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UNITED NATIONS SECURITY COUNCIL
EVALUATING THE RESPONSIBILITY TO PROTECT

"Everything will be all right – you know when? When people, just people, stop thinking of the United Nations as a weird Picasso abstraction and see it as a drawing they made themselves."

Former Secretary-General Dag Hammarskjöld

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Introduction

While marking the defeat of Nazi tyranny and the beginning of the Cold War, the end of World War II ushered in a new understanding of international law observable most clearly in the establishment of the United Nations Organization and the Nuremberg war crimes trials. At the close of World War I, the predecessor of the UN, the League of Nations, saw limited success in its ephemeral tenure as a global diplomatic organization, and a plan for a quasi-equivalent of the Nuremberg trials was blocked by American opposition.[1] The Nuremberg trials, also known by its official name the International Military Tribunal (IMT), tried some of the worst German war criminals from World War II on an international tribunal, meaning no one nation had jurisdiction. This was the first trial of its kind, and it distinguished itself even more so when the founding document revealed that one of the charges that could be brought against the defendants were crimes against humanity. Reserved for inhumane acts against a civilian population, the crimes against humanity charge marked the first time genocide became an offense for which a head of state could be charged.[2] Three years later, the nascent United Nations approved the Convention on the Prevention and Punishment of the Crime of Genocide, establishing the charge against Germans in the Nuremberg trials as an international crime recognized by the largest global diplomatic organization.[3]

Since then, it has been the obligation and responsibility of the United Nations to protect the citizens of all nations from the horrors of genocide and crimes against humanity. And as the international community has grown further intertwined through globalization, the principle to protect those most marginalized and at risk of these atrocities has become critical. Despite the responsibility of the UN and other international bodies to prevent or end these horrors, there have been instances where that responsibility has fallen to the wayside, leaving room for great atrocities. From this startling inaction came The Responsibility to Protect.

The Responsibility to Protect is a relatively new international norm, which acts as a global commitment to end the worst forms of violence and persecution. It seeks to narrow the gap between Member States' pre-existing obligations under international humanitarian and human rights law and the reality faced by populations at risk of genocide, war crimes, ethnic cleansing, and crimes against humanity.[4] Since its emergence in the 1990s, the Responsibility to Protect (R2P), has been widely accepted by the international community in principle. In practice, situations based on the foundation of the Responsibility to Protect have seen massive challenges and failures, resulting in heavy critiques of the norm itself.

The United Nations Security Council, through the Responsibility to Protect, has special abilities enumerated in the '2005 World Summit Outcome' document, the most notable one being the authority to take force "should peaceful means be inadequate."[5] Although the forceful

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[1] Telford Taylor, *The Anatomy of the Nuremberg Trials: A Personal Memoir,* 1st ed. (New York: Alfred A. Knopf, 1992), 40.

[2] London Charter. London "Agreement and Charter," August 8, 1945.

[3] United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide," A.260.1948 (III) (1948), https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20 Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

[4] "United Nations Office on Genocide Prevention and the Responsibility to Protect," https://www.un.org/en/genocideprevention/about-responsibility-to-protect.shtml.

[5] United Nations, "2005 World Summit Outcome," 60th session (2005), paragraphs and 139, https://web.archive.org/web/20160706010853/http://www.globalr2p.org/media/files/wsod_2005.pdf.

language is littered with qualifying statements and assurances that force is the last resort, the words bestow a lofty requirement upon the Security Council and its member states: the body must have the ability to act quickly and decisively. This requires a two-pronged approach. The first aspect would be remaining informed of global developments and potential threats against peace and civilians. As the Security Council is already tasked with the maintenance of international peace and security, member states must be especially mindful of circumstances that could devolve into genocide, or instances of crimes against humanity, and be actively working to mollify the situation. Secondly, if their actions prove futile – and only if their actions prove futile, the R2P is primarily non-interventionalist – the body must be prepared with an action plan and resources to have a boots-on-the-ground response in action as soon as possible. Especially in terms of genocide, time is of the essence, and every hour of inaction means scores of innocent people are killed. Within a half-hour of the assassination of Rwandan President Habyarimana on 6 April 1994, roadblocks were already being constructed to identify Tutsis, of whom over one million would be killed in the coming weeks.[6]

  The Responsibility to Protect is imperative in protecting those most vulnerable in the international community and requires the relinquishing of a degree of sovereignty, as well as resounding cooperation around intervention, or involvement in the political processes of other Member States. Since the international community's record of responding to threatened or actual mass violence remains spotty at best,[7] member states of the Security Council should read with the goal of understanding whether the R2P is fulfilling its mission, and, if not, what solutions to the flaws and successes revealed in the last twenty years would make the R2P more reliable for those facing genocide with no other means of protection.

The Emergence of Responsibility to Protect

  While some of the principles of the R2P began well before the turn of the century, it was the genocides in Somalia, Rwanda, and Bosnia in the early 1990s that started a conversation on ideas enshrined in the R2P. In each of the three genocides, the international community failed in at least one way to either prevent or mitigate the brutality of the situations, though the major catalyst that began action on what would become the R2P came in 1999. At that time, Yugoslavia was participating in the ethnic cleansing of Kosovar Albanians and inaction from the Security Council led NATO to take action into their own hands. Over the course of almost three months, NATO conducted an aerial campaign against Serbian military positions in a response independent of the UN.[8] The action was a stunning intervention that divided the international community into two camps.

  The first camp held those who denounced NATOs actions as illegal and a breach of sovereignty, while the second camp advocated that legality does not matter as much as saving

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[6] "Outreach Programme on the Rwanda Genocide and the United Nations" (United Nations), https://www.un.org/en/preventgenocide/rwanda/historical-background.shtml; "Rwanda Profile - Timeline," *BBC News*, July 9, 2011, sec. Africa, https://www.bbc.com/news/world-africa-14093322.

[7] Madeleine K Albright and Richard S Williamson, "THE UNITED STATES AND R2P," https://www.brookings.edu/wp-content/uploads/2016/06/23-united-states-responsibility-protect-albright-williamson.pdf.

[8] Global Center for the Responsibility to Protect, "The Responsibility to Protect: A Background Briefing," April 2021.

lives – that nations lose their right to sovereignty when they fail to protect their people.[9] The debate between the two camps led to a deadlock until 2001 when the International Commission on Intervention and State Sovereignty (ICISS) developed a middle-ground camp called 'the responsibility to protect.'[10] This middle ground, which proved to form the basis of the R2P developed four years later, did not focus on the 'right' of the international community to intervene but instead the 'responsibility' of the international community to protect people at risk. The 'responsibility to protect' principle proved successful – during the 2005 World Summit, the largest gathering of Heads of State and Government in history, the R2P was unanimously accepted. This is no doubt due to two facts: (1) the R2P does not explicitly give the UN the moral or legal right to abridge the sovereignty of any nation – just the responsibility to protect their people – and (2) the limiting language of the enforcement clauses in paragraphs 137 and 138.

The Language of the Responsibility to Protect

The R2P stipulates that the international community – through Chapters VI and VIII of the UN Charter – has the responsibility to use diplomatic, humanitarian, and otherwise pacific means to help protect civilian populations from genocide and other war crimes.[11] As aforementioned, the Security Council has the authority to "take collective action [i.e. action involving the use of force] should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."[12] This part of the R2P's founding document, paragraphs 137 and 138 specifically, outlines the powers granted to the international community and Security Council in these cases. In 2009 Secretary-General Ban Ki-Moon more concisely articulated the mission of the R2P in three main pillars:

1. Every state has the Responsibility to Protect its populations from four mass atrocity crimes: genocide, war crimes, crimes against humanity, and ethnic cleansing.
2. The wider international community has the responsibility to encourage and assist individual states in meeting that responsibility.
3. If a state is manifestly failing to protect its populations, the international community must be prepared to take appropriate collective action, in a timely and decisive manner and in accordance with the UN Charter.[13]

In trying to avoid an instance of the Security Council authorizing an unjustified use of force or not using force when necessary, the *In Larger Freedom* document outlined five 'precautionary principles' to help the committee decide whether military action is warranted:

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[9] Global Center for the Responsibility to Protect, "A Background Briefing."

[10] "The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, 2001," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/resources/the-responsibility-to-protect-report-of-the-international-commission-on-intervention-and-state-sovereignty-2001/.

[11] United Nations, "2005 World Summit Outcome."

[12] United Nations, "2005 World Summit Outcome."

[13] Global Centre for the Responsibility to Protect, "What is R2P?" https://www.globalr2p.org/what-is-r2p/#:~:text=The%20Responsibility%20to%20Protect%20%E2%80%93%20known.cleansing%20and%20crimes%20against%20humanity."

1. *Seriousness of Harm.* The threat of atrocities must be clear and extreme enough to justify military force;
2. *Proper Purpose.* The central purpose of the intervention must be to prevent or halt suffering;
3. *Last Resort.* Military force must be the last resort with every reasonable non-military option having been explored;
4. *Proportional Means.* The scale and duration of military action must be commensurate with the ends sought.
5. *Balance of Consequences.* Is there a reasonable chance of success in averting the threat of atrocities without worsening the situation?[14]

Though these five criteria do establish a foundation, albeit an optional one, for the immeasurably difficult debate on whether to authorize force in a potential genocidal situation, they are not binding and do not officially guide Security Council decisions on the subject.[15] The matter of what 'should peaceful means be inadequate' is left up to the discretion of the member states, which could lead to a parsing of words at an inopportune time where minutes directly translate into lives. These principles also do not have strict language, allowing for some amount of deliberation. That does not, however, mean that they, or a variation on their theme, would not be an improvement to the decision-making stage of the R2P's intervention structure. A set of criteria or principles, while not stringent benchmarks that require specific statistics, do proffer a more substantive basis to the debate.

Whatever language does outline the requirements should be strict enough to prevent abuse of the power, but lenient enough so as not to restrict action from being taken when it is needed. The Security Council should evaluate if the current language of the 2005 World Summit Outcome Document is adequate for the effective implementation of the R2P if and when the option of force enters the debate. A major impetus for changing the existing language would be the fact that the language of The Responsibility to Protect was unanimously adopted in 2005 at the World Summit, though there is debate concerning whether the international system has shifted to a point that requires a change.[16]

Initial Reception by the International Community

It is worth mentioning that if the World Summit had not vested the power to authorize force in the Security Council in situations of genocide or other crimes against humanity, the R2P would not have been a unanimous decision. This critical piece demonstrates that the international community sees the Security Council as a body that will almost never agree to authorize force due to the veto powers of the P5. As the Security Council had a track record of freezing, one of the most surefire ways to establish international law concerning sovereignty without affecting substantial change and allowing any singular country to enact R2P, was to bestow the ability to enact it onto a body in which substantial world powers have a veto. These five Member States, with ties to every country around the world, were determined to hold the key to using R2P in a measurable but effective way. As a result, the international community embraced the concept of the R2P without necessarily having to ascribe to its enforcement in most instances, especially the

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[14]Global Center for the Responsibility to Protect, "A Background Briefing."
[15]Global Center for the Responsibility to Protect, "A Background Briefing."
[16] "2005 World Summit Outcome A/60/L.1," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/resources/2005-world-summit-outcome-a-60-l-1/.

P5. In fact, those nations in the spheres of influence to members of the P5 who value sovereignty above intervention in instances of crimes against humanity are at increased risk of suffering from these issues without redress or international aid.

Despite the open questions and the potential for deadlock in the Security Council, many nations left the World Summit steeped in optimism that, while anodyne on the argument between sovereignty and protection of human rights, the R2P would be a useful tool in intervening and preventing governments or figures of authority. It has had successes and failures, though "in every case where atrocities have occurred and R2P has been invoked since 2005, the difference between success… and failure has depended upon political leadership and timely action by the UNSC, working with a committed regional organization."[17] Therefore, no matter what the rhetoric may be behind the unanimous vote, the sovereignty debate, the R2P has and continues to be an inestimable responsibility delegated to the Security Council. This has led to both success and subsequent praises and failures with critiques that call attention to the basic questions of international law still unsolved to the detriment of innocent civilians.

Case Studies

Throughout its short existence as an international norm, the Responsibility to Protect has been used as a mechanism to intervene in instances of genocide, war crimes, ethnic cleansing, and crimes against humanity. It has also been used in cases that were heading in that direction, as a preventative measure. This includes both diplomatic intervention via the United Nations, as well as military intervention. This shows us the myriad of ways that R2P can manifest itself, some successful, some unsuccessful. However, there have been instances in which the authorization of R2P was called for, and even considered, but never enacted. This has led to a complex and mixed perspective by Member States and the international community on the effectiveness and necessity of R2P as a mechanism to protect peace and security.

Case Studies: Successes in Practice

2007: Post-Election Violence in Kenya

The situation in Kenya is the first act of R2P in action coming out of the 2005 summit. In December 2007, hours after the announcement of incumbent President Mwai Kibaki as the victor over Raila Odinga in the presidential election, protests over the perceived rigging of results quickly turned violent. Less than two months later, 1,133 Kenyans were killed, 900 experienced rape and sexual violence, and over 600,000 were driven from their homes while more than 110,000 private properties were destroyed in fighting that occurred mainly between ethnic Kikuyus, Luos, and Kalenjins in the Rift Valley, Mombasa, and urban informal settlements.[18]

The crimes perpetrated during the deadly violence following the 2007 election rose to the level of crimes against humanity, according to the International Criminal Court (ICC). Shortly after the violence in Kenya broke out, a 41-day African Union (AU) led mediation took place, which was supported by the UN, key donors of civil society, and led by former UN Secretary-General Kofi Annan, is widely cited as the first successful example of R2P in practice.

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[17] Global Center for the Responsibility to Protect, "A Background Briefing."
[18] "Kenya," Global Centre for the Responsibility to Protect, accessed February 12, 2023, https://www.globalr2p.org/countries/kenya/.

The process found that the very institutions charged with managing the 2007 elections, adjudicating disputes, and providing security, contributed to a potentially violent environment. Weak governmental institutions that were susceptible to interference, coupled with a culture of impunity for past electoral violence and incitement, created conditions under which widespread mass atrocities could occur.[19]

In the years following the 2007 elections, the Kenyan government, with the assistance of international donors, took steps to address institutional deficits and uphold its responsibility to protect, though this goal was never publicly stated. Many of the measures undertaken by the government were a direct outcome of Annan's and the AU's mediation and were mandated by the 2010 Constitution. Long-term preventive efforts were focused on reforming institutions within the security sector, judiciary, and electoral commission, as well as tackling accountability and the prevalence of hate speech.

Looking beyond the immediate years following the elections and mediation, there are two important things to note. The first was that this was not a perfect fix. This was not a perfect fix. There has been violence in other elections as well as protests. That being said, it is not unreasonable to say that the involvement of the United Nations and the international community did not quell the violence that could have led to destabilizing unrest with unforeseen casualties. The second is that this is a great example of intervention in a situation that is both welcomed by the affected Member State, and also does not involve a military presence, as R2P was intended.

2010: Ethnic Clashes in Kyrgyzstan

Following the ousting of President Bakyev in April 2010, inter-communal violence broke out in Kyrgyzstan, particularly between ethnic Kyrgyz and Uzbek populations. It began in northern parts of the country, but by June 2010, massive waves of violence which originated in the city of Osh spread following reports of Kyrgyz being beaten and killed by Uzbeks. In the following days, ethnic Kyrgyz from nearby villages joined local gangs and targeted Uzbek neighborhoods for an attack in Osh, Jalal-Abad, and Bazar-Kurgan. Attackers reportedly looted and torched Uzbek shops and homes, killing people who remained in the neighborhoods.[20] Four days later, an estimated 420 people had been killed, 300,00 were internally displaced, and 100,000 had fled to neighboring countries. The majority of which were ethnically Uzbek. Reports of arson, rape and other atrocities were widespread and have been characterized by the Independent International Commission of Inquiry, headed by former Finnish MP Kimmo Kiljunen, as "crimes against humanity."[21] Shortly after this crisis began, calls for the Responsibility to Protect to be utilized, including by Kyrgyzstan's interim president, Roza Otunbayeva.[22]

While this situation worsened, clear signs were present that Kyrgyzstan would not be able to quell the ethnic violence. The Organization for Security and Cooperation in Europe (OSCE) sent their High Commissioner on National Minorities and other officials to visit the country,

[19] Office of the AU Panel of Eminent African Personalities, *Back from the Brink: The 2008 Mediation Process and Reforms in Kenya* (African Union, 2014).
[20] "Kyrgyzstan," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/countries/kyrgyzstan/.
[21] OSCE High Commissioner on National Minorities, "R2P In Practice in the Case of Kyrgyzstan," January 2012, https://www.osce.org/files/f/documents/4/9/87411.pdf.
[22] James Traub, "It's Not Too Late to Save Kyrgyzstan," *Foreign Policy* (blog), June 22, 2010, https://foreignpolicy.com/2010/06/22/its-not-too-late-to-save-kyrgyzstan/.

noting that "The country displayed all the signs of brewing troubles: the State had effectively collapsed, creating a political and security vacuum, particularly in the minority-populated south."[23]

The international community, including the UN Security Council, quickly condemned the violence and called upon authorities to restore law and order, and the OSCE later established an unarmed international police force to monitor the region. In addition, the United Nations worked on a bilateral basis with the government of Kyrgyzstan on post-conflict peacebuilding. This led to democratic parliamentary elections in 2015, and strengthened state and civilian identities on the basis of a practice of a lack of discrimination in the country, leading to a lack of conflict.[24]

In this example of a successful implementation of R2P, we can see that international organizations like OSCE and the United Nations led the charge alongside the new Kyrgyzstan government to end what could have become an even more substantial conflict, and possibly a failed state. That said, it's important to note, that at first, calls for intervention and support by interim president Otunbayeva was ignored by significant Member States, particularly the United States and Russia.[25] In addition, when the situation was heard by the Security Council, no substantial action was taken. This lack of action when called upon is merely the beginning of powerful Member States allowing their own self-interest to supersede the protection of those most vulnerable.

Case Studies: Stumbles and Failures

2011: The Situation in Libya

The use of R2P in Libya is the most notable example of this international principle put into practice. In addition, it is an example that has led to a longstanding mistrust of the use of R2P in any form. The situation began in February 2011, when anti-government rallies were held in Benghazi, Libya by protestors angered by the arrest of a human rights lawyer, Fethi Tarbel. These protests called for the current ruler of over four decades, Muammar Gaddafi, to step down, and for the release of political prisoners. These calls for change were only fueled by uprisings in Tunisia and Egypt, which would later be known as the Arab Spring. In response, Libyan forces used water cannons and rubber bullets against the crowds, and a pro-government rally orchestrated by the government was broadcast on state television. As the protests intensified, demonstrators took control of Benghazi, and unrest spread to Tripoli, the country's capital.[26] Following this, the conflict escalated significantly. The regime began using lethal force against demonstrators and rebels, with squads of mercenaries firing live ammunition into crowds, as well as attacking demonstrators with tanks and artillery from the air with warplanes. Communication was restricted, the internet was blocked, and telephone service was interrupted throughout the

[23]OSCE High Commissioner on National Minorities, "R2P In Kyrgyzstan," 2012.

[24] "Statement by Kyrgyzstan at the UN General Assembly Thematic Panel Discussion, 'From Commitment to Implementation: Ten Years of the Responsibility to Protect,' 26 February 2016," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/resources/statement-by-kyrgyzstan-at-the-un-general-assembly-thematic-panel-discussion-from-commitment-to-implementation-ten-years-of-the-responsibility-to-protect-26-february-2016/.

[25] Traub, "It's Not Too Late to Save Kyrgyzstan," 2010.

[26] "Libya Revolt of 2011 | History, War, Timeline, & Map | Britannica," https://www.britannica.com/event/Libya-Revolt-of-2011.

country. Shortly after, Qaddafi's son gave an address stating that the regime would fight "to the last bullet."[27] This led to not only human rights violations, but also a humanitarian crisis.

While the escalation of this conflict goes on, the UN Security Council swiftly takes action. With the passing of Resolutions 1970[28] and 1973,[29] the Responsibility to Protect was invoked for the first time in an international operation. In the Balkans, it took NATO almost a full decade to intervene with air power in Kosovo in 1999. In Libya, it took just one month to mobilize a broad coalition, secure a UN mandate for "all necessary measures" to protect civilians, establish and enforce no-fly and no-drive zones, stop Gaddafi's advancing army, and prevent a massacre of the innocents in Benghazi.[30] Resolution 1973, which officially authorized the enforcement of R2P was voted on with no opposition, but five abstentions, the most notable of which come from Russia and China. The support for the use of the Responsibility to Protect in Libya is resounding, with support from the Gulf Cooperation Council (GCC), the Organization of the Islamic Conference (OIC), and the League of Arab States (LAS) regarding the implementation of the no-fly zone.

Prior to the passing of resolution 1973, NATO forces supported rebels' efforts to topple the current regime under Operation Unified Protector (OUP), which deployed Airborne Warning and Control Systems to provide constant observation of the situation. This gave NATO detailed information about movements in Libyan airspace. However, after the passage of resolution 1973, several UN Member States took immediate military action to protect civilians under Operation Odyssey Dawn, which took place from March 19-31, 2011 in order to destabilize the Libyan military's ability to hinder the enforcement of the UN no-fly zone. This operation was initially not under NATO command, but instead was a multinational coalition led by the United States, and once the no-fly zone was established was handed back to NATO operations.

NATO presence through OUP lasted until the end of October 2011. During that time, the mission had three main components:

- Enforcing an arms embargo in the Mediterranean Sea to prevent the transfer of arms, related materials and mercenaries to Libya
- Enforcing a no-fly zone to prevent aircrafts from bombing civilian targets
- Conducting air and naval strikes against military forces involved in attacks or threatening to attack Libyan civilians and civilian populated areas[31]

Over the months of the war, NATO air strikes and support of rebels gradually degraded the Qaddafi regime, leading to the overtaking of Tripoli in August. Around a month later, on October 20, 2011, the last stronghold of the Qaddafi regime, Sirete, was destabilized. Attempting to flee the area, Muammar Qaddafi was captured by rebel forces in Sirte, his hometown. Shortly after, he was killed by opposition members. These events led to the ending of OUP, as they felt their mission had ended, creating a transition period during which NATO monitored the situation. The

[27] "Libya Revolt of 2011 | Britannica."
[28] United Nations, Security Council. *Resolution 1970*. New York, NY: UN Headquarters, 2011, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/245/58/PDF/N1124558.pdf?OpenElement
[29] United Nations, Security Council. *Resolution 1973*. New York, NY: UN Headquarters, 2011, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N11/268/39/PDF/N1126839.pdf?OpenElement
[30] Ramesh Thakur, "Libya and the Responsibility to Protect," Situation Report (Institute for Security Studies, March 2012), https://www.files.ethz.ch/isn/139454/6Mar2012Libya.pdf.
[31] NATO, "NATO and Libya (Archived)," NATO, https://www.nato.int/cps/en/natohq/topics_71652.htm.

United Nations then established a political mission to support the country's transitional authorities in their post-conflict reconstruction efforts, UNSMIL.[32]

While the end of the Qaddafi regime appears to be a swift one, with R2P successful, the intricacies of this case are more complex, and the Libya case has led to the denunciation of the Responsibility to Protect as a whole. "Libya has given R2P a bad name." said Indian U.N. Ambassador Hardeep Singh Puri. But New York Times columnist Roger Cohen, among others, argues, "The intervention has been done right" — that after the disgraces of Rwanda and Bosnia and the overreach of Iraq, an atrocity has finally been stopped, in time and for the right reasons. "[T]he idea that the West must at times be prepared to fight for its values against barbarism," he writes, "is the best hope for a 21st century less cruel than the 20th.[33] And there are absolutely ways in which this use of R2P in Libya was unsuccessful or warrants critiques, whether it be the murder of Qaddafi without a just trial, or the fact that a new civil war broke out two and a half years after OUP ended, in May 2014.[34]

While there are widespread claims that the R2P operations in Libya are a failure, it did initially serve its purpose: to protect civilians. Arguments that it went past that are reasonable, however, in the months of civil war that took place prior to the toppling of the Qaddafi regime in August 2011, Human Rights Watch found that as a result of NATO air campaigns, around 72 civilians were killed, with around 8,000 combatants killed on both sides.[35] It's reasonable to assume that had no intervention taken place, the civilian casualties would have been far greater. This situation however begs the question: could Libya have been handled better, or are we to expect unintended consequences from such a new international norm?

2011: Civil War in Syria

One of those unintended consequences could be seen as the lack of action to intervene in the situation in Syria. While the situation in Libya escalated, tensions in Syria were just beginning. As the wildfire of the Arab Spring made its way to Syria, protestors gathered in the streets. This led the country's ruler, Bashar al-Assad to fire on demonstrators. Months later, those demonstrating begin to take up arms against the Syrian government, developing the Free Syrian Army. the intricacies of what has become a civil war – some may say proxy war – as well as a catastrophic humanitarian crisis for over a decade, have grown extremely complex. From Kurds, to rebel forces, to the Syrian government, Al-Queda, The Islamic State, and involvement from other Member States, particularly the United States and Russia. While this Civil War unfolds, reports of crimes against humanity used by the Syrian government began to emerge. Most notable is the use of chemical weapons against civilians in August 2013, which receives global

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[32] "UNSMIL | United Nations Support Mission in Libya," https://unsmil.unmissions.org/.
[33] "Responsibility to Protect: A Short History – Foreign Policy," https://foreignpolicy.com/2011/10/11/responsibility-to-protect-a-short-history/.
[34] Shadi Hamid, "Everyone Says the Libya Intervention Was a Failure. They're Wrong.," *Brookings* (blog), November 30, 1AD, https://www.brookings.edu/blog/markaz/2016/04/12/everyone-says-the-libya-intervention-was-a-failure-theyre-wrong/.
[35] Fred Abrahams, "Unacknowledged Deaths," *Human Rights Watch*, May 13, 2012, https://www.hrw.org/report/2012/05/13/unacknowledged-deaths/civilian-casualties-natos-air-campaign-libya.

condemnation, despite the international community being split between supporting rebel forces or the Assad regime.[36]

This leads to Resolution 2118, which was passed unanimously by the Security Council in September 2013.[37] This resolution not only condemns the use of chemical weapons by the Syrian government but also authorizes the removal of chemical weapons through the Organization for the Prohibition of Chemical Weapons (OPCW). The Responsibility to Protect was not mentioned in this resolution. After its passing, reports in the coming months by representatives at OPCW to the Security Council describe significant difficulty in removing these weapons due to a lack of cooperation by Syrian officials.[38] More evident of the lack of effectiveness of this resolution is that the Assad regime continued to use chemical weapons against its people, even as recently as 2019.[39] Within the first year of the Syrian civil war, 17,000 died. That number is now at least 350,000, with millions facing starvation, living as refugees, or internally displaced persons.[40] The failure of the Responsibility to protect is one of inaction. It took the Security Council one month to authorize R2P in Libya, but in a situation, some could say is much worse, little to nothing has been done to end what has become an unending conflict. There are two main reasons for this: first, the United States and Russia utilized this conflict as a proxy war in pursuit of greater power. The second is that as the use of R2P was defined by some as a failure, it is now the perfect excuse not to invoke R2P in the future. Russia, China, and others have pointed to Libya as the reason to abandon this international norm, thus abandoning the millions in desperate need.[41] In fact, when there were attempts to invoke R2P by the United States between 2011 and 20-13, they were vetoed by Russia and China, with the explanation that the U.S. was abusing R2P, and citing Libya.[42]

2017: Genocide in Myanmar

The situation in Myanmar is another that is marred by inaction. Beginning in August 2017, clashes between the government of Myanmar and the Arakan Rohingya Salvation Army (ARSA) escalate, leading to around 200,000 Muslim Rohingya population. This begins what the United Nations High Commissioner on Human Rights called a "textbook example of ethnic

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[36] "Syrian Civil War | Facts & Timeline | Britannica," https://www.britannica.com/event/Syrian-Civil-War.
[37] United Nations, Security Council. *S/RES/2118*. New York, NY: UN Headquarters, 2013, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2118.pdf.
[38] "Briefing to the Security Council on the Implementation of Security Council Resolution 2118 (2013), Statement by Ms. Izumi Nakamitsu High Representative for Disarmament Affairs (As Delivered 29 September 2022) - Syrian Arab Republic | ReliefWeb," September 30, 2022, https://reliefweb.int/report/syrian-arab-republic/briefing-security-council-implementation-security-council-resolution-2118-2013-statement-ms-izumi-nakamitsu-high-representative-disarmament-affairs-delivered-29-september-2022.
[39] "More Than 300 Chemical Attacks Launched During Syrian Civil War, Study Says : NPR," https://www.npr.org/2019/02/17/695545252/more-than-300-chemical-attacks-launched-during-syrian-civil-war-study-says.
[40] "Syria: 10 Years of War Has Left at Least 350,000 Dead | UN News," September 24, 2021, https://news.un.org/en/story/2021/09/1101162.
[41] Daniela Abratt, "U.S. Intervention in Syria: A Legal Responsibility to Protect" 95, January 2017, https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1007&context=dlr.
[42] "Security Council Fails to Adopt Draft Resolution Condemning Syria's Crackdown on Anti-Government Protestors, Owing to Veto by Russian Federation, China | UN Press," n.d., https://press.un.org/en/2011/sc10403.doc.htm.

cleansing."[43] While unilateral action against the government of Myanmar and its military took place, for example, the United States imposing sanctions on high-level members of the government, no unilateral action to stop the genocide has happened. In fact, the only formal response by the Security Council to the genocide was the adoption of a Presidential Statement two months after the crisis began, stressing the "primary responsibility of the Myanmar government to protect its population."[44]

From Libya in 2011 to Myanmar in 2017, the attitude of the international community is completely different. Instead of a focus on the populations at-risk of atrocities, there has been a sharp rejection of Responsibility to Protect, and instead the passing of toothless resolutions that have saved no lives. Millions have been displaced, and death toll estimates range anywhere from 9,000 to 25,000.[45] And while the Security Council adopted 10 statements regarding Myanmar in 2021 alone, none o them take substantial action. "Myanmar authorities brutalized us," said Abdul Halim, 30, a Rohingya refugee in Bangladesh. "They burned down our houses, raped our mothers and sisters, burned our children."[46] The Rohingya begged the international community for help and were left unheard to be systematically murdered and driven out of Myanmar because of political infighting by global powers.

Cases for the Use of R2P Today

While there have been examples of R2P in action or occurrences that warrant the use of R2P to no avail, there are ongoing situations where the use of this recent international norm has been called for or taken into consideration, many of which involve one or more of the permanent members that can stand in the way of making life-saving intervention a reality.

The Situation in Ukraine

Since the Russian invasion of Ukraine on February 24, 2023, tens of thousands of people have been killed, millions have fled the country, and there have been tens of billions of dollars in damage. Most recently in the war, calls for the Responsibility to Protect Ukrainian citizens has been invoked, as the claims of crimes against humanity pile up against the Russian government and military. As early in the war as April, a Russian missile strike on a train station in Kramatorsk killed more than 50 civilians.[47] However, reports recently detail cases of repeated rape, summary execution, and threats against civilians, as well as looting of civilian property.[48] In

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[43] "Timeline: How the Crackdown on Myanmar's Rohingya Unfolded | Rohingya News | Al Jazeera," https://www.aljazeera.com/news/2019/12/9/timeline-how-the-crackdown-on-myanmars-rohingya-unfolded.
[44] "Myanmar (Burma)," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/countries/myanmar-burma/.
[45] "Myanmar's Military Committed Genocide Against Rohingya, U.S. Says - The New York Times," https://www.nytimes.com/2022/03/21/us/politics/myanmar-genocide-biden.html.
[46] "Myanmar: No Justice, No Freedom for Rohingya 5 Years On," *Human Rights Watch* (blog), August 24, 2022, https://www.hrw.org/news/2022/08/24/myanmar-no-justice-no-freedom-rohingya-5-years.
[47] Matthew Mpoke Bigg, "Russia Invaded Ukraine More than 10 Months Ago. Here Is One Key Development from Every Month of the War.," *The New York Times*, January 9, 2023, sec. World, https://www.nytimes.com/article/ukraine-russia-war-timeline.html.
[48] "Ukraine: Apparent War Crimes in Russia-Controlled Areas," *Human Rights Watch* (blog), April 3, 2022, https://www.hrw.org/news/2022/04/03/ukraine-apparent-war-crimes-russia-controlled-areas.

addition, there is also evidence of torture, and children separated from their families after the forcible transfer and deportation.[49]

While the international community looks on and has united in its support of Ukraine's resistance to this military incursion, Russian president Vladimir Putin has rebranded the Responsibility to Protect as the defense for the initial invasion, claiming the right to protect ethnic Russians from discrimination in foreign countries, as well as unsupported claims of the need to protect Jewish populations in the country.[50] Both of these claims have not been found to have substantial support. The reality exists that while Russia invades Ukraine and is a Permanent Member of the Security Council, there will be no resolution passed through the body to enact R2P in any capacity. This shows the clear issue in the structuring of the Responsibility to Protect, and that structure becomes even more distorted as Russia utilizes it to justify an invasion littered with crimes against humanity and war crimes.

It also may not be unreasonable to say that in some ways, the Responsibility to Protect is at work in this case. There has been a united front to support the efforts of Ukrainian resistance, with little if any support given to Russia. This comes in the form of condemnation and multilateral sanctions. While this is not how we would typically expect R2P to manifest itself, it establishes building blocks for further action to be taken to protect Ukranian civilians as the war advances. That said, there are clearly systemic roadblocks in the way in the design of R2P should military action be necessary.

While these examples, as well as much of the vocal opposition from Member States surrounding R2P comes from Russia and China, it is not unreasonable to assume that if other Member States' self-interest or allies were threatened, they may vocalize opposition as well. For example, if the question of the Responsibility to Protect Palestinians from Israeli settlers arose, we could assume that the United States would have vocal opposition. Or if in Morocco, the treatment of Western Sahara was brought into question, their notable ally France, a staunch defender of R2P, may waver. This may be the most important thing to consider with the Responsibility to Protect: its fragility. As a new doctrine of international norms, and with shaky support in the past, the concept is vulnerable to disruption, or complete dismissal. But what does that say to those who need the principle's protection most?

Looking forward

While the ineffectiveness and failures of R2P have been sharply highlighted by the international community, its successes have often been cast to the side. That being said, cases like Libya have left the reputation of R2P marred, particularly as its triumphs receive little notice. That may be how Member States with their own sovereignty and best interest in mind may prefer the situation.

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[49] "Ukraine: Russia's Unlawful Transfer of Civilians a War Crime and Likely a Crime against Humanity – New Report," Amnesty International, November 10, 2022, https://www.amnesty.org/en/latest/news/2022/11/ukraine-russias-unlawful-transfer-of-civilians-a-war-crime-and-likely-a-crime-against-humanity-new-report/.

[50] "How the Kremlin Distorts the 'Responsibility to Protect' Principle," United States Institute of Peace, https://www.usip.org/publications/2022/04/how-kremlin-distorts-responsibility-protect-principle.

Since its official recognition in 2005, R2P has brought more organized attention to civilian response capability, and to the need for militaries to rethink their force configuration, doctrine, rules of engagement, and training to deal better with mass atrocity response operations. Importantly, more than sixty states and intergovernmental organizations – most recently the Organization of American States – have now established R2P 'focal points' – designated high-level officials whose job is to analyze atrocity risk and mobilize appropriate responses.[51]

Meanwhile, United Nations bodies and representatives have continued to build upon Responsibility to Protect, adding intricacies to the policy as our world has grown evermore complicated. On May 18, 2021, the General Assembly in its 75th session passed a resolution that recalled the 2005 World Summit Outcome, and in particular paragraphs 138 and 139, which empowers the Security Council to authorize the Responsibility to Protect.[52] In addition, the resolution works to make R2P a priority, adding it to its annual agenda with a focus on the prevention of genocide, war crimes, ethnic cleansing, and crimes against humanity. While this resolution passed, two notable Member States voted no: Russia and China. Clearly, R2P is no longer a unanimously upheld principle of international law as it was in 2005.

While the global community's most powerful Member States work tirelessly to consolidate power in attempts to be the one true hegemon, those most vulnerable have fallen to the wayside. With current systems in place, it seems difficult to imagine a system in which R2P is ever again successful in the hands of the Security Council's permanent members. That said, over the past decade, the most successful cases of atrocity prevention have come from local, national, regional, and global actors working together, whether it has been called R2P or not.[53] Collective prevention and responses to crimes against humanity and other catastrophes are important to recognize. Perhaps with our international system growing ever more complicated, R2P must be envisioned as something that begins at home and extends abroad, with global actors being expected to act when they are called.

[51] "R2P: The Dream and the Reality," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/publications/r2p-the-dream-and-the-reality/.
[52] United Nations, General Assembly. *Resolution Adopted by the General Assembly*. New York, NY: UN Headquarters, 2021, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/123/25/PDF/N2112325.pdf?OpenElement
[53] "A Reflection on the Responsibility to Protect in 2020 - World | ReliefWeb," August 17, 2020, https://reliefweb.int/report/world/reflection-responsibility-protect-2020.

RESOURCE REVIEW

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A brief overview of the R2P, its origins, the evolution of the principle (including the three pillars), and its presence in UN legislation from 2005 to today.

Global Center for the Responsibility to Protect, "The Responsibility to Protect: A Background Briefing," April 2021, https://www.globalr2p.org/publications/the-responsibility-to-prote ct-a-background-briefing/.

A comprehensive background to the R2P including the origins of the principle, its modern day implications, and its role in many of the debates surrounding the frontiers of international law.

"The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty, 2001," Global Centre for the Responsibility to Protect, https://www.globalr2p.org/resources/the-responsibility-to-protect-report-of-the-internatio nal-commission-on-intervention-and-state-sovereignty-2001/.

This document was the first introduction of the responsibility to protect principle as a middle ground between the two extremes of the sovereignty debate that flared up after the 1999 NATO air campaign against Serbian military targets to protect Kosovar Albanians.

United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide," A.260.1948 (III) (1948), https://www.un.org/en/genocideprevention/documents/atrocity-c rimes/Doc.1_Convention%20on%20the%20 Prevention%20and%20Punishment%20of% 20the%20Crime%20of%20Genocide.pdf.

The United Nations resolution outlawed genocide as an international crime. Delegates should use this document for background on the topic and understanding what the UN defines as genocide, crimes against humanity, and other terms used throughout the background guide.

United Nations, "2005 World Summit Outcome," 60th session (2005), paragraphs 138 and 139, https://web.archive.org/web/20160706010853/http://www.globalr2p.org/media/files/wsod _2005.pdf.

The summit where the R2P was approved with a unanimous vote. Paragraphs 138 and 139 establish the mission and powers enumerated to the Security Council.

United Nations Secretary General, "The role of regional and subregional arrangements in implementing the responsibility to protect: report of the Secretary-General", 2011, https://digitallibrary.un.org/record/706568?ln=en

> An elaboration of how the Responsibility to Protect can be implemented by individual governments, and more particularly regional bodies or the creation of regional agreements, in order to strengthen the principles of the Responsibility to Protect.

United Nations, Security Council. *S/RES/2118*. New York, NY: UN Headquarters, 2013, https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2118.pdf.

> This resolution not only condemns the use of chemical weapons by the Syrian government but also authorizes the removal of chemical weapons through the Organization for the Prohibition of Chemical Weapons (OPCW). The Responsibility to Protect was not mentioned in this resolution.

United Nations, General Assembly. *Resolution Adopted by the General Assembly*. New York, NY: UN Headquarters, 2021, https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/123/25/PDF/N2112325.pdf?OpenElement

> This resolution recalled the 2005 World Summit Outcome, and in particular paragraphs 138 and 139, which empowers the Security Council to authorize the Responsibility to Protect.

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> An in-depth review of the R2P and the effects on the United States, as well as potential goals for the United States. Also contains recommendations to the global community, not just the United States. Published c. 2013.

"Briefing to the Security Council on the Implementation of Security Council Resolution 2118 (2013), Statement by Ms. Izumi Nakamitsu High Representative for Disarmament Affairs (As Delivered 29 September 2022) - Syrian Arab Republic | ReliefWeb," September 30, 2022, https://reliefweb.int/report/syrian-arab-republic/briefing-security-council-implementation-security-council-resolution-2118-2013-statement-ms-izumi-nakamitsu-high-representative-disarmament-affairs-delivered-29-september-2022.

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Evans, Gareth, and Mohamed Sahnoun. "The Responsibility to Protect." *Foreign Affairs* 81, no. 6 (2002): 99–110. https://doi.org/10.2307/20033347.

This article gives a more theoretical angle of the Responsibility to Protect concept before it became part of UN legislation at the World Summit. Delegates should use this to gain a more detailed understanding of how the idea of the R2P originated and how it deals with the more complex ideas of sovereignty.

"Rwanda Profile - Timeline," *BBC News*, July 9, 2011, sec. Africa, https://www.bbc.com/news/world-africa-14093322.

"How the Kremlin Distorts the 'Responsibility to Protect' Principle," United States Institute of Peace, https://www.usip.org/publications/2022/04/how-kremlin-distorts-responsibility-protect-principle.

Daniela Abratt, "U.S. Intervention in Syria: A Legal Responsibility to Protect" 95, January 2017, https://digitalcommons.du.edu/cgi/viewcontent.cgi?article=1007&context=dlr.

Guiding Questions

- What statements have diplomats or other foreign affairs officials in your country made regarding R2P? Or around current crises that may warrant the use of R2P?
- Does your country have a policy regarding United Nations reform?
- Has your country engaged in missions based on the principles of R2P?