, 2008).

[442] Statement of Ambassador H. Hannesson of Iceland, Fifty-Ninth General Assembly, April 7, 2005, www.un.org/News/Press/docs/2005/ga10337.doc.htm (accessed November 30, 2008).

[443] Thakur, *The United Nations, Peace and Security*, 222-243; Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 85-93; Weiss, *Humanitarian Intervention*, 127; Bellamy, "Responsibility to Protect or Trojan Horse? The Crisis in Darfur and Humanitarian Intervention after Iraq," *Ethics & International Affairs* 19, no. 2 (2005): 31-53.

[444] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 153.

[445] Gareth Evans, "When Is It Right to Fight?," *Survival* 46, no. 3 (2004): 62.

[446] David Clark, "Iraq Has Wrecked Our Case for Humanitarian Wars," *Guardian*, August 12, 2003, 16, www.guardian.co.uk/comments/story/o,,1016573,00.html (accessed December 6, 2008).

[447] Ibid.

In order to face the increasing skepticism and questions concerning the political uses of R2P, supporters of sovereignty as a responsibility chose to emphasize the restraining aspects of the use of force suggested in the document. Bellamy notes that Canadian Prime Minister Paul Martin "insisted that intervention should be authorized by the Security Council . . . and stressed that the threshold for action be set high—higher, in fact, than the actual practice of the Security Council in the 1990s."[448] Specifically, in supporting the principles of R2P in reference to the situation in the Darfur region of Sudan, Prime Minister Martin stated "what we see is the evolution of international law and practice so that multilateral action may be taken in situations of extreme humanitarian emergency."[449] Martin continues stating, "The Security Council should establish new thresholds for when the international community judges that civilian populations face extreme threats; for exploring non-military and, if necessary, proportionate military options to protect civilians. The responsibility to protect is not a license for intervention; it is an international guarantor of political accountability."[450]

With such strong forces against the R2P principles and further divisiveness in the UN over the invasion of Iraq in 2003, it is remarkable that a unanimous consensus on the R2P principles was produced at the UN World Summit Declaration in September 2005. Bellamy notes that the consensus was due to four factors:

> The approach taken by the Canadian government and the ICISS commissioners to selling the concept; its adoption by the High-Level Panel on Threats, Challenges and Change, and, subsequently, Kofi Annan in his program for renewing the UN; the emergence of an African consensus on the principles of the responsibility to protect; and the advocacy of a high-profile U.S. report on UN reform written by George Mitchell and Newt Gingrich.[451]

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[448] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 154.

[449] Statement by Paul Martin, Prime Minister of Canada, at the General Debate of the 59th General Assembly, September 22, 2004, www.un.org/webcast/ga/59/statements/caneng040922.pdf (accessed November 28, 2008).

[450] Ibid.

[451] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 153.

The next section will demonstrate the importance of the support from the African Union in the development of the norm of R2P.

4.   Sub-Saharan Africa

Remarkably, in the end, what carried the Responsibility to Protect to adoption at the Summit was the "persistent advocacy by sub-Saharan African countries, led by South Africa, and supplemented by a clear—and historically quite significant—embrace of limited-sovereignty principles by the key Latin American countries."[452] Evans notes the personal diplomatic efforts made by Prime Minister Martin towards leaders of major indecisive countries in Asia and India in particular.[453] The advocacy of the sub-Saharan states began in 2003, with the creation of the African Union (AU) from the ashes of the Organization for African Unity (OAU). Under the Constitutive Act of the AU Charter, African leaders awarded the members a right of humanitarian intervention. Article 4(h) states, "The Union shall function in accordance with the principles: (h) the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity."[454] Article 4(j) declares, "the right of Member States to request intervention from the Union in order to restore peace and security."[455] The apparently contradictory language in article 4(g) emphasizing "non-interference by any Member State in the internal affairs of another" reinforces the AU's rejection of unilateral intervention in favor of collective action from the AU.[456] Bellamy notes that the significance of Article 4 "lies in the assertion that the AU need not defer to the UN Security Council in humanitarian emergencies . . . [and] therefore, the AU created an institutional mechanism that permits the regional arrangements foreseen by *The Responsibility to Protect*."[457]

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[452] Evans, *The Responsibility to Protect*, 50.

[453] Ibid.

[454] African Union Charter, www.africa-union.org/root/au/AboutAu/Constitutive_Act_en.htm (accessed November 12, 2008).

[455] Ibid.

[456] Ibid.

[457] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 158.

Not every African nation whole-heartedly adopted the principles of R2P. For example, speaking to the World Summit General Assembly, President Robert Mugabe of Zimbabwe stated:

> The vision that we must present for a future United Nations should not be one filled with vague concepts that provide an opportunity for those states that seek to interfere in the internal affairs of other states. Concepts such as "humanitarian intervention" and the "responsibility to protect" need careful scrutiny in order to test the motives of their proponents.[458]

However, most African leaders did speak in favor of R2P. President Festus Mogae of Botswana praised R2P at the Summit saying:

> Guaranteeing the full enjoyment of human rights and fundamental freedoms is one aspect of the UN's broader mandate to protect our populations. We can no longer afford to stand back if a country fails to protect its citizens against grave human rights abuses. In this respect, we embrace the concept of "responsibility to protect."[459]

Most telling, at the 2005 UN World Summit, Rwandan President Paul Kagame stated:

> Let me stress the importance of our collective responsibility to deal with terrorism, and to protect populations under threat of genocide, war crimes, ethnic cleansing, and crimes against humanity. Never again should the international community's response to these crimes be found wanting. Let us resolve to take collective actions in a timely and decisive manner. Let us also commit to put in place early warning mechanisms and ensure that preventive interventions are the rule rather than the exception.[460]

As previously stated, Bellamy notes that consensus for the UN Summit Declaration was due to four factors, and the fourth was "the advocacy of a high-profile U.S. report on UN reform written by George Mitchell and Newt Gingrich."[461] As noted, the American position with the language of R2P and the subsequent UN Summit Declaration concerned two issues—being compelled to deploy forces and that a set of

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[458] Responsibility to Protect—Engaging Civil Society, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

[459] Ibid.

[460] Ibid.

[461] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 153.

precautionary principles may prohibit the United States from acting. In 2004, former U.S. Congressmen George Mitchell and Newt Gingrich led a task force organized by the U.S. Institute of Peace to research U.S. interests in Annan's UN reforms and specifically his High-Level Panel outcome, *A More Secure World*. The task force argued in favor of the principles of R2P. Challenging the emerging consensus that humanitarian intervention should be authorized by the Security Council, the task force argued that the failure of the Council to act "must not be used as an excuse by concerned members to avoid protective measures."[462] The task force determined it legitimate for states to act outside the UN framework when the scale of the humanitarian catastrophe warranted immediate intervention. Furthermore, Bellamy notes, the Mitchell-Gingrich report "laid the groundwork for a renewed U.S. engagement with *The Responsibility to Protect*."[463]

Carsten Stahn notes that the "final text of the Outcome Document is a compromise solution that seeks to bridge the different positions." He continues, "paragraphs 138 and 139 of the Outcome Document represent a rather curious mixture of political and legal considerations, which reflects the continuing division and confusion about the meaning of the concept."[464] The first of the two paragraphs begins with the straightforward statement that "each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity."[465] Furthermore, to reconcile the strongly anti-interventionist countries—particularly Russia, China, and India—the draft outcome document "placed the responsibility to protect squarely in the domain of the Security Council."[466]

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[462] Task Force on the United Nations, *American Interests and UN Reform* (Washington, D. C.: United States Institute of Peace, 2005), 29, www.usip.org/un/report/usip_un_report.pdf (accessed November 28, 2008).

[463] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 163.

[464] Carsten Stahn, "Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?" *The American Journal of International Law* 101, no. 1 (2007): 108.

[465] UN General Assembly, "World Summit Outcome 2005," Resolution A/RES/60/1 (October 24, 2005), www.un.org/summit2005/documents.html (accessed November 12, 2008).

[466] Bellamy, "Whither the Responsibility to Protect? Humanitarian Intervention and the 2005 World Summit," 166.

C. RUSSIAN AND CHINESE STATEMENTS AND ACTIONS SINCE THE 2005 UN WORLD SUMMIT

Chinese and Russian officials continued to demonstrate their belief in the importance of the UN Security Council since the 2005 UN World Summit. In December 2006, Chinese Ambassador Liu Zhenmin emphasized the need for more discussion and caution. Speaking to the General Assembly, he stated:

> In discussing the issue of the protection of civilians in armed conflict, the Security Council should continue to approach with caution the concept of the responsibility to protect. The World Summit Outcome last year gave an extensive and very cautious representation of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and went on to request the General Assembly to continue to explore this concept. As many Member States have expressed their concern and misgivings in that regard, we believe that it is not appropriate to expand, willfully interpret or even abuse this concept.[467]

Liu is referring to the watered down compromise solution that was authorized at the 2005 World Summit Declaration. The Russian Ambassador, Igor Shcherbak demonstrated the lack of the internalization of the R2P norm when he stated "it is to be expected that the concept of the responsibility to protect has not yet become a reality today specifically because in its present form it does not enjoy sufficiently broad support from Member States."[468] Mr. Shcherbak continued by stating that Russia "would once again like to emphasize that, under this concept, the primary responsibility lies with national Governments, whose efforts must be supported by the international community without undermining State sovereignty."

In June 2007, Counselor to China's mission to the UN Li Junhua stated:

> The concept of the "responsibility to protect" should be understood and applied correctly. At present, there are still various understandings and interpretations about this concept by many member states. Therefore the Security Council should refrain from invoking the concept of "the

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[467] Statement by Ambassador Liu of China, www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 18, 2008).

[468] Statement by Ambassador I. Shcherbak of Russia, www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 18, 2008).

responsibility to protect." Still less should the concept be abused. The Security Council should respect and support the General Assembly to continue to discuss about the concept, in order to reach broad consensus.[469]

Both Chinese representatives emphasize continued discussion and debate.

In a subsequent panel in April 2007 titled "Darfur at a Crossroads: Global Public Opinion and the Responsibility to Protect," sponsored by the Brookings Institution, Rice describes the interaction of the Chinese members of the roundtable discussions: "in the case of China, there was an interesting acceptance in principle of the notion of the responsibility to protect," however, "when it came down to any specific case, most notably Darfur—but, frankly, any case—that agreement in principle eroded, evaporated into no, we can't possibly agree to that."[470] Rice also notes that the Chinese participants "suggested that there should be a high threshold for international action (for example, that *half* the population be affected) and that irrefutable evidence of genocide or mass atrocities be gathered and presented by 'objective analysts.'"[471] This suggests the principles of R2P are interpreted in very narrow terms by the Chinese.

In June of 2007, during a Security Council discussion on the protection of civilians in armed conflict, Russian Ambassador Vitaly Churkin spoke of the ongoing humanitarian crisis in Darfur and the ability of the AU troops working very hard in the region. He then stated, "while the responsibility for the protection of civilians falls first and foremost on the Governments of States where conflict is occurring, we believe that such responsibility should also be kept in mind by other parties that might be drawn into various conflict situations."[472] Continuing the same emphasis from Russian government

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[469] Statement by Ambassador Li of China, www.responsibilitytoprotect.org (accessed November 18, 2008).

[470] The Brookings Institution, "Darfur at a Crossroads: Global Public Opinion and the Responsibility to Protect," panel discussion (Washington, D. C.: April 5, 2007), 16, www.brookings.edu/events/2006/1011terrorism.aspx (accessed November 18, 2008).

[471] Rice and Loomis, "The Evolution of Humanitarian Intervention and the Responsibility to Protect," 87 (emphasis added).

[472] Statement of Ambassador V. Churkin of Russia, www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=417 (accessed November 12, 2008).

officials prior to the 2005 UN World Summit, the ambassador emphasized the primacy of the Security Council. Mr. Churkin ended by saying, "the Security Council is fully justified in paying greater attention to the protection of civilians as part of its responsibility to maintain international peace and security."[473]

When discussing the protection of civilians during armed conflict, Chinese Ambassador Li Junhua stated that R2P had to be carefully understood and applied correctly. He noted that "at present, there are still differing understandings and interpretations of this concept among Member States." The Chinese ambassador suggested the Council refrain from invoking the concept of R2P. He instructed the Security Council to "respect and support the General Assembly in continuing to discuss the concept in order to reach a broad consensus."[474]

D. SUPPORTERS OF R2P SINCE THE 2005 WORLD SUMMIT DECLARATION

The emergence of the norm of R2P has continued to make progress since the 2005 World Summit Declaration. Evans notes that "of all the regional organizations capable of helping make R2P a reality, the twenty-seven-member EU brings by far the greatest potential strengths."[475] He describes the EU's strengths as its population and wealth along with its economic and diplomatic interconnectedness. Furthermore, the author states that since the emergence of the European Security and Defense Policy (ESDP), "the EU has been increasingly focused on developing an integrated set of strategies for conflict prevention and management."[476]

Evans is just as optimistic in his discussion of the AU and its willingness and ability to continue the thrust of the norm of R2P. Emphasizing the exception to the non-interference principle in the AU's Constitutive Act of 2000, he notes the Union's plans to

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[473] Statement of Ambassador V. Churkin of Russia, www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=417 (accessed November 12, 2008).

[474] Ibid.

[475] Evans, *The Responsibility to Protect*, 183.

[476] Ibid.

build an African Standby Force (ASF) by 2010. The force, "with five regional brigades of 3,000 to 4,000 troops each, [provides] the AU with a combined standby capacity of 15,000 to 20,000 peacekeepers and a wide range of identified potential mission, from advice and observation to full-scale intervention."[477]

The African Standby Forces and the EU's battlegroups exemplify a planned willingness to deploy troops in harm's way to in the effort to save strangers from being persecuted or endangered by their own governments. As recently as November 1, 2008, *The Irish Times* in an article titled "EU Battlegroup Must be Deployed to Conflict in Congo" commented, "On paper, the EU is ready and equipped to respond to this type of urgency. EU battlegroups now exist, but have never been used."[478] The article continues to state "their purpose is to respond to requests from the UN to undertake rapid intervention in a hostile environment, including support for the provisions of urgent humanitarian aid."[479] This final section will highlight actions by the international community, primarily the UN, to continue to strengthen the norm of R2P.

Less than a year after the 2005 UN World Summit Declaration and the General Assembly's landmark adoption of the principles of R2P—namely sovereignty as a responsibility—the UN Security Council passed Resolution 1674, stating the UN "reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity."[480] The Resolution also commits the Security Council to action to protect civilians in armed conflict, while "*expressing* its deep regret that civilians account for the vast majority of casualties in situations of armed conflict."[481]

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[477] Evans, *The Responsibility to Protect*, 188.

[478] Ryan Keane, "EU Battlegroup Must Be Deployed to Conflict in Congo," *The Irish Times*, November 1, 2008, 13, www.lexisnexis.com (accessed December 2, 2008).

[479] Ibid.

[480] UNSCR 1674, http://daccessdds.un.org/doc/UNDOC/GEN/N06/331/99/PDF/N0633199.pdf?OpenElement (accessed December 2, 2008).

[481] Ibid., emphasis in the original.

Resolution 1674 has since been used by statesmen and UN ambassadors to promote the norm of R2P. In a subsequent UN Security Council open debate Ambassador Gerhard Pfanzelter of Austria, speaking on behalf of the EU, collectively identified the World Summit, R2P and UNSC 1674 in an effort to emphasize the need of the UN to protect civilians. Pfanzelter stated:

> At the World Summit 2005 our Heads of State and Government underlined that of civilians in armed conflict is a concern of the international community. A number of important decisions and commitments have been taken. Most important was the historic agreement on the *responsibility to protect* populations from genocide, war crimes, ethnic cleansing and crimes against humanity, which has been reaffirmed by SC Resolution 1674.[482]

At the same debate on the protection of civilians in armed conflict, ambassadors representing Denmark, Slovakia, Great Britain, and Slovenia emphasized their support and reminded the audience of the 2005 UN World Summit Declaration and the subsequent Security Council Resolution 1674. Slovenian Ambassador, Mr. Roman Kim took the argument even further when he reminded the Security Council that, "the *responsibility to protect* is a continuum that ranges from prevention to protection and rebuilding."[483]

African and Latin American nations reinforced R2P and Resolution 1674 at the Security Council open debate on the protection of civilians in armed conflict. Ghanaian Ambassador Leslie Kojo Christian noted that the adoption of Resolution 1674 demonstrates the Security Council's determination to take appropriate measures to counter gross violations of human rights to include genocide, ethnic cleansing, as well as sexual exploitation and abuse. He continues to reinforce the position that responsibility

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[482] Statement by Ambassador G. Pfanzelter of Austria on behalf of the European Union, June 28, 2006, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed on November 12, 2008).

[483] Statement by Ambassador R. Kim of Slovenia, June 28, 2006, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed on November 12, 2008).

for the protection of civilians resides first with the host country.[484] Ambassador from the Democratic Republic of Congo Itoua Apoyolo ended his remarks by stating "I cannot conclude without recalling the idea of the *responsibility to protect*, . . . We strongly support that idea, for it is up to the parties of the conflict to guarantee access for humanitarian personnel to populations in need."[485] At the debate, Ambassador Garcia Moritan of Argentina gave a lengthy exhortation on continuing to support the principles of R2P. He concluded by stating:

> In the case of the protection for civilians, the consideration of a mechanism of this nature could also mean an initial step regarding the implementation of the final part of paragraph 138 of the Outcome Document of the 2005 Summit that indicates that the international community must support the United Nations to establish an early warning capability regarding the *responsibility to protect*.[486]

But the Chinese ambassador expressed caution and as in previous debates, suggested continued discussion. Ambassador Liu emphasized that, in China's view, Resolution 1674:

> Reaffirmed a principle expressed in the outcome document of last year's summit: *the responsibility to protect* populations from genocide, war crimes, ethnic cleansing and crimes against humanity. China believes that that is not the same as the simple concept of *the responsibility to protect*, about which many countries continue to have concerns. The outcome document elaborated extensively on the concept. In-depth discussion of the issue should continue in the General Assembly so that differing opinions can be heard and doubts cleared up. In that role, the Security Council cannot and should not replace the General Assembly.[487]

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484 Statement by Ambassador L. Christian of Ghana, June 28, 2006, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed on November 12, 2008).

485 Statement by Ambassador Itoua Apoyolo of the Democratic Republic of the Congo, June 28, 2006, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

486 Statement by Ambassador Garcia Moritan of Argentina, June 28, 2006, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

487 Statement by Ambassador L. Zhenmin of China, June 28, 2006, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

He suggested continued debate and discussion by the General Assembly; he, however, did not suggest giving up the principle role of the Security Council of determining when to authorize the use of force. Furthermore, Ambassador Liu did imply that the UNSC should not make a decision in regards to R2P, as it might be interpreted as a legal precedent.

The next major push of the norm of R2P, by member states of the UN, was during the third UN Security Council open debate on the protection of civilians in armed conflict on June 22, 2007. During the discussion, the Belgian ambassador reiterated the principles of R2P and pressed even further noting the "international community has the responsibility—and even the duty—to respond."[488] British Ambassador Karen Pierce reinforced these words by also stating "While national Governments have the primary *responsibility to protect* their citizens, the international community also has responsibilities. We should live up to them."[489] The German Ambassador, on behalf of the European Union, succinctly stated "at the 2005 World Summit the Heads of States established the *responsibility to protect* populations from genocide, war crimes, ethnic cleansing and crimes against humanity. The EU welcomes the reaffirmation of the *responsibility to protect* by the Security Council in subsequent resolutions, including resolution 1674."[490] The Italian, Liechtenstein, and Slovakian ambassadors reiterated the view of their EU spokesperson.

From Sub-Saharan Africa, the Ghanaian ambassador expressed a desire to commit to the principles of R2P. Speaking for Nigeria, Ambassador Aminu Wali also very explicitly supported the norm of R2P, while noting the international community still needs to come to a common ground on the use of armed intervention. Ambassador Wali stated:

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[488] Statement by Ambassador J. Verbeke of Belgium, June 22, 2007, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

[489] Statement by Ambassador K. Pierce of Great Britain, June 22, 2007, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

[490] Statement by Ambassador M. Von Ungern-Sternberb of Germany, June 22, 2007, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

We believe that the time has come for the international community to reexamine when it is its *responsibility to protect* civilians, without prejudice to the sovereignty of Member States. The genocide in Rwanda, the ethnic cleansing in Bosnia, and the crimes committed against unarmed civilians in areas of conflict, especially in Africa serves [sic]as a constant reminder that we have to search for a generally acceptable understanding when the international community exercises its responsibility to protect.[491]

The ambassadors from Rwanda and the Democratic Republic of Congo noted the role of the UN 2005 World Summit Declaration in the continued emphasis on R2P.

E. CONCLUSION

This chapter has offered a closer examination of the struggle for adoption of the principles of R2P in the Summit Document and the key players and states in its eventual adoption. The norm of R2P has entered the final stage of the norm life cycle for some but not all states, and it has not reached what Finnemore and Sikkink describe as a "taken-for-granted" quality nor is it fully internalized.[492]

Support for the norm is still emerging. For example, Italian Ambassador to the UN, Marcello Spatafora, in May 2008, called Resolution 1674 a "cardinal achievement" and stated "we must never lose sight of the fact that what matters most at the end of the day is if and how we are able to deliver and have an impact on the ground in bringing relief to those who suffer."[493] In the concluding chapter, the thesis will demonstrate that the nation most capable of promoting and convincing the international community to internalize the norm of R2P—the United States—lost sight of the need to bring relief to those who suffer. The concluding chapter will demonstrate the arguments from scholars that the so-called Global War on Terror and subsequent invasion of Iraq had removed the

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[491] Statement by Ambassador A. Wali of Nigeria, June 22, 2007, emphasis added, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

[492] Finnemore and Sikkink, "International Norm Dynamics and Political Change," 904.

[493] Statement by Ambassador M. Spatafora of Italy, May 27, 2008, http://www.responsibilitytoprotect.org/index.php/government_statements/ (accessed November 12, 2008).

material capability and the will of the current Bush administration to support the R2P norm and give it that taken-for-granted quality as described by Finnemore and Sikkink in the third and final stage of the norm life cycle.

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VII. CONCLUSIONS

This thesis has sought to use the process of articulation to investigate the norm emergence of humanitarian intervention. It has argued that a norm of humanitarian intervention exists. Furthermore, using the terminology from Finnemore and Sikkink's three stages of the "norm life cycle," it has argued that the norm has passed from the first stage—norm emergence—through the second stage—norm cascade—and has entered the third stage—norm internalization.

This thesis has demonstrated that humanitarian intervention, multilateral or unilateral is not a new phenomenon or just a phenomenon of the 1990s. Humanitarian grounds were offered in cases of nineteenth century intervention by European powers in order to protect fellow Christians being persecuted by the Muslim Ottoman Empire. Next, the continuation of the emergence of the norm is illustrated in the Cold War cases of humanitarian intervention that ended genocidal atrocities, and which were justified on the basis that the use of force was the only means of ending atrocities on a massive scale.[494] During the Cold War, the bipolarity of the international system allowed for a "relatively strong agreement that the way they treated their citizens was a domestic matter" and that interference from another state was "a significant violation of sovereignty."[495] The end of the Cold War, however, allowed for states to view the internal aggression of state behavior as an indicator of external policy. As demonstrated after the post-Cold War, what were once considered atrocities or genocide were now characterized as threats to international peace and security. The 2005 World Summit Declaration emphasized that the humanitarian intervention must include a multilateral force authorized by the UN Security Council to be determined as legitimate by international society.[496]

Finnemore and Sikkink argue that three key aspects are necessary for internalization of a norm: its legitimation, prominence, and intrinsic characteristics. This

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[494] Wheeler, *Saving Strangers*, 295.

[495] Finnemore, *The Purpose of Intervention*, 134-35.

[496] Welsh, "Conclusion: The Evolution of Humanitarian Intervention in International Society," in *Humanitarian Intervention and International Relations*, ed. Welsh, 186.

process and these features are demonstrated through the pronouncements of leaders of certain states or governmental organizations. For example, when the German Ambassador to the UN speaks on behalf of the EU stating support for the norm of the responsibility to protect, the norm gains legitimation and prominence. The same holds true for the African nations when their AU representative speaks on their behalf in support of the norm of the responsibility to protect. For these states in particular, that have seen substantial unwelcomed intervention in the last century, it is significant that the AU Charter specifically addresses a right of intervention in grave circumstances to stop "war crimes, genocide and crimes against humanity."[497]

Legitimation, prominence, and the intrinsic characteristics of the norm are elevated by media events. For example, in January 2008 the former UN Secretary-General Annan received recognition for his tireless efforts to promote the norm of sovereignty as a responsibility not just a right. In January 2008, Annan, already a Nobel Peace Prize recipient, became the first recipient of the John D. and Catherine T. MacArthur Foundation Award for International Justice. When presenting the award, the Foundation President, Mr. Jonathon Fanton, recapped some of Annan's work, citing "It was under his leadership as Secretary General at the United Nations that the International Criminal Court was established and the Responsibility to Protect became an accepted principle for international action in face of the worst human suffering." Fanton continued, "These critical building blocks of an effective international justice system form a legacy that will benefit the world for generations to come."[498]

The norm of humanitarian intervention or R2P *has* entered, even if ever so slightly, the third stage of norm internalization for a significant number of countries: Canada, the countries of the European Union, and the majority of the countries of the African Union. In addition, the norm of humanitarian intervention has been combined with a similar, but not entirely the same, norm of sovereignty as a responsibility. This

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[497] African Union Charter, http://www.africa-union.org/root/au/AboutAu/Constitutive_Act_en.htm (accessed November 12, 2008).

[498] "International Justice: Annan Bags MacArthur Foundation Award," *African News*, January 8, 2008, www.lexisnexis.com (accessed December 2, 2008).

norm of sovereignty as a responsibility, entrepreneured most prominently by former UN Secretary-General Kofi Annan, has become familiarly known as *the responsibility to protect* or R2P.

The norm emergence and internalization of R2P *has not*, however, taken hold in some other countries and regions, namely the United States, Russia, China, most of South Asia and parts of Latin America. There are a number of reasons for this lack of internalization, as described in Chapter VI, including suspicions and fears of the powerful's self-interested abuse of intervention, and the demand to uphold the norm of sovereignty and non-intervention. Russia and China hold fast to the primacy of the UN Security Council to authorize the use of force. The United States does not want a set criteria for the use of force for humanitarian intervention that could possibly compel it into action. Furthermore, the United States holds firm to the notion that if the Security Council is at loggerheads (as in the case Kosovo) with the support of the international community, the United States will not be held back from acting unilaterally through a regional security organization, such as NATO.

Yet, the fact that the United States, Russia, China, and a number of developing countries were able to find common ground to adopt the principles of R2P unanimously, is a monumental step for the emergence of the norm. The adoption of the principles of R2P pushed the norm marginally further for these countries while opening the door to the third stage of the norm life cycle—norm internalization—for Canada, the EU and most AU countries.

A.   INCOMPLETE INTERNALIZATION OF THE RESPONSIBILITY TO PROTECT AND DARFUR

Given the current condition of the norm of R2P, how will the international community react to genocide? How will the international community answer the question that Secretary-General Kofi Annan asked the UN General Assembly in April 2000, when he stated, "if humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to Rwanda, to a Srebrenica—to gross and systematic violations

of human rights that offend every precept of our common humanity?"[499] The remainder of this concluding chapter will consider the current crisis in Darfur to demonstrate briefly where the norm of R2P currently stands and how far the norm has developed.

In addition to the difficulty the five members of the UN Security Council have had in finding agreement on armed intervention for humanitarian reasons and now on R2P, scholars note another challenge to securing the political will for intervention: the preoccupation with combating terrorism that arose after the terrorist attacks of September 11, 2001, on the United States. The U.S. and U.K. campaigns in Afghanistan and Iraq diminished the political support for R2P principles in their respective countries.[500] What might have been a desire by those countries most in favor of R2P, such as Canada, Great Britain, Norway and Japan, and a humanitarian response to ongoing atrocities, such as those in Darfur, was "quickly replaced by a new Western preoccupation and strategic focus on combating terrorism."[501] Weiss observes:

> The wars in Iraq and on terror have had three stifling effects on the normative conversation. [. . .] Iraq is a conversation stopper for many critics when discussing any possible loosening of criteria for intervention or setting aside the principle of non-intervention. Second, glib rhetoric about the wars on Iraq and terrorism suggests a heightened necessity for more clear-headed analysis. There is a danger of contaminating the legitimate idea of humanitarian intervention by association, especially with George W. Bush's and Tony Blair's spurious and ex post facto "humanitarian" justification for invading Iraq.[502]

Furthermore, the U.S. war in Iraq has had an equally detrimental effect on the drive to encourage developing nations to overcome their suspicions about R2P. Weiss argues that the "sloppy and disingenuous use of "the h word" by Washington and London has played into the hands of those Third World countries that wish to slow or reverse normative

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[499] "The Responsibility to Protect," *The International Commission on Intervention and State Sovereignty*, vii.

[500] "Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?," 36.

[501] Ibid.

[502] Thomas Weiss, "R2P after 9/11 and the World Summit," *Wisconsin International Law Journal* 24, no. 3, (2006): 749.

progress."[503] Nicholas Wheeler and Justin Morris note that because Iraq is interpreted in "wider international society as a case of abuse, this would make it much more difficult to persuade other governments to support future interventions justified in humanitarian terms."[504]

However, despite the negative effects of the Iraq war, many scholars still emphasize the progress of the development of the R2P norm.[505] The continued emergence of the norm thus far "has been remarkable considering the lingering and pervasive mood of inter-state bitterness within the UN that was spawned by the U.S. invasion of Iraq in 2003."[506] A June 2008 British House of Commons study states:

> While [R2P's] global endorsement in 2005 was a major political achievement, its legacy remains uncertain. The commitment of the international community to put pen to paper at the World Summit in 2005 has contributed significantly to R2P's normative status, but, crucially, in the three years since its adoption, the doctrines' ability to make an impact on the lives of civilians in peril remains untested. [. . .] The question remains, therefore, whether the laudable efforts of world leaders in 2005 to forge consensus on the R2P will be translated into a workable reality.[507]

The non-operationalization of the norm of R2P is evident in the international community's response to the humanitarian crisis in the Darfur region of Sudan. R2P is not a fully internalized norm, and Darfur highlights this status of the norm.

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[503] Weiss, "R2P after 9/11 and the World Summit," 758.

[504] Nicholas Wheeler and Justin Morris, "Justifying the Iraq War as a Humanitarian Intervention: The Cure is Worse than the Disease," in *The Iraq Crisis and World Order: Structural, Institutional and Normative Challenges*, ed. Ramesh Thakur and Waheguru Pal Singh Sidhu (New York, NY: United Nations University Press, 2006), 457.

[505] Alex De Waal, "Darfur and the Failure of the Responsibility to Protect," *International Affairs* 83, no. 6 (2007): 1046; S. Neil MacFarlane et al. "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?," *Third World Quarterly* 25, no. 5 (2004): 977; Bellamy, "Responsibility to Protect or Trojan Horse?," 32-33 and 38-39; Nsongurua Udombana, "Still Playing Dice with Lives: Darfur and Security Council Resolution 1706," *Third World Quarterly* 28, no. 1 (2007): 110; Nick Grono, "Briefing – Darfur: The International Community's Failure to Protect," *African Affairs* 105, no. 421 (2006): 628.

[506] "Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?," 54.

[507] Ibid.

1.   Darfur

The current Darfur humanitarian crisis began in 2003 as the civil war in Sudan, between its Arab Muslim north and Black Christian south, was coming to an end through the UN negotiate Comprehensive Peace Agreement. Sudan expressed fear of U.S. intentions regarding intervention, expressed in U.S. political rhetoric regarding a Chapter VII UN authorization to use force against the Sudanese-backed militias.[508] Their rhetoric invoked parallels between NATO "saving" Kosovo Albanians and UN troops "saving" Darfur. NATO, under a humanitarian agenda, intervened militarily in Kosovo in 1999, paving the way for Kosovo to declare independence in 2008. De Waal states that the U.S. was openly supportive of Kosovar independence and it also offered military training to the southern Sudan People's Liberation Army (SPLA), "many of whose members support the secession of southern Sudan in the referendum scheduled for 2011 in accordance with the Commonwealth Parliamentary Association (CPA)."[509]

For similar reasons, MacFarlane notes that the humanitarian terms used by the U.S. and its coalition partners as justification for their invasion and subsequent occupation of Iraq discredited the altruism of the U.S. and the international community's intentions regarding future attempts to intervene in cases of human rights violations even in cases of genocide.[510] Moreover, the political will of the United States and the United Nations to act in humanitarian emergencies in places such as Darfur or other regions of Africa "has evaporated because of their obsession with Iraq and the war on terror."[511]

Unfortunately, this suggests that strategic requirements will most likely trump the norm of humanitarian intervention, in Africa and other locations of need, when the two

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[508] Anthony Lake, Susan Rice and Donald Payne, "We Saved Europeans, Why Not Africans?" *Washington Post*, October 2, 2006. A19, by De Waal, "Darfur and the Failure of the Responsibility to Protect," 1046; MacFarlane et al., "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?" 977; Bellamy, "Responsibility to Protect or Trojan Horse?" 32-33 and 38-39; Udombana, "Still Playing Dice with Lives," 110; Grono, "Briefing – Darfur: The International Community's Failure to Protect," 628.

[509] De Waal, "Darfur and the Failure of the Responsibility to Protect," 1046; in "Sudan: The Turbulent State," ed. De Waal, *War in Darfur*, 3-8.

[510] S. Neil Macfarlane, Carolin Thielking, and Thomas Weiss, "The Responsibility to Protect: Is Anyone Interested in Humanitarian Intervention?" *Third World Quarterly* 25, no. 5 (2004): 977-978.

[511] Bellamy, "The Responsibility to Protect or Trojan Horse?" 38.

concerns—strategic requirements and human suffering—collide. Emphasizing atrocities from Rwanda to Darfur, Gareth Evans, co-author of the ICISS's R2P report, cites the poorly and inconsistently argued humanitarian rationalizations for the invasion of Iraq and states that these actions "almost choked at birth what many were hoping was an emerging new norm justifying intervention on the basis of the principle of 'responsibility to protect.'"[512] Specifically referring to the ongoing atrocities in Darfur, Cherly Igiri and Princeton Lyman note that "there is clear evidence that the Sudanese government linked American activism in Darfur with its actions in Iraq, portraying it both as oil-oriented and anti-Islamic, and that this strategy helped to reinforce African and Middle Eastern hostility to the idea of Western enforcement."[513] Lastly, if the credibility of the states and institutions most associated with the notion of "Responsibility to Protect" is undermined by the perception of the norm's use only for self-serving purposes, the process of normative advancement and acceptance is most likely to be slowed or halted.[514]

A further reason why the norm of R2P has failed to garner U.S. and broader international support to save those suffering humanitarian atrocities is due to the competing interpretations of national interests—especially in relation to Darfur. Specifically, if more traditional state interests are perceived to be at stake, such as geopolitical ambitions, state security, access to minerals, then the emphasis on human rights, to include calls for humanitarian intervention, continue to be relegated to secondary interests.[515] Grono states this most starkly: "the sad reality is that Darfur simply does not matter enough, and Sudan matters too much" for the U.S. and the international community to do more to stop the atrocities.[516] Russia is a major supplier of weapons to Sudan, while China is a major consumer of Sudanese oil. Even in the face of international pressure, both Russia and China appear reluctant to reverse their policies, as

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[512] Evans, *The Responsibility to Protect*, 69.

[513] Cherly Igiri and Princeton Lyman, "Giving Meaning to 'Never Again': Seeking an Effective Response to the Crisis in Darfur and Beyond," *Council on Foreign Relations* no. 128.

[514] Bellamy, "The Responsibility to Protect or Trojan Horse?" 32-33.

[515] Loze, "The Right, The Responsibility, and the Refusal to Protect," 12.

[516] Grono, "Briefing—Darfur: The International Community's Failure to Protect," 628.

demonstrated by their reactions to the atrocities in Darfur since 2003.[517] The U.S. also has strategic interests in Sudan, primarily in its close relationship to intelligence gathering in fighting international terrorism. For example, in 2005, the U.S. flew the Sudanese chief of intelligence—one of the architects of the Darfur atrocities—to the U.S. for meetings with the CIA.[518] Darfur all too painfully illustrates that, despite the efforts of norm entrepreneurs, states have yet to redefine their national interests in a manner that places humanitarianism at their core.

Wheeler acknowledges that "there is no guarantee that when confronting a humanitarian emergency, states would agree that the just cause threshold has been crossed."[519] In the absence of a redefinition of U.S. national interests to incorporate humanitarianism, aggressive action on the part of the U.S. to stop the crisis in Darfur would depend upon the government being persuaded to act by the twin forces of international and domestic opinion—aided by the so-called CNN effect. This has not been the case for Darfur. Despite tremendous international and domestic pressure—to include daily accounts of horrific acts in IDP camps in both Darfur and neighboring Chad—the U.S. (and other nations) have resisted the call to take determined action.[520] As exemplified by the Rwandan genocide in 1994 and again in Darfur in 2003, without a redefinition of the national interest that makes humanitarianism a core interest, political will becomes the key determinant of action. Lacking the necessary political will to act, governments are not guaranteed to surrender to international or domestic pressure to intervene in cases of humanitarian emergencies.

The noted lack of aggressive action of the State Department regarding Darfur presents a further example of the norm of R2P not taking hold within the current Bush administration. Due to mounting pressure from NGOs and Congress, the U.S. State Department in May 2004 commenced an investigation into the human rights violations

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[517] Udombana, "Still Playing Dice with Lives," 109-10.

[518] Grono, "Briefing—Darfur: The International Community's Failure to Protect," 628.

[519] Nicholas Wheeler, "Legitimating Humanitarian Intervention: Principles and Procedures," *Melbourne Journal of International Law* 2, no. 2 (2001): 565-66.

[520] Bellamy, "Whither the Responsibility to Protect?," 149-150.

reported to have occurred in Darfur. The NGOs specifically hoped that labeling the atrocities and ethnic cleansing as "genocide" would shame the U.S. into action. The advocacy groups only got half of their wish. In September 2004, the investigation concluded that the killings in Darfur were indeed "genocide," which "broadened the usage of the term 'genocide' to include ethnically targeted killings, rapes and displacement perpetrated in the course of counter-insurgency, a significant expansion on the customary usage of the term to refer to attempts to eliminate entire populations."[521] Unfortunately, the State Department then insisted that, despite the United States being a state-party of the Genocide Convention, the findings would have no impact upon U.S. foreign policy, and furthermore, in no way obligated the U.S. to take any form of action.[522]

The norm of R2P has not reached the third stage of internalization for a number of critical states. But the principles of R2P are likely to continue to make new ground. Its greatest challengers, three members of the UN Security Council—the United States, China, and Russia–may continue to impede the climb of the norm towards Finnemore and Sikkink's "taken-for-granted" quality. The administration of President-elect Barack Obama brings some promise to the norm of R2P. Obama's running-mate, Senator Joe Biden, an avid supporter of humanitarian intervention in the 1990s, has been outspoken of U.S. and UN failure to do more in support of the genocide in Darfur. Obama's selection of Susan Rice, a human rights scholar with experience in the UN, as his U.S. ambassador to the United Nations demonstrates a new direction with greater support of R2P.

Pressure will likely continue to build upon the United States, China, and Russia as the norm of R2P becomes internalized by the other states and bodies within the international system, especially the UN and regional intergovernmental organizations, including the African Union and the European Union. It will undoubtedly be the work of these intergovernmental organizations and NGOs to continue to propel the norm of R2P forward.

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[521] De Waal, "Darfur and the Failure of the Responsibility to Protect," 1041-42.

[522] Ibid.

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