

Review article

The Responsibility to Protect at 15

RAMESH THAKUR

Anniversaries are occasions to take stock: reflect on progress, celebrate successes, acknowledge setbacks and outline a vision and roadmap for a better future. This year marks the fifteenth anniversary of the publication of the landmark report¹ by the International Commission on Intervention and State Sovereignty (ICISS) that first introduced the innovative principle of the Responsibility to Protect (R2P). Within four years, R2P was endorsed unanimously at a United Nations summit of world leaders as the central organizing principle for responding to mass atrocity crimes of genocide, crimes against humanity, war crimes and ethnic cleansing.

The 'original' documents comprise the initial report of the international commission, its supporting supplementary volume, the 2005 UN summit's Outcome Document which adopted R2P as official UN policy,² the special reports of the secretary-general (SG) issued annually since 2009, the debates in the General Assembly around his annual reports,³ resolutions adopted by the Security Council and statements issued by its president, and statements and speeches by the SG and his special advisers on R2P and genocide prevention. To this we might add the series of speeches and reports by Kofi Annan from his time as SG.⁴ In the secondary literature, it is worth highlighting the central role of *Global Responsibility to Protect (GR2P)*, a journal dedicated to this topic. Occasionally special issues of other journals have focused on R2P, for example *Ethics & International Affairs* 25: 3 (2011). ICISS co-chair Gareth Evans and Commissioner Ramesh Thakur have provided their accounts,⁵ and ICISS research director Tom Weiss has written an elegant account of R2P in the longer and broader context of humanitarian intervention.⁶ Edward Luck, the SG's first special adviser on R2P, has written several accounts of the development and evolution of R2P during his term in

¹ ICISS, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001).

² For a discussion of what constitutes UN policy, see Ramesh Thakur and Thomas G. Weiss, 'United Nations "policy": an argument with three illustrations', *International Studies Perspectives* 10: 1, Feb. 2009, pp. 18–35.

³ Summaries available at: <http://www.globalr2p.org>.

⁴ These have been helpfully reprinted in Kofi Annan, *We the peoples*, ed. Edward Mortimer (London: Paradigm Publishers, 2014).

⁵ Gareth Evans, *The Responsibility to Protect: ending mass atrocity crimes once and for all* (Washington DC: Brookings, 2008); Ramesh Thakur, *The United Nations, peace and security: from collective security to the Responsibility to Protect* (Cambridge University Press, 2006); and Thakur, *The Responsibility to Protect: norms, laws and the use of force in international politics* (London: Routledge, 2011).

⁶ Weiss, *Humanitarian intervention: ideas in action* (Cambridge: Polity, 2011). See also Thakur and Weiss, 'R2P: from idea to norm—and action?', *GR2P* 1: 1, 2009, pp. 22–53.

office.⁷ There are hundreds of research projects, books, articles and competing handbooks.⁸

In the pre-R2P era, the two paradigmatic cases that highlighted the flaws of the then-existing normative architecture were Rwanda in 1994, where there was international inaction to prevent or halt the genocide, and Kosovo, where NATO intervened without UN authorization to bring an end to alleged Serbian atrocities. In the post-R2P era, the two paradigmatic cases to date that highlight its mobilizing power but also underline its problems might well comprise the NATO-led and UN-authorized R2P intervention in Libya in 2011 and in Syria since 2011, where, despite large numbers of civilian deaths and the confirmed use of chemical weapons, the United Nations has failed to take any robust and effective action.⁹ Other recent examples of ineffectual UN response to mass atrocities include South Sudan and the Central African Republic.¹⁰ Given the massive and still burgeoning literature on all aspects of R2P, this review article focuses on five issues: the displacement of 'humanitarian intervention', atrocity prevention, unsatisfactory implementation, the main R2P actors and continuing scepticism about R2P.

From humanitarian intervention to R2P

The key innovation in 2001 was the reconceptualization of 'humanitarian intervention' as R2P; everything else in the discourse flows from that distinction. As the author of the initial draft of the relevant sections of the ICISS report, I believe the differences between the two concepts are real and consequential.¹¹ Even people associated with ICISS, including Weiss and me,¹² have used it when discussing the historical record. Intervention has a long lineage in the history of political thinking, including, most notably, just war theory.¹³ Several European powers engaged in humanitarian intervention throughout the nineteenth century.¹⁴

⁷ Edward C. Luck, 'Sovereignty, choice, and the Responsibility to Protect', *GR2P 1*: 1 2009, pp. 10–21; Luck, 'The Responsibility to Protect: growing pains or early promise?', *Ethics & International Affairs* 24: 4, 2010, pp. 349–65.

⁸ W. Andy Knight and Frazer Egerton, eds, *The Routledge handbook of the Responsibility to Protect* (London: Routledge, 2012); and Alex J. Bellamy and Tim Dunne, eds, *The Oxford handbook of the Responsibility to Protect* (Oxford University Press, forthcoming).

⁹ Sabrina Hoeling, *Can R2P practice what it promises? A case study on the Syrian civil war* (Hamburg: Anchor Academic Publishing, 2015); Spencer Zifcak, 'The Responsibility to Protect after Libya and Syria', *Melbourne Journal of International Law* 13: 1, June 2012, pp. 59–93; Justin Morris, 'Libya and Syria: R2P and the spectre of the swinging pendulum', *International Affairs* 89: 5, Sept. 2013, pp. 1265–83.

¹⁰ Zifcak, 'What happened to the international community? R2P and the conflicts in South Sudan and the Central African Republic', *Melbourne Journal of International Law* 16: 1, June 2015, pp. 2–85.

¹¹ This is a sparse summary of a public lecture delivered at Kings College London on 12 November 2015: 'R2P: the old wine of humanitarian intervention in a new bottle?'. Audio recording available at <https://soundcloud.com/warstudies/a-case-of-old-wine-in-new-bottle-from-humanitarian-intervention-to-r2p>, accessed 1 Feb. 2016. Unless otherwise noted at point of citation, all URLs cited in this article were accessible on 1 Feb. 2016.

¹² Weiss, *Humanitarian intervention*; Thakur, 'Humanitarian intervention', in Weiss and Sam Daws, eds, *The Oxford handbook on the United Nations* (Oxford University Press, 2007), pp. 387–403; Thakur, 'Non-intervention: a case study', *Political Science* 42: 1, Jan. 1990, pp. 26–61.

¹³ See Bellamy, 'The Responsibility to Protect and the just war tradition', in Thakur and William Maley, eds, *Theorising the Responsibility to Protect* (Cambridge University Press, 2015), pp. 181–99.

¹⁴ Ellery Stowell, *Intervention in international law* (Washington DC: J. Byrne, 1921); Natalino Ronzitti, *Rescuing nationals abroad through military coercion and intervention on grounds of humanity* (Leiden: Brill, 1985).

Taking a major British political philosopher as the point of departure, in *The question of intervention: John Stuart Mill and the Responsibility to Protect* (New Haven: Yale University Press, 2015) Michael Doyle unpacks the thorny issue of when a state's sovereignty should be respected and when overridden by other states in the name of humanitarian protection, national self-determination or national security. Drawing on the ideas of Rousseau, Kant and Hegel, Bjorn Gomes shows that intervention on humanitarian grounds is not just permissible, but may indeed be obligatory.¹⁵ Luke Glanville's *Sovereignty and the Responsibility to Protect: a new history* (Chicago: University of Chicago Press, 2014) traces the notion of sovereignty as protective responsibility to the sixteenth and seventeenth centuries, noting that the right to wage a just war to punish tyranny and rescue the oppressed predates non-intervention as an *attribute* of sovereignty.¹⁶ Jennifer Welsh looks back to R. J. Vincent's scepticism about humanitarian intervention and concludes that his fears were exaggerated.¹⁷

During the Cold War, state practice reflected the unwillingness of many countries—not just the two power blocs, but also some former colonies like India and Tanzania—to give up intervention as an instrument of policy. But where previously interveners had justified their action as exceptional, in Kosovo in 1999 western leaders for the first time challenged the non-intervention norm itself. NATO claims of an emerging new norm of 'humanitarian intervention' were emphatically rejected by a majority of the world's countries. The ensuing controversy highlighted a lacuna in the existing legal regime governing the international use of force.¹⁸ R2P was the ICISS answer to reconciling the neuralgic rejection of humanitarian intervention by the global South with the determination by the North to end atrocities.

ICISS recognized 'the long history, and continuing wide and popular usage, of the phrase "humanitarian intervention"', but 'made a deliberate decision not to adopt this terminology'.¹⁹ Its supplementary volume described the many past humanitarian interventions, before 1990 and since the Cold War.²⁰ The High-Level Panel on Threats, Challenges and Change reaffirmed the importance of changing the terminology and endorsed the ICISS argument that 'the issue is not the "right to intervene" of any State, but the "responsibility to protect" of every

¹⁵ 'The duty to oppose violence: humanitarian intervention as a question for political philosophy', *Review of International Studies* 37: 3, July 2011, pp. 1045–1067.

¹⁶ See also: Francis K. Abiew, *The evolution of the doctrine and practice of humanitarian intervention* (The Hague: Kluwer Law International, 1999); Gary J. Bass, *Freedom's battle: the origins of humanitarian intervention* (New York: Vintage Books, 2009); Alexis Heraclides, 'Humanitarian intervention yesterday and today: a history', *European Review of International Studies* 2: 1, Jan. 2015, pp. 15–37; Davide Rodogno, *Against massacre: humanitarian intervention in the Ottoman Empire, 1815–1914* (Princeton University Press, 2012); Brendan Simms and D. B. J. Trim, *Humanitarian intervention: a history* (Cambridge University Press, 2011); and Glanville, 'The myth of "traditional sovereignty"', *International Studies Quarterly* 57: 1, March 2013, pp. 79–90.

¹⁷ 'A normative case for pluralism: reassessing Vincent's views on humanitarian intervention', *International Affairs* 87: 5, Nov. 2011, pp. 1193–204.

¹⁸ Michael J. Glennon, *Limits of law, prerogatives of power: interventionism after Kosovo* (New York: Palgrave Macmillan, 2001).

¹⁹ ICISS, *The Responsibility to Protect*, para. 1.39.

²⁰ ICISS, *Responsibility to Protect: research, bibliography, background* (Ottawa: IDRC, 2001), pp. 47–126.

State'.²¹ This is what the 2005 UN summit agreed to as well. A former judge of the Supreme Court of Canada (and UN High Commissioner for Human Rights at the time) has affirmed the 'fundamental differences' between the two.²²

Politically, the visceral hostility of a large number of former colonized countries to 'humanitarian intervention' is explained by the historical baggage of rapacious exploitation and cynical hypocrisy. Insistence on the discredited and discarded discourse by self-referencing western scholars amounts to blatant disrespect to them, ICISS and all the various groups of actors who have embraced R2P as an acceptable replacement. *Conceptually*, while R2P upends state–citizen relations internally, and defines the distribution of authority and jurisdiction between states on the one side and the international community on the other, 'humanitarian intervention' does so with respect to different states. *Normatively*, 'humanitarian intervention' rejects non-intervention and privileges the perspectives and rights of the intervening states. R2P reformulates sovereignty as responsibility, links it to the human protection norm, sidesteps without rejecting non-intervention and addresses the issue from the perspective of the victims. *Procedurally*, R2P can only be authorized by the UN whereas 'humanitarian intervention' is agnostic between UN and unilateral interventions. *Operationally*, protection of victims from mass atrocities requires distinctive guidelines and rules of engagement and different relationships to civil authorities and humanitarian actors, always prioritizing the protection of civilians over the safety and security of the intervening troops.

R2P emerged against the backdrop of the emphatic rejection by most developing countries, backed by China and Russia, of claims by a few pivotal northern countries of an emerging new norm of humanitarian intervention. The UN community endorsed R2P because it accepted the ICISS argument about its substantial difference from humanitarian intervention. The latter term has been discarded in UN circles by UN officials, national diplomats and civil society since 2005, other than a few diehard critics who insist it has been massaged into R2P. The efflorescence of R2P scholarly literature came about in response to the endorsement by the UN; not vice versa. Given that, it is difficult to know if the continued employment of 'humanitarian intervention' in the academic world²³ as synonymous with R2P is due to intellectual hubris, laziness or incompetence. Regardless, the result is a growing distance between academe and policy-makers, with the accompanying risk of increasing irrelevance of scholarship to policy.

²¹ *A more secure world: our shared responsibility* (New York: United Nations, A/59/565, December 2004), pp. 65–6; emphasis in original.

²² Louise Arbour, 'The responsibility to protect as a duty of care in international law and practice', *Review of International Studies* 34: 3, 2008, pp. 445–58.

²³ Aidan Hehir, *Humanitarian intervention: an introduction*, 2nd ed. (Basingstoke: Palgrave Macmillan, 2013); James Pattison, *Humanitarian intervention and the Responsibility to Protect: who should intervene?* (Oxford University Press, 2012); Terry Nardin and Melissa S. Williams, eds, *Humanitarian intervention* (New York: New York University Press, 2005); Derek Averre and Lance Davies, 'Russia, humanitarian intervention and the Responsibility to Protect: the case of Syria', *International Affairs* 91: 2, March 2015, pp. 813–34; Ian Hurd, 'Is humanitarian intervention legal? The rule of law in an incoherent world', *Ethics & International Affairs* 25: 3, Fall 2011, pp. 293–313; Jon Western and Joshua S. Goldstein, 'Humanitarian intervention comes of age: lessons from Somalia to Libya', *Foreign Affairs* 90: 6, Nov./Dec. 2011, pp. 48–59.

Given that all three of the Holzgrefe–Keohane, Welsh and Scheid volumes deal with humanitarian intervention, the fact that there is a 100 per cent western cast of authors rather confirms the point about humanitarian intervention approaching the topic from the point of view of the rights and privileges of the intervening countries.²⁴ *Humanitarian intervention: ethical, legal and political dilemmas* and *Humanitarian intervention and international relations* reflect the language of their time. *The ethics of armed humanitarian intervention* (Cambridge University Press, 2014), edited by Don E. Scheid, makes an important contribution to the *ethics of humanitarian intervention* from the perspective of western countries who have engaged in or might contemplate such ventures. But its contribution to the *politics of the responsibility to protect* is negligible. It seems bad enough to persist with the ‘humanitarian intervention’ terminology; the use of that language with respect to UN operations in Norrie MacQueen’s *Humanitarian intervention and the United Nations* (Edinburgh University Press, 2011) is particularly disconcerting.

Prevention: work in progress

R2P emerged against the backdrop of a growing awareness among peoples and policy-makers of mass atrocities in various parts of the world. What is the state of our knowledge with respect to the causes of atrocities, the institutional vulnerabilities and points of resilience, the pathways from simmering animosities to mass killings, the most effective preventive and response mechanisms, the indicators and precursors, for example incitement by radio and leaflets?²⁵ Armed conflict is neither a necessary nor a sufficient condition of atrocities: most (although not all) atrocities occur against the backdrop of armed conflict, but most armed conflicts do not also lead to mass atrocities. In *Massacres and morality* (Oxford University Press, 2012), Alex Bellamy argues that the world has made impressive progress in legislating against the intentional killing of civilians and constructing institutions to give meaning to that prohibition. It has become more difficult, but not impossible, for states to get away with mass murder. *Reconstructing atrocity prevention* (Cambridge University Press, 2015), edited by Sheri P. Rosenberg, Tibi Galis and Alex Zucker attempts to address the topic of the prevention of mass atrocities from the theoretical, policy and practising standpoints simultaneously. But with 21 of 24 contributors being westerners, its utility is greatly limited.²⁶ The ‘white man’s burden’ continues to be evident in western scholarship, broadening

²⁴ J.L. Holzgrefe and Robert O. Keohane, eds, *Humanitarian intervention: ethical, legal and political dilemmas* (Cambridge University Press, 2003); Jennifer Welsh, ed., *Humanitarian intervention and international relations* (Oxford University Press, 2004).

²⁵ Monica Serrano and Weiss, eds, *The international politics of human rights: rallying to the R2P cause?* (London: Routledge, 2013); John Janzekovic and Daniel Silander, eds, *Responsibility to protect and prevent: principles, promises and practicalities* (London: Anthem Press, 2013); Dan Kuwali and Frans Viljoen, eds, *Africa and the Responsibility to Protect: article 4(h) of the African Union Constitutive Act* (London: Routledge, 2014), chs 13–16.

²⁶ A useful contrast is Niv Horesch and Emilian Kavalski, eds, *Asian thought on China’s changing international relations* (Basingstoke: Palgrave Macmillan, 2014), which gives primacy to voices from China and its Asian neighbours in the intellectual and philosophical reflections on the rise of China. It builds on the earlier edited volume by Amitav Acharya and Barry Buzan: *Non-western international relations theory: perspectives on and beyond Asia* (New York: Routledge, 2010).

Kishore Mahbubani's question—'can Asians think?'—to people from the developing countries generally and implies an answer in the negative.²⁷

Atrocity prevention remains challenging and requires using early warning information and analyses and a range of legal instruments and regimes, including the International Criminal Court (ICC).²⁸ The best early warnings include reports from the Brussels-based International Crisis Group and the *R2P Monitor* published by the New York-based Global Centre for R2P.²⁹ Civil society can mobilize the public and political will of peoples and governments to intervene to prevent atrocities.³⁰ Often, however, the focus is mistakenly on the *need* to respond when the real challenge is inadequate *means* to respond, in particular a lack of capacity on the part of regional organizations to undertake upstream preventive activities.³¹ *The responsibility to prevent* (Oxford University Press, 2015), edited by Serena Sharma and Welsh, is devoted exclusively to the preventive dimension of R2P. Sharma and Welsh have assembled an international group of academics and practitioners to investigate how to operationalize the responsibility to prevent through the conceptual lens of crimes prevention, using tools and approaches like sanctions, mediation, international criminal justice and military force.

The Latin American Network for Genocide and Mass Atrocity Prevention was launched in March 2012 as the first initiative of its kind. On 29 May 2015 it adopted a declaration affirming the group as 'a regional tool that contributes to the continued mainstreaming of atrocity prevention in national agendas', can develop and consolidate a common curriculum on atrocity prevention and support the work of the UN Office of the Special Adviser on the Prevention of Genocide.³² The formation of the Asia Pacific Partnership for Atrocity Prevention followed in October 2015.³³

Implementation gaps

In the 60-year period from the UN's creation in 1945 to the adoption of R2P in 2005, the peace and security agenda of the world body was significantly recalibrated as the norm of non-intervention steadily softened and the cluster of human rights and humanitarian norms progressively hardened,³⁴ as manifested across a wide range of agenda items, culminating in R2P. In the Feuerbachian reframing

²⁷ *Can Asians think?* (Singapore: Marshall Cavendish, 2009).

²⁸ Bellamy, *Global politics and the Responsibility to Protect: from words to deeds* (London: Routledge, 2011), ch. 6; and Robert I. Rotberg, ed., *Mass atrocity crimes: preventing future outrages* (Washington DC: Brookings, 2010).

²⁹ For a critique and defence of Crisis Group methodology, see Peter Tikuisis and David R. Mandel, 'Is the world deteriorating?', and International Crisis Group, 'Response to "Is the world deteriorating?"', *Global Governance* 21: 1, Jan. 2015, pp. 9–18; for example *R2P Monitor*, 23, September 2015, http://www.globalr2p.org/media/files/r2p_monitor_sept2015_final.pdf.

³⁰ Frank Chalk, Kyle Matthews and Carla Barqueiro, *Mobilizing the will to intervene: leadership to prevent mass atrocities* (Montreal: McGill Queens University Press, 2010).

³¹ Adam Lupel and Ernesto Verdeja, eds, *Responding to genocide: the politics of international action* (Boulder, CO: Lynne Rienner, 2013).

³² 'Declaration of the Latin American Network for Genocide and Mass Atrocity Prevention', Santiago, 29 May 2015, <http://www.auschwitzinstitute.org/wp-content/uploads/2015/08/Network-Declaration-EN.pdf>.

³³ <http://www.r2pasiapacific.org/index.html?page=224295&pid=191756>.

³⁴ This is the main narrative storyline of Thakur, *United Nations, peace and security*.

of state–citizen relations, R2P makes sovereign rights conditional on the state protecting the rights of its people.³⁵ In his first report on R2P, Secretary-General Ban Ki-moon articulated an agenda to convert R2P from promise to practice, ‘turning the authoritative and enduring words of the 2005 World Summit Outcome into doctrine, policy and, most importantly, deeds’.³⁶ Action to prevent or halt atrocities requires the adoption of R2P as national policy by key state actors, and as international policy by the UN community collectively.³⁷

R2P initiated a debate in policy and academic circles on its precise status. Is it a powerful new ‘moral compact’ or does it compromise the existing moral primacy of peace by extending permissible military action; does it have legal force; should we describe it as a principle; has it attained the status of a global norm through some process of circulation?³⁸ Our understanding in 2001 was that the call to protect people from atrocity crimes had a strong basis in the UN Charter and in customary international law in that it ‘epitomises the humanitarian character and central purpose of international human rights, humanitarian law, refugee law and international criminal law’.³⁹ Despite R2P’s uncertain legal character, ‘there is a responsibility under international law to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity’. At the very least, therefore, R2P ‘does challenge states to meet their *existing* responsibilities’.⁴⁰ Even though it may well rest on an unarticulated theory of international obligation,⁴¹ in *The Responsibility to Protect (R2P): a new paradigm of international law?* (Leiden: Brill, 2014) Peter Hilpold argues that the likelihood of R2P ‘hardening’ into a norm of customary international law is slim. The shared understandings of R2P to date are not deep enough and its practice remains too inconsistent.⁴² Heather Roff’s *Global justice, Kant and the Responsibility to Protect* (London: Routledge, 2013) develops the intriguing argument that the route to institutionalizing R2P as a peremptory norm in contemporary global politics is to root it in eighteenth-century European philosophy.

³⁵ Charles Sampford and Thakur, ‘From the Right to Persecute to the Responsibility to Protect: Feuerbachian inversions of rights and responsibilities in state–citizen relations’, in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 38–58.

³⁶ *Implementing the Responsibility to Protect* (New York: United Nations, document A/63/677, 12 Jan. 2009), para. 67.

³⁷ Thakur, ‘The development and evolution of R2P as international policy’, *Global Policy* 6: 3, Sept. 2015, pp. 190–200.

³⁸ Richard H. Cooper and Juliette Voinov Kohler, eds, *Responsibility to Protect: the global moral compact for the 21st century* (Basingstoke: Palgrave Macmillan, 2010); Mary Ellen O’Connell, ‘Responsibility to peace: a critique of R2P’, *Journal of Intervention and Statebuilding* 4: 1, March 2010, pp. 39–52; Bellamy, Davies and Glanville, eds, *The Responsibility to Protect and international law* (Leiden: Brill, 2010); Carsten Stahn, ‘Responsibility to Protect: political rhetoric or emerging legal norm?’, *American Journal of International Law*, vol. 101, 2007, pp. 99–120; Michael Byers, ‘International law and the Responsibility to Protect’ in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 101–124; Acharya, ‘The Responsibility to Protect and a theory of norm circulation’, in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 59–77.

³⁹ Gentian Zyberi, ‘Sharing the Responsibility to Protect: taking stock and moving forward’, in Zyberi, ed., *An institutional approach to the Responsibility to Protect* (Cambridge University Press, 2013), p. 512.

⁴⁰ Dieter Fleck, ‘The law applicable to peace operations’, in Andrew Clapham and Paola Gaeta, eds, *The Oxford handbook of international law in armed conflict* (Oxford University Press, 2014), p. 216 (emphasis added).

⁴¹ William Bain, ‘Responsibility and obligation in the “Responsibility to Protect”’, *Review of International Studies*, 36:SI, Oct. 2010, pp. 25–46.

⁴² Jutta Brunée and Stephen Toope, ‘R2P and the use of force: building legitimacy’, *GR2P* 2: 3, 2010, pp. 191–212.

Global norms lie at the intersection of ethics, law and international affairs. Normative shifts take place when the law–ethics equation is recomputed. Ines-Jacqueline Werkner and Dirk Rademacher (eds), in *Protecting people—and losing just peace?* (Berlin: LIT Verlag, 2013), and Semegnish Asfaw, Guillermo Kerber and Peter Weiderud (eds), in *Responsibility to Protect: ethical and theological reflections* (Geneva: World Council of Churches, 2006), discuss ethical challenges, dilemmas and imperatives in relation to religious and philosophical principles. However, an intervention can be neither explained nor judged by purely ethical criteria: political factors are integral both to the explanation of the initial intervention and to its outcome.⁴³ Theresa Reinold's *Sovereignty and the Responsibility to Protect* (London: Routledge, 2013) is one of the more interesting books on the disproportionate capacity of powerful actors to frame global norms. Reinold dissects the complex interactions between power and norms and is especially illuminating when demonstrating how normative frames can be imported across discourses like protection, counterterrorism and non-proliferation. Cristina Badescu's *Humanitarian intervention and the Responsibility to Protect* (London: Routledge, 2012) interrogates the intersection of R2P, security and human rights. ICISS itself located R2P within the broader normative umbrella of human security, the subject of Hannes Peltonen's *International responsibility and grave humanitarian crises* (London: Routledge, 2012) which explores its links with collective responsibility and international community.⁴⁴ Hilpold ascribes R2P's rapid adoption to the conviction that in an age of mass atrocities, international law was in urgent need of being 'humanized'.⁴⁵

Although R2P (along with its sibling norms: protection of civilians and international criminal justice) is an important innovation, many gaps remain in the protection agenda's normative architecture with respect to civilians in occupied territories (Gaza), internally displaced persons, refugees, natural disasters (Cyclone Nargis in Myanmar), kin states (overseas Chinese, Indians, Russians), armed civil wars and insurgencies (Sri Lanka, Syria), victims of anarchic violence unleashed in the aftermath of illegal invasions and chaotic occupations as of Iraq in 2003 (a war appropriately described as humanitarian imperialism), etc.⁴⁶ R2P is subject, like

⁴³ Dan Bulley, 'The politics of ethical foreign policy: a responsibility to protect whom?', *European Journal of International Relations* 16: 3, Sept. 2010, pp. 441–61; David Chandler, 'Rhetoric without responsibility: the attraction of "ethical" foreign policy', *British Journal of Politics and International Relations* 5: 3, Aug. 2003, pp. 295–316.

⁴⁴ See also: Thakur, *United Nations, peace and security*, ch. 3; Cecilia Jacob, 'Practising civilian protection: human security in Myanmar and Cambodia', *Security Dialogue* 45: 4, Aug. 2014, pp. 391–408; Chandler, 'Resilience and human security: the post-interventionist paradigm', *Security Dialogue* 43: 3, Nov. 2012, pp. 213–29; and Nicholas Thomas and William T. Tow, 'The utility of human security: sovereignty and humanitarian intervention', *Security Dialogue* 33: 2, Sept. 2002, pp. 177–92.

⁴⁵ Peter Hilpold, 'Intervening in the name of humanity: R2P and the power of ideas', *Journal of Conflict and Security Law* 17: 1, Spring 2012, pp. 49–79.

⁴⁶ Thakur and Vesselin Popovski, 'The Responsibility to Protect and prosecute: the parallel erosion of sovereignty and impunity', in Giuliana Ziccardi Capaldo, ed., *The global community: Yearbook of International Law and Jurisprudence 2007*, vol. 1 (New York: Oxford University Press, 2008), pp. 39–61; Kirsten Ainley, 'The Responsibility to Protect and the International Criminal Court: counteracting the crisis', *International Affairs* 91: 1, Jan. 2015, pp. 37–54; Jeremy Sarkin, 'The role of the United Nations, the African Union and Africa's sub-regional organizations in dealing with Africa's human rights problems: connecting humanitarian intervention and the Responsibility to Protect', *Journal of African Law* 53: 1, 2009, pp. 1–33; Feris, *The politics of prevention: the limits of humanitarian action* (Washington DC: Brookings, 2011); Thakur, 'Protection gaps for civilian victims of political violence', *South African Journal of International Affairs* 20: 3, Oct. 2013, pp. 321–38;

all policy-significant norms, to inconsistency (the uneven application of a norm) and incoherence (tensions between different cognate norms, the best example being non-intervention and R2P). Its applicability to any particular crisis, and the manner of its implementation, can also generate normative contestation.⁴⁷ On the last point, importantly, Welsh distinguishes between procedural contestation over who should 'own' its development as a norm and substantive contestation over its content.⁴⁸

Can R2P help us to take a small but important step 'towards a world free of mass atrocities'?⁴⁹ Given the demand-driven origins of R2P and its bias towards action, a fruitful approach is to try to combine philosophical and theoretical reflections with empirical case-studies; to bring together scholars and practitioners in one collection; and to assemble a global cast of authors to speak to the relevance and limits of a putatively global norm. Jared Genser and Irwin Cotler (eds), in *The Responsibility to Protect: the promise of stopping mass atrocities in our time* (New York: Oxford University Press, 2011), do all this unusually well. Charles Sampford and Ramesh Thakur (eds), in *Responsibility to Protect and sovereignty* (Aldershot: Ashgate, 2014), examine the theoretical tensions between sovereignty and R2P and also how they played out in the cases of East Timor, Sri Lanka, Sudan and Kosovo. Bellamy's *Global politics and the Responsibility to Protect* is a substantial account of the issues relating to the implementation challenges confronting R2P. Julia Hoffman and Andre Nollkaemper (eds), in *Responsibility to Protect: from principle to practice* (Amsterdam: Pallas, 2012), similarly explore the transitional issues in moving from principle to practice, and Part IV of Kuwali and Viljoen's *Africa and the Responsibility to Protect* examines the operationalization possibilities under article 4(h) of the African Union (AU) charter.

The best study of R2P's 'track record' as actionable principle/norm in the first five years is by Bellamy. R2P had become mainstreamed in international diplomatic discourse, served as a lens through which to evaluate events and frame responses, and sharpened calls to implement existing obligations and policies. But it was not yet a reliable catalyst for robust international action.⁵⁰ The poster children of the critics of the ways in which R2P has been conceptualized and implemented are Darfur and Syria, where strangers in peril were not saved.⁵¹ While de Waal located the failure to intervene in Darfur in the unrealistic expectations raised by R2P,

Thakur, 'Israel's serial Gaza Offensives are offensive', *e-International Relations*, 24 July 2014, <http://www.e-ir.info/2014/07/24/israels-serial-gaza-offensives-are-offensive>; Davies and Glanville, eds, *Protecting the displaced: deepening the Responsibility to Protect* (Leiden: Brill, 2010); Agnes Hurwitz, *The collective Responsibility to Protect refugees* (Oxford University Press, 2009); Maley, 'Humanitarian Law, refugee protection, and the Responsibility to Protect', in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 249–65; Kemp, Popovski and Thakur, eds, *Blood and borders: the Responsibility to Protect and the problem of the kin-state* (Tokyo: United Nations University Press, 2011); Nardin, 'Humanitarian imperialism', *Ethics & International Affairs* 19: 2, Dec. 2005, pp. 21–6.

⁴⁷ Thakur, *Responsibility to Protect*, ch. 12.

⁴⁸ Welsh, 'Norm contestation and R2P', *GR2P* 5: 4, 2013, pp. 365–96.

⁴⁹ Bellamy, *Global politics and the Responsibility to Protect*, ch. 6.

⁵⁰ Bellamy, *Global politics and the Responsibility to Protect*.

⁵¹ Roberto Belloni, 'The tragedy in Darfur and the limits of the "Responsibility to Protect"', *Ethnopolitics* 5: 4, Dec. 2006, pp. 327–46; Hugo Slim, 'Dithering over Darfur? A preliminary review of the international response', *International Affairs* 80: 5, Oct. 2004, pp. 811–28; Nicholas Wheeler, 'A victory for common humanity? The Responsibility to Protect after the 2005 World Summit', *Journal of International Law and International Relations* 2: 1, 2005, pp. 95–107.

to Badescu and Bergholm, Darfur highlighted political limitations inherent in the R2P framework, moral dilemmas emerging from military action and tactical challenges operationally.⁵² To some, inaction on Darfur reflected heightened scepticism about interventionism after the 2003 Iraq War, western strategic interests in Sudan and the complex linkages with Sudan's other wars.⁵³ Others tried to show how media framing of the crisis could mobilize public opinion.⁵⁴ Given the logistical and other practical difficulties of using force against the Sudanese government, and the likely damaging consequences for humanitarian relief operations and the fragile peace process, Evans argues, 'the failure has been in the application of other measures, not the non-application of coercive force'.⁵⁵

Part of the implementation difficulty lies in the danger of R2P being hijacked by conflict partisans and yoked to their agendas. In Sri Lanka, for example, based on a heavily biased reading of R2P (similar to Russia's in South Ossetia),⁵⁶ Damien Kingsbury, in *Sri Lanka and the Responsibility to Protect* (London: Routledge, 2012), bemoans the failure to invoke R2P against the government as it crushed the Tamil Tigers in 2009.⁵⁷ Yet, given the nature of the conflict as a civil war and the particular brutality of the Tigers, the government would have been just as entitled to seek international help under R2P in order to discharge its responsibility to protect all people in its territorial jurisdiction.⁵⁸ As Gallagher correctly notes, international assistance is 'the most overlooked and under-researched of the three pillars' of R2P.⁵⁹ Westerners innocent of the complexities and nuances of the fog of war in Third World conditions, where insurgency and terrorism had fused in a 'liberation movement', are not best placed to judge the morality of government actions in desperately trying to defend the authority of the state and the integrity of its borders; any more than the rest have the right to determine the best balance between safety and freedoms in the anti-terrorism policies of western governments. None of this exempts any of the parties to the conflict from criminal accountability under international humanitarian and human rights laws. With the report of the Commission of Inquiry set up by the UN Human Rights Council under the distinguished Australian jurist Michael Kirby as chair, the idea of holding North Korea to account under R2P was placed on the international

⁵² Alex de Waal, 'Darfur and the failure of the Responsibility to Protect', *International Affairs* 83: 6, Nov. 2007, pp. 1039–54; Cristina Badescu and Linnea Bergholm, 'The Responsibility to Protect and the conflict in Darfur: the big let-down', *Security Dialogue* 40: 3, June 2009, pp. 287–309.

⁵³ Nicolaas A. Smit, *The evolution of the Responsibility to Protect: from the ICISS to the 2005 World Summit* (Hamburg: Anchor Academic Publishing, 2013); Williams and Bellamy, 'The Responsibility to Protect and the crisis in Darfur', *Security Dialogue* 36: 1, March 2005, pp. 27–47.

⁵⁴ Abdel Salam Sidahmed, Walter C. Soderlund and Donald E. Briggs, *The Responsibility to Protect in Darfur: the role of the mass media* (Lanham, MD: Lexington Books, 2010).

⁵⁵ Evans, *Responsibility to Protect*, p. 61.

⁵⁶ For an interesting argument on how even misuses and abuses of the R2P norm help to strengthen it, see Badescu and Weiss, 'Misrepresenting R2P and advancing norms: an alternative spiral', *International Studies Perspectives* 11: 4, Nov. 2010, pp. 354–74.

⁵⁷ He also takes an unfortunate personal swipe at Amitav Acharya in describing the latter's localization notion of norms as 'an intellectual juggling act' that is 'a prerequisite for public scholarship under Singapore's highly interventionist political order' (p. 11).

⁵⁸ Thakur, *Responsibility to Protect*, pp. 155–6.

⁵⁹ Adrian Gallagher, 'The promise of pillar II: analysing international assistance under the Responsibility to Protect', *International Affairs* 91: 6, Nov. 2015, p. 1260.

agenda.⁶⁰ There are problems, however, with treating this as primarily a legal violation rather than a political challenge.⁶¹

Moreover, while the coercive end of R2P is to be found only in Pillar Three, the latter is not restricted solely to coercive tools (military and non-military). Rather, as Bellamy highlights, even in Pillar Three, the default first response is peaceful means while forceful means are the option of last resort.⁶² The correct distinctions between the three pillars, therefore, are based not on the element of coercion but on the 'vertical' distribution of responsibility: of the state (Pillar One), but not precluding the use of force on its own to deal with perpetrators; of the international community to assist the state concerned (Pillar Two); and of the international community to act on its own (Pillar Three) through peaceful persuasion, then increasingly coercive instruments all the way to the use of force.

Unsurprisingly, as the only such actual case-study to date, Libya figures prominently in the discourse on the potential and limits of R2P-type military intervention and *Libya, the Responsibility to Protect and the future of humanitarian intervention* (Basingstoke: Palgrave Macmillan, 2013) edited by Aidan Hehir and Robert Murray is part of a growing list.⁶³ According to Kuperman, the 2011 intervention prolonged the war's duration about sixfold, increased the death toll up to tenfold, worsened human rights abuses and humanitarian suffering, fed Islamic radicalism and led to weapons proliferation in Libya and its neighbours.⁶⁴ In arguing that the intervention highlighted four inescapable 'structural' dilemmas intrinsic to R2P,⁶⁵ Paris conflates the structural dilemmas inherent in any contemporary use of force into a central dilemma of R2P.⁶⁶ How many instances of the international use of force on a significant scale in the last one hundred years have been free of major controversy? Hehir uses the Libya intervention to develop the unexceptionable thesis that Security Council decisions flow from 'politics and pragmatism' more than principles. Mostly, the Council demonstrates inertia, with occasional flourishes of activism when the interests of the P5 coincide with humanitarian needs of the crisis *du jour*.⁶⁷ For ICISS, the dual hope and expectation was that, first, R2P would enhance the prospect of protective action by the Council without in any way guaranteeing such an outcome; and second, that it would reduce but

⁶⁰ *Report of the commission of inquiry on human rights in the Democratic People's Republic of Korea* (Geneva: Human Rights Council, UN document A/HRC/25/63, 7 Feb. 2014).

⁶¹ Bellamy, 'A chronic protection problem: the DPRK and the Responsibility to Protect', *International Affairs* 91: 2, March 2015, pp. 225–44.

⁶² Bellamy, *The first response: peaceful means in the Third Pillar of the Responsibility to Protect*, policy analysis (Muscatine, IA: Stanley Foundation, Jan. 2016), <http://www.stanleyfoundation.org/resources.cfm?id=1586>.

⁶³ Williams and Bellamy, 'Principles, politics, and prudence: Libya, the Responsibility to Protect, and the use of military force', *Global Governance* 18: 3, Summer 2012, pp. 273–97; Zifcak, 'Responsibility to Protect after Libya and Syria'; Ivo H. Daalder and James Stavridis, 'NATO's victory in Libya: the right way to run an intervention', *Foreign Affairs* 91: 2, Spring 2012, pp. 2–7.

⁶⁴ Alan Kuperman, 'A model humanitarian intervention? Reassessing NATO's Libya campaign', *International Security* 38: 1, Summer 2013, pp. 105–36.

⁶⁵ Roland Paris, 'The "Responsibility to Protect" and the structural problems of preventive humanitarian intervention', *International Peacekeeping* 21: 5, Oct. 2014, pp. 569–603.

⁶⁶ Thakur, 'R2P's "structural" problems: a response to Roland Paris', *International Peacekeeping* 22: 1, Jan. 2015, pp. 12–15.

⁶⁷ Hehir, 'The permanence of inconsistency: Libya, the Security Council, and the Responsibility to Protect', *International Security* 38: 1, Summer 2013, pp. 137–59.

not eliminate the element of inconsistency in decision-making. The very existence of R2P becomes a factor in the construction of state interests and identities and conditions the politics of interaction in the Council.⁶⁸ The other noteworthy feature of the Libya intervention was the key role of regional organizations—the Arab League and Organization of Islamic Conference (OIC) (but not the AU)⁶⁹—as gatekeepers for R2P implementation.⁷⁰

While some have focused on ‘responsibility’,⁷¹ others have examined ‘protection’. *Responsibility to Protect and women, peace, and security* (Leiden: Brill, 2013), edited by Sara Davies, Zim Nwokora, Eli Stammen and Sarah Teit, is one of many works to explore the relationship between R2P and women as potential victims but also empowered agents of structural change for preventing and mitigating the effects of gendered mass atrocity crimes.⁷² The operationalization of R2P in peacekeeping missions inevitably raises the complexity of the relationship between R2P and protection of civilians.⁷³ Popovski, Charles Sampford and Angus Francis (eds), in *Norms of protection: Responsibility to Protect, protection of civilians, and their interaction* (Tokyo: UN University Press, 2012), show that the sibling norms have many overlaps and similarities, but also important differences and tensions.⁷⁴ A special issue of *Global R2P*, while taking as its point of departure that humanitarian action contributes to the attainment of R2P goals, explored the complex and fraught relationship between the two agendas that pose practical, ethical and strategic challenges.⁷⁵

The evolution of peacekeeping doctrine and practice has closely tracked the development of R2P policy.⁷⁶ Reference to R2P has become a staple of many

⁶⁸ Bellamy, ‘The Responsibility to Protect: added value or hot air?’, *Cooperation and Conflict* 48: 3, 2013, pp. 333–57.

⁶⁹ De Waal, ‘African roles in the Libyan conflict of 2011’, *International Affairs* 89: 2, March 2013, pp. 265–79.

⁷⁰ Bellamy and Williams, ‘The new politics of protection? Côte d’Ivoire, Libya and the responsibility to protect’, *International Affairs* 87: 4, July 2011, pp. 825–50; Luke Glanville, ‘Intervention in Libya: from sovereign consent to regional consent’, *International Studies Perspectives* 14: 3, Aug. 2013, pp. 325–42; Matthias Vanhullebusch, ‘The Arab League and military operations: prospects and challenges in Syria’, *International Peacekeeping* 22: 2, March 2015, pp. 151–68; El Hassan bin Talal and R. Schwarz, ‘The Responsibility to Protect and the Arab world: an emerging international norm?’, *Contemporary Security Policy* 34: 1, Apr. 2013, pp. 1–15.

⁷¹ Hannes Peltonen, ‘Modelling international collective responsibility: the case of grave humanitarian crises’, *Review of International Studies* 36: 2, April 2010, pp. 239–55.

⁷² Laurel Bond and Jennifer Sherett, ‘Mapping gender and R2P’, *GR2P* 4: 2, 2012, pp. 133–51; Susan Harris Rimmer, ‘Is the Responsibility to Protect doctrine gender-neutral?’, in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 266–84; Dursun Peksen, ‘Foreign military intervention and women’s rights’, *Journal of Peace Research* 48: 4, July 2011, pp. 455–68; Sara Davies, Sarah Teit and Zim Nwokora, ‘Bridging the gap: early warning, gender and the Responsibility to Protect’, *Cooperation and Conflict* 50: 2, June 2015, pp. 228–49.

⁷³ Hitoshi Nasu, ‘Operationalizing the Responsibility to Protect in the context of civilian protection by UN peacekeepers’, *International Peacekeeping* 18: 4, Aug. 2011, pp. 364–78; Lisa Hultman, ‘UN peace operations and protection of civilians: cheap talk or norm implementation?’, *Journal of Peace Research* 50: 1, Jan. 2013, pp. 59–73; Weiss, ‘Peace operations and humanitarian interventions’, in Joachim Koops, Norrie MacQueen, Thierry Tardy and Paul Williams, eds, *The Oxford handbook of United Nations peacekeeping operations* (Oxford: Oxford University Press, 2015), pp. 78–92; Hugo Slim, ‘Why protect civilians? Innocence, immunity and enmity in war’, *International Affairs* 79: 3, May 2003, pp. 481–501.

⁷⁴ See also Breakey, Francis, Popovski, Sampford, Smith and Thakur, *Enhancing protection capacity: a policy guide to the Responsibility to Protect and the protection of civilians in armed conflicts* (Brisbane: Institute for Ethics, Governance and Law, 2012), <http://www.griffith.edu.au/criminology-law/institute-ethics-governance-law/research/responsibility-to-protect-protection-of-civilians-policy-guide>.

⁷⁵ *GR2P* 6: 2, 2014. The article by John Holmes, the former UN Under-Secretary-General for Humanitarian Affairs, is especially noteworthy: ‘Responsibility to Protect’, pp. 126–45.

⁷⁶ Susan Breau, ‘The impact of the Responsibility to Protect on peacekeeping’, *Journal of Conflict & Security Law* 11: 3, Winter 2006, pp. 429–64.

UNSC resolutions and presidential statements, while civilian protection has become an integral component of many UN peacekeeping mandates, now issued as often as not under the coercive Chapter VII of the UN Charter.⁷⁷ This reached its zenith with UNSC Resolution 2098 (28 March 2013) authorizing the creation of a 'Force Intervention Brigade' in the Democratic Republic of Congo. The protection of victims from mass atrocities requires different guidelines and rules of engagement as well as different relationships to civil authorities and humanitarian actors.⁷⁸ The differences need to be identified, articulated and incorporated into officer training manuals and courses.⁷⁹ Operationalizing R2P with respect to the protection agenda in the field will mean adopting a bottom-up approach that brings together the humanitarian actors on the ground in conflict zones.⁸⁰ There is a need to examine the respective roles of military and civilian actors and how they should collaborate with and reinforce one another.⁸¹

Annie Herro in *UN emergency peace and the Responsibility to Protect* (London: Routledge, 2014) advocates the creation of an emergency UN peace service as key to rapid response capability by the UN. Daniel Fiott and Joachim Koops (eds), *The Responsibility to Protect and the Third Pillar* (Basingstoke: Palgrave MacMillan, 2014), is one of the very few to take up the issue of operationalizing the military intervention dimension of R2P, highlighting the processes, opportunities and risks involved and the timeliness, legitimacy, proportionality and effectiveness of Pillar Three responses through international law, economic sanctions, military intervention and alternative actions. A noteworthy feature of the book is self-contained chapters on China, India (by Chinese and Indian authors) and Russia, and on the role of business and information technology.

Actors: multilevel responsibility vacuum

International organizations

For any collective responsibility, it is important to identify which actors have moral agency. Can formal organizations bear duties and be ascribed blame in the same way that we understand individual human beings to be morally responsible for actions? According to the Organization of African Unity (OAU) inquiry panel on Rwanda's 'preventable genocide', 'the silence of the OAU ... constituted a shocking moral failure'.⁸² The idea of the 'institutional moral agent' is critically examined in Toni Erskine's *Can institutions have responsibilities?* (Basing-

⁷⁷ Frédéric Mégret, 'From peacekeeping to R2P: The protection of civilians as the UN's new *raison d'être*?', unpublished paper, September 2012, <http://dx.doi.org/10.2139/ssrn.2154968>.

⁷⁸ Bellamy, *Responsibility to Protect*, pp. 150–69.

⁷⁹ Victoria Holt and Tobias Berkman, *The Impossible mandate? Military preparedness, the Responsibility to Protect and modern peace operations* (Washington DC: Stimson Center, 2006).

⁸⁰ Jaya Murthy, 'Mandating the protection cluster with the responsibility to protect: a policy recommendation based on the protection cluster's implementation in South Kivu, DRC', *Journal of Humanitarian Assistance*, 5 Oct. 2007, <https://sites.tufts.edu/jha/archives/55>.

⁸¹ Weiss, *Military–civilian interactions: humanitarian crises and the Responsibility to Protect* (Lanham, MD: Rowman & Littlefield, 2004).

⁸² *Rwanda: the preventable genocide. report of the OAU's International Panel of Eminent Personalities* (Addis Ababa: OAU, 31 May 2000), para. 15.87, <http://www.refworld.org/pdfid/4d1da8752.pdf>.

stoke: Palgrave Macmillan, 2004) with respect to states, transnational corporations, the UN, NATO and international society in the context of some of the most contested issues and events in international relations, including Kosovo and Rwanda.⁸³ Many analysts continue to draw on the distinction, established by the independent commission on Kosovo, between the legality and legitimacy of interventions,⁸⁴ insisting that even where an intervention may be illegal, the authority of moral law trumps that of international law.⁸⁵ The legality of intervention must be assessed within the broader context of the use of force in international law.⁸⁶ The morality of intervention draws on the well-established tradition of just war theory.⁸⁷ In fact, the two are deeply intertwined.⁸⁸ They converge most effectively when interventions are UN-authorized and so considerable attention has been devoted to enhancing the prospects of authorization and improving the efficacy of such interventions.⁸⁹ While refinement and development of R2P as principle are the responsibility of the General Assembly, responsibility for its implementation rests with the Security Council.

Daniel Silander and Don Wallace (eds) in *International organizations and the implementation of the Responsibility to Protect* (London: Routledge, 2015) examine the roles, formal responsibility and actual capabilities of the UN, the ICC, OIC, Arab League, Gulf Cooperation Council, NATO, G8 and the Organization of Security and Cooperation in Europe to protect civilians from systematic mass atrocities. Zyberi's *Institutional approach to the Responsibility to Protect* covers the main political organs of the UN, important regional and security organizations, international judicial institutions and the regional human rights protection systems—with care taken for the regional chapters to include authors from the regions. In *The Responsibility to Protect: rhetoric, reality and the future of humanitarian intervention* (Basingstoke: Palgrave Macmillan, 2012), Hehir's solution to the problem of R2P having failed to respond effectively and in time to humanitarian crises requires major structural UN reform. Given the decades of futile efforts on this point so far, it is difficult

⁸³ See especially Daniela Krosiak, 'The responsibility of collective external bystanders in cases of genocide: the French in Rwanda', pp. 159–82; and Lang, 'The United Nations and the fall of Srebrenica: meaningful responsibility and international society', pp. 183–206.

⁸⁴ Richard Falk, Mark Juergensmeyer and Vesselin Popovski, eds, *Legality and legitimacy in global affairs* (Oxford University Press, 2012); Simon Chesterman, 'Legality versus legitimacy: humanitarian intervention, the Security Council, and the rule of law', *Security Dialogue* 33: 3, Sept. 2002, pp. 293–307; and Sylvia Lechner, 'Humanitarian intervention: moralism versus realism?', *International Studies Review* 12: 3, Sept. 2010, pp. 437–43.

⁸⁵ David Fisher and Nigel Biggar, 'Was Iraq an unjust war? A debate on the Iraq War and reflections on Libya', *International Affairs* 87: 3, May 2011, pp. 687–707, especially Biggar's argument on pp. 693–98 to justify the 2003 Iraq War; Fisher criticized the Iraq War but justified the 2011 NATO-led intervention in Libya.

⁸⁶ Marc Weller, ed., *The Oxford Handbook of the use of force in international law* (Oxford University Press, 2015).

⁸⁷ Chesterman, *Just war or just peace? Humanitarian intervention and international law* (Oxford University Press, 2001); Wheeler, *Saving strangers: humanitarian intervention in international society* (Oxford University Press, 2000); J. Peter Burgess, 'Ethics of humanitarian intervention: the circle closes', *Security Dialogue* 33: 3, Sept. 2002, pp. 261–4; Williams, 'Space, scale and just war: meeting the challenge of humanitarian intervention and transnational terrorism', *Review of International Studies* 34: 4, Oct. 2008, pp. 581–600; Nardin, 'The moral basis of humanitarian intervention', *Ethics & International Affairs* 16: 1, March 2002, pp. 57–70.

⁸⁸ Patrick Macklem, 'Humanitarian intervention and the distribution of sovereignty in international law', *Ethics & International Affairs* 22: 4, Winter 2006, pp. 369–93.

⁸⁹ Morten Abramowitz and Thomas Pickering, 'Making intervention work: improving the UN's ability to act', *Foreign Affairs* 87: 5, Sept./Oct. 2008, pp. 100–108.

to see just how this 'solution' advances timely and effective international response capacity. In *Humanitarian intervention and the Responsibility to Protect*, Pattison broadens the question to ask: which particular agents should undertake 'humanitarian intervention' from among the UN, NATO, regional organizations, and individual or groups of states? Inevitably, he has his own menu of reforms to the mechanism as well as agents of intervention. However, his exploration of 'the ethics and politics of humanitarian intervention' (p. 245) is flawed by the use of the old conceptual framework that is all the more surprising given the author's interest in the importance of legitimacy as a key attribute of agency.

Major and emerging powers

Because the United States is by far the most influential UN member state, Washington more than any other national capital still sets the UN agenda, and its policy on R2P will continue to be the most decisive in conditioning the UN's record of R2P implementation.⁹⁰ The analysis in Cathinka Vik's *Moral responsibility, statecraft and humanitarian intervention* (London: Routledge, 2015) makes unintentionally clear that the answer to her concluding question—responsibility to whom? (chapter five)—differs when we change lens from humanitarian intervention (to your own soldiers and citizens first) to R2P (to the victims and the international community). The right or duty of intervention under 'humanitarian intervention' falls within a long tradition of the special responsibilities that major powers have for underwriting the stability of the existing international order.⁹¹ In *Responsibility to Protect*, Hehir argues that R2P has raised international consciousness but not significantly improved the international response to humanitarian crises. He proposes strengthening international law based on obligations rather than discretionary rights. This is problematic. R2P, like any law, norm, rule or code of behaviour, has both an enabling and a constraining function. Major powers were bound to resist it on both counts. In 2005 John Bolton argued, correctly, that the responsibility of host states to protect their populations was a legal obligation, but the UN was not legally obligated to protect endangered civilians.⁹² Washington rejected the idea of criteria for the use of force: it would not offer pre-commitments to engage military forces where it had no national interests, nor bind itself to criteria that would constrain its right to decide when and where to use force.⁹³

⁹⁰ Thakur, 'United Nations', in David Coates, ed., *The Oxford companion to American politics*, Vol. 2 (New York: Oxford University Press, 2012), pp. 388–96; Madeleine Albright and Richard Williamson, *The United States and R2P: from words to action* (Washington DC: US Institute of Peace, US Holocaust Memorial Museum, and Brookings, 2013).

⁹¹ Hedley Bull, *Anarchical society: a study of order in world politics* (London: Macmillan, 1977), pp. 200–29.

⁹² Bellamy, 'Whither the Responsibility to Protect? Humanitarian intervention and the 2005 World Summit', *Ethics & International Affairs* 20: 2, June 2006, p. 164.

⁹³ Welsh, 'Conclusion: humanitarian intervention after 11 September', in Welsh, ed., *Humanitarian intervention and international relations*, p. 180. See also: Colum Lynch, 'U.S. wants changes in U.N. agreement', *Washington Post*, 25 Aug. 2005; Alicia L. Bannon, 'The Responsibility to Protect: the U.N. World Summit and the question of unilateralism', *The Yale Law Journal* 115: 5, March 2006, pp. 1157–66; Steven Groves, 'The U.S. should reject the U.N. "Responsibility to Protect" doctrine', *Backgrounders* No. 2130 (Washington DC: Heritage Foundation, 2008), <http://www.heritage.org/research/reports/2008/05/the-us-should-reject-the-un-responsibility-to-protect-doctrine>.

But 'the majority of states shared the view that if the responsibility to protect was to *constrain* western interventionism—a core component of the argument in favour of the concept—then the absolute primacy of the Security Council had to be reaffirmed'⁹⁴—as it was.

As relative US power declines, the future of R2P will depend on how the big emerging powers engage with it,⁹⁵ and on conversations among them and between them and the relatively declining western powers.⁹⁶ An especially noteworthy effort to foster a North–South dialogue is Serrano and Weiss's *International politics of human rights*, with several fine contributions from Adekeye Adebajo (Nigeria, South Africa), Monica Herz (Brazil), Liu Tiewa (China) and Kudrat Virk (India). The BRICS (Brazil, Russia, India, China and South Africa) have endorsed R2P as a principle, support Pillars One and Two, but diverge occasionally from western countries on Pillar Three regarding when and how to apply it.⁹⁷ Asia is particularly interesting because during the ICISS outreach in 2001, its opposition to intervention was the most hard-line of all continents.⁹⁸ The Asia-Pacific Centre for R2P has led efforts to socialize the region on the 2005 version of R2P.⁹⁹ India remains conflicted and hesitant rather than either supportive or opposed, notwithstanding the fact that key antecedents of R2P can be traced directly to its own constitution.¹⁰⁰ In *Brazil as a rising power* (London: Routledge, 2016), edited by Kai Michael Kenkel and Philip Cunliffe, debates around intervention serve as a locus for examining the clash of norms that accompanies emergence as a global player. This is not to suggest, however, that western countries can be exempted from their protection responsibilities.¹⁰¹

Russia has tried to misuse R2P against Georgia in the past, tolerated Security Council authorization of a NATO-led R2P operation in Libya, but stoutly resisted efforts to authorize any robust resolution for dealing with the Syrian crisis.¹⁰² Given its rising global profile and growing regional assertiveness, China's

⁹⁴ Bellamy, 'Whither the Responsibility to Protect?', p. 164; emphasis in original.

⁹⁵ An alternative grouping would be 'global middle powers': Malte Brosig, ed., *The Responsibility to Protect— from evasive to reluctant action? The role of global middle powers* (Johannesburg and Pretoria: Hans Seidel Foundation, Institute for Security Studies, Konrad-Adenauer-Stiftung, and South African Institute of International Affairs, 2012).

⁹⁶ Thakur, 'R2P after Libya and Syria: engaging emerging powers', *Washington Quarterly* 36: 2, May 2013, pp. 61–76.

⁹⁷ Thakur, 'How representative are BRICS?', *Third World Quarterly* 35: 10, Dec. 2014, pp. 1791–808; Oliver Stuenkel, 'The BRICS and the future of the Responsibility to Protect', *GR2P* 6: 1, 2014, pp. 3–28.

⁹⁸ Thakur, *United Nations, peace and security*, pp. 268–70.

⁹⁹ Bellamy and Davies, 'The Responsibility to Protect in the Asia-Pacific region', *Security Dialogue* 40: 6, 2009, pp. 547–74; David Capie, 'The Responsibility to Protect norm in Southeast Asia: framing, resistance and the localization myth', *Pacific Review* 25: 1, Feb. 2012, pp. 75–93.

¹⁰⁰ Ian Hall, 'Tilting at windmills? The Indian debate over Responsibility to Protect after UNSC Resolution 1973', *GR2P* 9: 1, 2013, pp. 84–108; Roopmati Khandekar, 'India and the Responsibility to Protect's third pillar', in Fiott and Koops, eds, *The Responsibility to Protect and the Third Pillar*, pp. 115–29; Thakur, 'The responsibility to protect revisited', *Daily Yomiuri*, 12 April 2007.

¹⁰¹ See, for example, *The Netherlands and the Responsibility to Protect: the responsibility to protect people from mass atrocities* (The Hague: Advisory Council on International Affairs, June 2010).

¹⁰² Natasha Kuhrt, 'Russia, the Responsibility to Protect, and intervention', in Fiott and Koops, eds, *The Responsibility to Protect and the Third Pillar*, pp. 97–114; Derek Averre and Lance Davies, 'Russia, humanitarian intervention and the Responsibility to Protect: the case of Syria', *International Affairs* 91: 2, March 2015, pp. 813–34.

views on global rules, intervention and R2P are drawing particular attention.¹⁰³ Notions of responsibility and the corollary concept of responsible governance have deep roots in Chinese traditions of statecraft and corresponding visions of world order,¹⁰⁴ suggesting that ‘responsible protection’¹⁰⁵ speaks to Chinese political thought and could anchor its growing engagement with global governance. One of the more interesting books, Rama Mani and Weiss (eds), *Responsibility to Protect: cultural perspectives in the global South* (London: Routledge, 2011), addresses the question of whether the R2P norm and its constitutive values have resonance and grounding within diverse cultures and the experiences of societies torn apart by mass atrocity crimes: a richly rewarding set of perspectives because of the breadth of disciplines, the diversity of authors (with some located in countries that have experienced violent political upheaval), and the geographical and cultural spread of the coverage.

By the end of the last century, Africa was home to the overwhelming proportion of violent armed conflicts and associated civilian casualties.¹⁰⁶ If scholars, students and practitioners wish to understand the complexities, nuances, limits and potential of coercive policy tools in challenging transnational conflicts that are concentrated in Africa, they should make a conscious effort to listen to African voices. A second reason for doing so with respect to R2P is that the AU is the only intergovernmental organization that has explicitly made the right to intervene in a member state part of its foundational text in article 4(h) of its Constitutive Act. Kuwali’s *The Responsibility to Protect: implementation of article 4(h) intervention* (Leiden: Brill, 2011) explores the scope and limits of article 4(h) and investigates if the clause provides sufficient legal basis for forcible military intervention to prevent serious crimes under international law in Africa. Kuwali and Viljoen (eds) *Africa and the Responsibility to Protect* explores the many legal and policy challenges to the implementation of article 4(h). Because the authors, gathered across many disciplines, are primarily from but not limited to Africa, the book provides a comprehensive and systematic examination of the parallel experiences and evolution of article 4(h) in Africa and R2P globally.

¹⁰³ Pu Xiaoyu, ‘Socialisation as a two-way process: emerging powers and the diffusion of international norms’, *Chinese Journal of International Politics* 5: 4, Winter 2012, pp. 341–67; Gregory Chin and Thakur, ‘Will China change the rules of global order?’, *Washington Quarterly* 33: 4, Sept. 2010, pp. 119–38; Yang Zewei, ‘The non-intervention principle: challenge and China’s response’, *Global Review*, Summer 2013, pp. 65–83; Mordechai Chaziza and Ogen Goldman, ‘Revisiting China’s non-interference policy towards intrastate wars’, *Chinese Journal of International Politics* 7: 1, Jan. 2014, pp. 89–115; Tim Dunne and Sarah Teitt, ‘Contested intervention: India, China and the Responsibility to Protect’, *Global Governance* 21: 3, July 2015, pp. 371–91; Liu Tiewa and Haibin Zhang, ‘Debates in China about the Responsibility to Protect as a developing international norm: a general assessment’, *Conflict, Security and Development* 14: 4, June 2014, pp. 403–27; Peiran Wang, ‘China and the Third Pillar’, in Fiott and Koops, eds, *The Responsibility to Protect and the Third Pillar*, pp. 78–96; Nicola P. Contessi, ‘Multilateralism, intervention and norm contestation: China’s stance on Darfur in the UN Security Council’, *Security Dialogue* 41: 3, June 2010, pp. 323–44; Jelena Cupac, ‘Emerging international norms and state behavior: Chinese foreign policy between “pluralist pull” and “solidarist push”’, *CEU Political Science Journal* 9: 1–2, 2014, pp. 39–61; Teitt, ‘The Responsibility to Protect and China’s peacekeeping policy’, *International Peacekeeping* 18: 3, June 2011, pp. 298–312.

¹⁰⁴ Pichamon Yeophantong, ‘Governing the world: China’s evolving conceptions of responsibility’, *Chinese Journal of International Politics* 6: 4, Spring 2013, pp. 329–64.

¹⁰⁵ Ruan Zongze, ‘Responsible protection: building a safer world’, *China International Studies*, May/June 2012, pp. 19–41.

¹⁰⁶ Andrew Mack et al., *Human security report* (New York: Oxford University Press, 2005).

In 2015 the world reacted with horror to the savagery and brutality of the Islamic State that rapidly occupied large swaths of territory in Syria and Iraq and proceeded to inflict unspeakable atrocities on sectarian groups, like the Yazidis, who came under its control. Many of us called for their protection under the R2P principle. But a more targeted question is the extent to which the intensity and brutality of the violence in the region in 2015 had its roots in the waves of destabilization of the autocratic regime unleashed with the invasion of Iraq and the overthrow of Saddam Hussein in 2003. In turn, if today's violence can be traced back to Iraq in 2003 and proxy interventions by external powers in Syria since 2011, do those who invaded Iraq and have armed and backed the different conflict parties in Syria with weapons and training bear a particular R2P burden for protecting the civilian victims? Jason Ralph and James Souter explore this challenging question with respect to Australia and the UK.¹⁰⁷ They answer in the affirmative to 'a significant degree' (p. 723), 'based on the widely held principle of reparation' (p. 710).

At the end of the day, individuals make and implement decisions, whether it is to commit or halt atrocities. Thus US President George W. Bush and British Prime Minister Tony Blair will for ever be identified with the folly of the 2003 Iraq War.¹⁰⁸ The Lucks identify several categories of individual actors including the vulnerable populations and survivors, perpetrators, bystanders, leaders and international officials.¹⁰⁹

R2P scepticism

In addition to political controversy on implementation, R2P remains contested among scholars. Bellamy's writings¹¹⁰ show an interesting journey from a somewhat sceptical and critical analyst to a staunch defender. In an early article, he argued that the search for consensus had prompted ICISS advocates to 'bargain away' and abandon most of R2P's key central tenets.¹¹¹ Now, in *Responsibility to Protect: a defense* (Oxford University Press, 2014), while not blind to its imperfections, he believes R2P offers the best chance to prevent mass atrocity crimes and protect vulnerable populations. In part, his intellectual journey reflects a growing awareness of distinctions between R2P as an analytic concept with a requirement for philosophical rigour and conceptual coherence; as a normative enterprise seeking to entrench the principle as the new norm; and as a political project operating in the messy and untidy real world of international politics.¹¹²

¹⁰⁷ 'A special responsibility to protect: the UK, Australia and the rise of Islamic State', *International Affairs* 91: 4, July 2015, pp. 709–23.

¹⁰⁸ Thakur, 'The shock of the Iraq War and awe at the lingering effects of the folly', in Thakur and Jack Cunningham, eds, *Australia, Canada, and Iraq: perspectives on an invasion* (Toronto: Dundurn Press, 2015), pp. 77–99.

¹⁰⁹ Edward Luck and Dana Luck, 'The individual Responsibility to Protect', in Rosenberg, Galis and Zucker, eds, *Reconstructing atrocity prevention*, pp. 207–48.

¹¹⁰ Bellamy, *Responsibility to Protect* (Oxford: Polity Press, 2009); Bellamy, Davies and Glanville, eds, *Responsibility to Protect and international law*; Bellamy, *Global politics and the Responsibility to Protect*; Bellamy, *Massacres and morality*.

¹¹¹ Bellamy, 'Whither the Responsibility to Protect?', pp. 143–69.

¹¹² Thakur, 'R2P's "structural" problems: a response to Roland Paris'.

Philip Cunliffe's *Critical perspectives on the Responsibility to Protect* (London: Routledge, 2011) is a 'critical interrogation' of the principles underpinning and the policy consequences flowing from R2P. It concludes that R2P does not embody progressive values but may instead undermine political accountability within states and international peace among them. Suspicions persist among some, including Yang Razali Kassim's *The geopolitics of intervention: Asia and the Responsibility to Protect* (New York: Springer, 2014), that R2P merely provides a more respectable cloak to the geopolitical drivers of major power action.¹¹³ Cunliffe argues that with no mechanism for enacting the 'duty of care', powerful states will continue to determine the conditions under which the 'responsibility to protect' is discharged.¹¹⁴ Similarly, Theresa Reinold argues that lacking intersubjective consensus on its meaning, R2P is merely a duty to *consider* intervention.¹¹⁵ Sometimes the criticisms are frankly bizarre: R2P was demand-driven, responding to a gap in the normative architecture regulating state behaviour with respect to their use of force both internally and internationally in the interstate system; yet to some, the statist discourse of intervention is a 'critical gap'.¹¹⁶

R2P does have a built-in moral hazard: it can create perverse incentives for rebels and dissidents to provoke state retaliation to armed challenges in order to intensify and internationalize a local conflict;¹¹⁷ the risk was recognized by Annan.¹¹⁸

Conclusion

R2P is an improvement on humanitarian intervention on almost all dimensions that most of the international community found objectionable. Consequently military intervention under R2P has much better prospects of a convergence of legality and legitimacy in the use of force. R2P was meant to compel an analysis of—and policy response to—atrocities from the point of view of those in need of urgent protection, not the rights, privileges and interests of the intervening powers. My one lament about the flourishing literature on R2P is the unhealthy dominance of western analysts and the neglect and silencing of voices from the global South. On this topic more than most, our responsibility as scholars extends to making that extra effort to seek out and heed the world-views, insights and wisdom, if not the deep scholarship, of intellectuals and analysts from the distant other.

¹¹³ See also Siddharth Mallavarapu, 'Colonialism and the Responsibility to Protect', in Thakur and Maley, eds, *Theorising the Responsibility to Protect*, pp. 305–22.

¹¹⁴ 'Dangerous duties: power, paternalism and the "Responsibility to Protect"', *Review of International Studies*, 36:S1, 2010, pp. 76–96.

¹¹⁵ 'The Responsibility to Protect—much ado about nothing?', *Review of International Studies*, 36:S1, Jan. 2010, pp. 55–78.

¹¹⁶ Baer, 'The ultimate sacrifice and the ethics of humanitarian intervention', *Review of International Studies* 37: 1, Jan. 2011, pp. 301–26.

¹¹⁷ Kuperman, 'The moral hazard of humanitarian intervention: lessons from the Balkans', *International Studies Quarterly* 52: 1, March 2008, pp. 49–80.

¹¹⁸ Kofi A. Annan, 'We the peoples': the role of the United Nations in the twenty-first century. Report of the Secretary-General (New York: UN document A/54/2000, 27 March 2000), para. 216.

That said, R2P does not resolve all the dilemmas of how outsiders can provide timely, decisive and effective assistance to all groups in need of protection. It may be deep, but remains so narrow that many areas beyond the four atrocity crimes fall outside its scope. It is subject to Security Council veto and paralysis. The failure to guarantee reliable UN protection of at-risk victims of atrocities ensures a continuing interest in unilateral humanitarian intervention which will remain attractive to many people and countries as an alternative moral framework for trying to respond effectively and in time. But this can only be at the cost of immediate global controversy and long-term damage to the principle of an international order governed by the rule of law.