

# LEGALFOXES LAW TIMES

## THE RESPONSIBILITY TO PROTECT BY MILITARY MEANS EMERGING NORMS ON HUMANITARIAN INTERVENTION?

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### INTRODUCTION

Military intervention for Humanitarian purposes has a controversial past. As the International Commission on Intervention and State Sovereignty report perceives, this is the situation 'both when it has occurred – as in Somalia, Bosnia and Kosovo – and when it has neglected to occur, as in Rwanda<sup>1</sup>'. Since the then United Nations Secretary-General Kofi Annan suggested his much referred to conversation starter at the United Nations Millennium Summit, if compassionate intercession is, undoubtedly, an unsatisfactory attack on sway, by what means should we react to a Rwanda, to a Srebrenica – to gross and precise infringement of human rights that influence each statute of our normal human

Many have looked to talk about and banter compassionate intercession and the developing Responsibility to Protect (R2P) convention. Lamentably, presently isn't an ideal opportunity to stop the discussion. Mass barbarities are not limited to the past. The significance of discovering worldwide concession to the lawfulness of philanthropic mediation has never been increasingly evident. The ongoing catastrophe that is Darfur bears this out.

The R2P is being touted as another way to deal with shielding populaces from mass monstrosities. This creating convention, reference to which was remembered for the 2005 United Nations World Summit Outcome Document, directs that when a state is reluctant or incapable to shield its residents from genuine or caught huge scope death toll (with or without destructive expectation) or huge scope 'ethnic cleansing', the guideline of non-mediation in the inward issues of different states respects the universal responsibility to protect<sup>2</sup>. This duty incorporates three components: the responsibility to prevent , the responsibility to react and the responsibility to rebuild. Military intervention for compassionate reasons for existing is a significant part (albeit final retreat proportion) of the duty to respond. The R2P is started on the understanding that universal request is best kept up by non-intercession in the inward issues of different states. In any case, it additionally challenges this guideline to the extent that it perceives that 'to regard

<sup>1</sup> Ibid., p. VII.

<sup>2</sup>Ibid., pp. XI, XII

power constantly is to chance being complicit in helpful disasters in some cases<sup>3</sup>. That is, the R2P receives a perspective on power which underlines as its characterizing trademark the ability to give insurance, as opposed to territorial control<sup>4</sup>. Weiss depicts the R2P as including a fourth trademark, specifically 'regard for human rights', to the three Peace of Westphalia. Qualities of a sovereign state – domain, authority and population<sup>5</sup>. Obviously, this makes strains between what Chesterman names 'the faith in the equity of a war pursued against an improper adversary and the rising guideline of non-

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intercession as the culmination of state power<sup>5</sup>'. It is this pressure makes examination of the R2P both mentally fascinating and for all intents and purposes essential.

Today, this strain is all around outlined by the differentiation between the pre-and postSeptember 11 universes. Global relations during the 1990s – including the expansion of bombed states, psychological warfare, the focusing of regular people in strife and the 'CNN impact' – were said to have made an 'atmosphere of increased desires for activity'<sup>6</sup> and less resistance for the rule of non-mediation. However as Michael Ignatieff composes:

'When [R2P] showed up in late September, 2001, as the vestiges of the World Trade Centre were all the while seething, it was at that point unessential to American and European policymakers. Their abrogating concern had moved from ensuring other nation's regular folks to securing their own.'<sup>7</sup>

For sure, the expanded designation of military assets to the 'War on Terror' and the ex post facto 'humanitarian' contentions for the war in Iraq have apparently undermined the thought of humanitarian intervention<sup>8</sup>. In spite of this, the R2P keeps on being talked about at the United Nations just as in scholastic writing. MacFarlane, Thielking and Weiss partition humanitarian

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<sup>3</sup>Ramesh Thakur, 'Outlook: Intervention, Sovereignty and the Responsibility to Protect: Experiences from ICISS', *Security Dialogue*, Vol. 33, No. 3, 2002, pp. 323–340, at p. 324, available at <http://sdi.sagepub.com/cgi/content/abstract/33/3/323> (last visited 15 March 2008).

<sup>4</sup>See further Anne Orford, 'Jurisdiction Without Territory: From the Holy Roman Empire' <sup>5</sup>Thomas G. Weiss, 'The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era', *Security Dialogue*, Vol. 35, No. 2, 2004, pp. 135–153, at p. 138, available at <http://sdi.sagepub.com/cgi/content/abstract/32/2/135> (last visited 15 December 2008).

<sup>5</sup> Simon Chesterman, *Just War or Just Peace?*, Oxford University Press, Oxford, 2001, p. 7.

<sup>6</sup> Jennifer Welsh, Carolin Thielking and S. Neil MacFarlane, 'The Responsibility to Protect: Assessing the report of the International Commission on Intervention and State Sovereignty', *International Law Journal*, 2001–2002, p. 490.

<sup>7</sup> Michael Ignatieff, 'Whatever happened to "responsibility to protect"?' , *National Post*, 10 December 2008, <http://www.nationalpost.com/story.html?id=1054758> (last visited 12 December 2008).

<sup>8</sup> S. Neil MacFarlane, Carolin J. Thielking and Thomas G. Weiss, 'The Responsibility to Protect: is anyone interested in humanitarian intervention?', *Third World Quarterly*, Vol. 25, 2004, pp. 977–992 <sup>10</sup> Ibid., pp. 979–981.

intervention' debate into 'three distinct clusters of opinion'. The rivals are the individuals who see the thought as an arrival to semi-pilgrim works on partitioning the world into the humanized and the unseemly. The rationalists and doubters don't see the discussion settling the 'major issues of deficient political will'. The hopeful people see the R2P as 'a sensible and generous advance' towards a 'workable consensus<sup>10</sup>'. Many are confident that the R2P is undoubtedly another arrangement. The R2P viably makes a guarantee to the world's most helpless individuals: a guarantee that when their own administrations bomb them, the universal network will mediate to secure them. The inquiry that hence needs noting is whether the R2P can convey on this guarantee.

This isn't the main endeavour to explain how the R2P separates itself. In any case, such conversation have would in general spotlight on the all encompassing methodology that the R2P takes by attesting an obligation to forestall mass outrages<sup>9</sup>. This paper explicitly addresses the advancement of the lawfulness of military intercession for helpful purposes in the desire for framing ends with respect to legitimacy of the R2P's 'obligation to respond'. The paper examines the different ways of thinking throughout the entire existence of philanthropic mediation and different perspectives with respect to the lawfulness of helpful intercession. It additionally contains an appraisal of how the R2P varies from or stays like past methodologies, lastly an investigation of whether the R2P progresses the lawfulness of

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the utilization of power for philanthropic finishes. The point is to set up whether the R2P is an unmistakable and inventive way to deal with the issue of mass barbarities or whether it simply rewords an idea that has flopped on numerous events.

## HYPOTHESIS

The Responsibility to Protect is being touted as another way to deal with shielding populaces from mass outrages. Unquestionably it is urging to accept that a conclusion to slaughters, enormous scope ethnic purifying and huge scope death toll were inside humankind's span. In any case, while the comprehensive methodology of the teaching is to be lauded, the lawfulness of the proposition requires further examination. This paper explicitly addresses the development of the lawfulness of compassionate intercession and takes a gander at whether the Responsibility to Protect precept progresses the legitimacy of the utilization of power for philanthropic

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<sup>9</sup> See for example Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All*, Brookings Institution Press, 2008, pp. 44 and 56, and R. Thakur, above note 4, p. 324

closures. Helpful Military Intervention centres around the inquiries of when and how military intervention in clashes can accomplish compassionate advantages. It contends that an intercession can be supported just when chiefs are sensibly certain that it will accomplish more great than hurt. As the proportion of progress, the book builds up an approach to decide the quantity of lives spared. The investigation of 17 military tasks in the characterizing instances of the 1990s—Iraq after the Gulf War, Somalia, Bosnia and Herzegovina, Rwanda, Kosovo and East Timor—uncovers both fruitful and ineffective intercessions in similar areas.

An intercession's transient viability relies essentially upon factors inside the control of the intervener, as opposed to factors characteristic to the contention. It joins political and helpful measurements to make a typology that looks at the requirements of populaces experiencing struggle with an intervener's military procedures, thought processes, abilities and reaction time. The nitty gritty contextual analyses test speculations got from the model and distinguish the strategy ramifications of different blueprints.

## RESEARCH OBJECTIVES

1. To investigate the rising standards of humanitarian interventions occurring far and wide.
2. To comprehend the need to utilize military intends to ensure humanitarian intervention.



## THE RESPONSIBILITY TO PROTECT HUMANITARIAN INTERVENTIONS

The International Commission on Intervention and State Sovereignty (hereinafter the Commission) was set up by the Government of Canada, in September 2000, in the wake of the contention encompassing the North Atlantic Treaty Organization's bombarding effort in Kosovo. The impetus was Kofi Annan's inquiry posing to how the worldwide network ought to react to 'gross and deliberate infringement of human rights' that influence each statute of

our basic humankind<sup>10</sup>. Explicitly the Commission depicted their order as being: 'by and large to construct a more extensive comprehension of the issue of accommodating intervention for human security purposes and sway; all the more explicitly, it was to attempt to build up a worldwide political accord on the most proficient method to move from polemics – and frequently loss of motion towards activity inside the global framework, especially through the United Nations'. In December 2001, the Commission created a report of their conferences and discoveries. They required the acknowledgment of an obligation by the global network to ensure populaces encountering enormous scope death toll and ethnic purging. The Commission

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<sup>10</sup> ICISS, above note 1, p. VII.

comprised of twelve individuals. It was led by Former Australian Foreign Minister and Chief Executive of the International Crisis Group, Gareth Evans, and Algerian negotiator and Special Advisor to the United Nations Secretary-General, Mahoamed Sahnoun. The Commissioner were drawn from various orders (counting the military, law, the scholarly world, legislative issues, administration, business and advancement) and nations (Russia, Germany, Canada, South Africa, America, Switzerland and Guatemala). The Commissioners, who met multiple times and went to national and provincial roundtable conferences, had their work bolstered by a worldwide research group drove by Thomas Weiss, an American Professor, and Stanlake Samkange, a Zimbabwean legal advisor.

## THE RESPONSIBILITIES TO PREVENT, REACT AND REBUILD

The R2P looks to stop gross and methodical infringement of human rights. It proposes the approval of 'activity taken against a state or its pioneers, without its or their assent, for purposes which are professed to be compassionate or defensive'. The R2P grasps three explicit responsibilities: the Responsibility to prevent, Responsibility to react and the Responsibility to rebuild. It is said that 'Avoidance is the absolute most significant component of the obligation to ensure'. The Commission thinks about that successful clash counteraction requires 'information on the delicacy of the circumstance and the dangers related with it', 'comprehension of the strategy estimates accessible that are equipped for having any kind of effect' and 'ability to apply those measures'. All the more compactly it names these three standards 'preposterous<sup>11</sup>', 'preventive tool compartment' and 'political will'. In spite of the fact that the report stresses avoidance as the most significant need, it is maybe not astounding that some contend this is 'ridiculous' or at any rate a smokescreen for the truth that the dubious part of the teaching is the responsibility to react.

Noteworthy consideration is dedicated in the report to setting out the standards for military intervention. The Commission uses six headings of 'dynamic measures' for military intervention. The Commission isn't of the view that there can or ought to be an all around acknowledged rundown of standards for intervention, yet rather that their six proposed rules may go some approach to overcoming any barrier between the 'rhetoric and reality'<sup>14</sup> with regards to the obligation to respond. The first of the measures is alluded to as the 'limit rules:

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worthwhile motivation'. The R2P directs that military intervention must be constrained to circumstances of: '(A) huge scope death toll, genuine or caught, with destructive goal or not, which is the item both of purposeful state activity, or state disregard or failure to act, or a

<sup>11</sup> Thomas G. Weiss, *Military–Civilian Interactions: Humanitarian Crises and the Responsibility to Protect*, Rowman and Littlefield Publishers Inc., USA, 2005, p. 199. <sup>14</sup> ICISS, above note 1, p. 32.

bombed state circumstance; or (B) huge scope "ethnic purging", real or secured, regardless of whether did by murdering, constrained removal, demonstrations of fear or assault'.

The subsequent standard is 'correct position'. This alludes to the topic of who ought to be the body to approve any such intervention. The Commission commits a whole section to this dubious and significant basis. In total, three 'right specialists' are proposed: the Security Council, the General Assembly and Regional Organizations. The Commission takes note of that the Security Council ought to be the 'primary purpose of call'. Be that as it may, considering the Council's past powerlessness or reluctance to satisfy the job expected of it, military intercession approved by the General Assembly or Regional Organizations would have a 'high level of authenticity'. The third standard is 'correct aim'.

This implies the 'main role of the intervention' must be to stop or turn away human anguish and that system topple is certainly not a real purpose behind conjuring the precept. The fourth rule is 'final retreat': implying that hotel to power should possibly be utilized when 'each discretionary and non-military road for the anticipation or quiet goals of the compassionate emergencies' has been investigated. This is additionally qualified by the explanation this doesn't imply that the universal network must have first attempted each and every conceivable choice, yet rather 'that there must be sensible reason for accepting that, in all the conditions, if the measure had been endeavoured it would not have succeeded'. The fifth rule is 'relative methods'.

Proportionality is a crucial standard of jus promotion bellum; its incorporation in the rundown is uncontroversial. The last standard is 'sensible possibilities'. This directs military activity must be advocated on the off potential for success that it has a sensible possibility of accomplishment. The Commission notes 'military intercession isn't legitimized if genuine security can't be accomplished or if the compassionate outcomes of setting out upon the intervention are probably going to be more terrible than if there is no activity by any means'. The last duty of R2P is the obligation to reconstruct. A post- intercession technique is viewed as being of 'vital significance'.

## **HISTORY OF MILITARY INTERVENTION FOR HUMANITARIAN PURPOSES**

### **Before UN Charter came into power**

The rules that support helpful intercession and the R2P began in fifteenth century strict and 'simply war' speculations, despite the fact that the term itself was not utilized. Vitoria (1492–1546) saw it as the obligation of 'socialized' states to mediate 'in reverse' states to end barbaric practices, for example, barbarianism and human penance, and to spread

Christianity<sup>12</sup>. Grotius (1583–1645) added to these standards the concealment of excessive admiration, agnosticism and extramarital perversion. Increasingly summed up assumptions of this nature can be followed considerably further back to crafted by Aristotle.

Politics ‘posited that war was a means to defend “the good life” and to help others “to share in the good life<sup>13</sup>”’. Similarly the rule of non-intervention, which supports our present arrangement of universal request, is established ever. Since the 1648 Peace of Westphalia finished thirty years of severe war in Europe, the idea of the country state and the sacredness of its region has been on the ascent<sup>17</sup>. The hidden reason being that universal request is best kept up by regard for non-intervention in the interior issues of different states.

Writing alluding to what we would today comprehend as philanthropic mediation dates from around 1840.<sup>14</sup> Brownlie declares that before the finish of the nineteenth century most of researchers had acknowledged the presence of a privilege of philanthropic mediation however proceeds to take note of that the teaching was 'inalienably unclear' and 'open to maltreatment by ground-breaking states '<sup>15</sup>. There are different instances of intercessions to recommend that European forces thought moreover.<sup>20</sup>

A blend of good and legitimate contentions was advanced for the presence of such right. Some mid twentieth century scholars even tried to contend that mediation could be advocated as a 'semi legal police measure<sup>16</sup>'. However, Chesterman takes note of that the models utilized by those looking to declare the presence of the privilege of philanthropic mediation truly had next to no in the method for state practice to depend on. Moreover, despite the fact that in the between war period, the universal network through the League of Nations gave a worldwide Force in the Saar plebiscite in 1934–35<sup>17</sup>, the Covenant of the League of Nations and the 1928 Kellogg-Briand Pact didn't remark on philanthropic intercession, and the last explicitly disallowed war. Likewise the Kellogg-Briand's Latin American partner, the Saavedra-Lamas Treaty of 1933, explicitly denied 'mediation' both furnished and discretionary.

<sup>12</sup>Bhikhu Parekh, 'Rethinking Humanitarian Intervention', *International Political Science Review*, 1997, pp. 50–51.

<sup>13</sup> Sean D. Murphy, *Humanitarian Intervention*, University of Pennsylvania Press, Philadelphia, 1996, p. 37. Murphy also notes that the Jewish, Greek and Roman natural law traditions from which the Christian just war doctrine emerged contain ideas relating to the justice of using force against others: p. 62.<sup>17</sup> See Antonio Cassese, *International Law*, 2nd edn, Oxford University Press, Oxford, 2005, pp. 22

<sup>14</sup> T.G. Weiss, above note 20, p. 8.

<sup>15</sup> Ian Brownlie, *International Law and the Use of Force by States*, Oxford University Press, Oxford, 1963.<sup>20</sup> S.D. Murphy, above note 37, ch. 2.

<sup>16</sup> S. Chesterman, above note 7, pp. 36–37

<sup>17</sup> Stephen C. Neff, *War and the Law of Nations*, Cambridge University Press, Cambridge, 2005, p. 297.

### State Oppression of the Kurds in northern Iraq, 1991–96

Security Council Resolution, which approved the intercession in northern Iraq, denoted the first occasion when that the UN Security Council characterized inward restraint as a danger to global harmony and security when it brings about considerable refugee flows<sup>18</sup>. The point of reference made the way for resulting helpful intercessions. Similarly significant, the intercession uncovered the significant forces' inclination for treating the philanthropic impacts of emergencies while maintaining a strategic distance from the troublesome policy centered issues that caused the misery. Activity Provide Comfort and the UNGCI did nothing to determine the political status of Kurdistan or to expel Saddam Hussein from power. The

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obvious simplicity with which Operation Provide settled a troublesome outcast circumstance persuaded that military intercession for philanthropic purposes could be simple and viable. Mistaken assumptions about the trouble of coordinating wanted results with mediation techniques and adequate assets most likely assumed a job in the botches that followed in Somalia and Bosnia and Herzegovina.

### State failure and famine in Somalia, 1991–95

Global military inclusion in Somalia from 1992 to 1995 was an original arrangement of occasions. It was viewed as an indication of the state-of-the-art existence request after the virus war defrost and as an affirmation of the option to mediate after the point of reference set in Iraq. It tried the United Nations' political and military capacities and discovered them seriously constrained. For all the interceding nations it turned into a preventative exercise on the expenses and difficulties of intercession, especially when attempting to constrain strategically and militarily solid adversaries. The US Government, specifically, decided not to engage in clashes that didn't compromise its national advantages, barely defined.<sup>66</sup>The philanthropic network woke up to the darker side of military inclusion in helpful emergencies. Albeit various helpful NGOs had called for military help with the rebellious nation, they became persuaded that dependence on remote soldiers implied that they lost their quality of lack of bias. They couldn't follow a long custom of making security for themselves by arranging 'philanthropic space' with nearby pioneers .Finally, the Somalia case uncovers a few perceptions about mortality. Policymakers and correspondents seemed to have a poor handle of the mortality picture, or they significantly controlled numbers to help their inclinations. Policymakers and savants additionally seemed to have a poor handle of the effect of military intercession. While intercession absolutely assisted with sparing lives, it arrived behind schedule in the starvation, and philanthropic associations accomplished a far more noteworthy corresponding advantage with assistance of a little airdrop than with a huge intrusion. When Somalia conferred its unforgiving exercises,

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<sup>18</sup> Stromseth (note 20), pp. 76–117.

European governments and the UN were at that point committing errors in Bosnia and Herzegovina.

### **Secession and ethnic expulsion in Bosnia and Herzegovina, (1992–95)**

The involvement with Bosnia and Herzegovina remains as a great case of feeble and ineffectual United Nations mediation. Be that as it may, to accuse the world body is to excuse the legislatures that figure out what the UN does. European nations started to lead the pack in any case, regardless of being appalled at the way that there was a war on the landmass, they couldn't face commanding mediation to ensure individuals or end the contention. With US support, they went rather to a customary UN peacekeeping activity that was completely wrong in a non-consensual condition where there was no harmony to keep. A frail UN military exertion, conceived of an absence of political will with respect to part states, was not by any means the only reverberation from Iraq and Somalia. Governments tried to cover their political disappointment with philanthropic help and in the process unintentionally assisted with continuing the aggressive gatherings. Escort assurance didn't reliably diminish the seizure of help at detours. The protected zones were not some portion of an arrangement to end the war yet a makeshift measure when the main intend to end the war lay in ruins. At

long last, governments discovered that even an enormous military power can be incapable at securing the populace in the event that it takes an accommodatory position despite proceeded with contentiousness. Just intimidation stopped the war and genuine help to the populace. The apparent exercises about the utilization of power unequivocally impacted NATO's conduct in Kosovo four years after the fact. Lamentably for the individuals of Rwanda, for their situation the touchstone was not Bosnia and Herzegovina but rather Somalia.

### **Genocide and civil war in Rwanda, 1994**

Some themes emerge in the case of Rwanda that are familiar from Iraq, Somalia, and Bosnia and Herzegovina. Governments once again chose to treat the humanitarian symptoms of a political crisis rather than address the deeper causes of the suffering. The UN military force was severely undercut by member states that did not want to face the costs and risks which aggressive action would have required. Mortality numbers and trends were poorly understood and subject to political manipulation. As in Bosnia and Herzegovina and northern Iraq, coercing the perpetrators was the only solution, although population protection was a good interim response. In contrast to earlier cases, the UNAMIR experience showed that even a small force can be effective in dire circumstances, as long as the belligerents are weak and foreign troops are assertive.

Human rights groups' scathing denunciations of the inaction and subsequent admissions of responsibility by internationally prominent politicians moved discussion of humanitarian intervention from a debate about whether it was a legitimate option to a debate about whether it was an obligation in cases of extreme need. The genocide in Rwanda sparked reassessment of the meaning, limits and obligations of state sovereignty<sup>19</sup> but, coming as it did between the fiascos in Somalia in 1993 and Bosnia and Herzegovina in 1995, it did not immediately lead to activist interventions. It took events in Kosovo at the end of the decade to break the political and diplomatic deadlock. In the eyes of many observers, Kosovo legitimized the use of force for human protection purposes even without UN authorization.<sup>20</sup>

### **Secessionist violence and ethnic expulsion in Kosovo, 1999**

As the first humanitarian intervention since the disasters in Somalia (1993), Rwanda (1994), and Bosnia and Herzegovina (1995), the Kosovo actions disproved the argument that had emerged in the second half of the 1990s that governments would no longer intervene on behalf of oppressed civilians. Mortality figures played a key role in the argument for

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intervention, although the estimates were largely inaccurate.<sup>21</sup> At the same time, Kosovo underlined the political nature of 'humanitarian' crises: the KLA manipulated violence to encourage intervention; the FRY orchestrated 'population bombs'—the FRY Government's term for sudden and controlled expulsions of large portions of the population—in response to NATO military action; NATO countries were receptive to the idea of protecting civilians in the Balkans because of the political repercussions of what had happened in the region four years earlier; and intervening countries showed extreme sensitivity to risking the lives of members of their armed services when they pledged not to send ground troops into combat and when they ordered pilots to fly above the reach of anti-aircraft weapons, despite the increased risk to civilians from less accurate bombing at high altitudes.

In contrast to all four previous cases, the interveners took political action from the start, rather than using humanitarian assistance as a substitute for political action. The coercive use of force

<sup>19</sup> The prominent monograph *The Responsibility to Protect* opens with a quotation from UN Secretary-General Kofi Annan, who was Under-Secretary-General for Peacekeeping during the Rwandan genocide, which reads, 'if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that affect every precept of our common humanity?'. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (International Development Research Centre: Ottawa, 2001), p. vii.

<sup>20</sup> independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford University Press: Oxford, 2000).

<sup>21</sup> US and allied government officials wildly inflated estimates of the number of people killed (possibly in the belief that truly staggering numbers are needed to get the public on board). In Apr. and May officials suggested that up to 100 000 people had been killed. Erlanger, S. and Wren, C. S., 'Early count hints at fewer deaths', *New York Times*, 11 Nov. 1999.

by NATO led to intense coercion by the FRY Army against civilians, which resulted in a large number of deaths and massive displacement in a short period of time.<sup>22</sup> Yet it also induced the authorities in Belgrade to withdraw their troops, allowed an international stabilization force to enter the province and allowed for an unprecedented rapid return of refugees. The Kosovo case also highlighted the impressive logistical capacity of Western militaries, which far exceeds that of humanitarian agencies and NGOs in terms of rapidity of response and volume of throughput (as long as cost is not a concern). The willingness of intervening countries to use military force without a UN mandate was a source of great concern to many governments and observers, as was the willingness to use massive force in the name of humanitarianism. These concerns informed the response, later in 1999, to the crisis in East Timor.

### **Independence and fear in East Timor, 1999–2000**

The INTERFET operation reinforced the impression first made in Kosovo that governments learned several lessons from earlier troubled interventions. The intervention was both humanitarian and political, rather than being humanitarian action in lieu of political action. It was launched expressly to support the political choice of the population against the interests of the Indonesian Government, military and militia. There was no pretext of impartiality or neutrality as foreign troops acted to protect the population from indigenous forces. The combative intervention, coming between two ‘softer’ UN missions, was conducted by a coalition of willing states rather than a UN force sent to conduct a non-peacekeeping action. In contrast to Operation Allied Force in Kosovo and Serbia, the Australian-led coalition was authorized to act by the UN Security Council, which brought humanitarian intervention back into the legal fold established in Iraq, Somalia, Bosnia and Herzegovina and Rwanda. The

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INTERFET intervention showed that governments understood the importance of acting quickly when militiamen and soldiers begin to attack unarmed civilians<sup>23</sup>. It also showed that interveners understood the potential benefit of well-trained military units moving aggressively against poorly trained and ill-equipped militia. Like the US Marines in Somalia, Australian troops rapidly established a dominant presence through active manoeuvres by a small number of soldiers. At the same time it is important to keep in mind one of the essential differences between Somalia and East Timor: the Indonesian

<sup>22</sup> It is a matter of speculation how many people would have been killed and displaced over a longer period of time if NATO had not intervened.

<sup>23</sup> Many humanitarian NGOs criticized the slow response to post-referendum violence in East Timor, but their ire was misplaced. The UN’s great mistake was its failure to anticipate large-scale violence and deploy a military force that was capable of responding. However, once violence broke out on 3 Sep., the Security Council convinced the Indonesian Government to consent to intervention and authorized a coalition of the willing within 12 days (on 15 Sep.). Five days after that Australian troops landed on the island. Two and a half weeks is unusually fast for a political decision and military deployment.

Government gave its consent for the intervention and constrained its military, while there was no official consent or lasting constraint in Somalia (or in Bosnia and Herzegovina and Rwanda). Finally, East Timor showed that mortality statistics remained an object of uncertainty and manipulation, with estimates of the number of dead up to 10 times as high as the actual.

## **CONCLUSION**

There are undoubtedly a plethora of unanswered questions in the development of the R2P, yet it is still a significant step forward for the international community in so far as it clearly articulates a holistic and integrated approach to protecting populations from mass atrocities. It resoundingly supports the adoption of measures short of the use of military force that can save lives. Furthermore, military intervention under the R2P differs from previous articulations of humanitarian intervention in that it:

1. clearly articulates humanitarian intervention decision making criteria. These criteria reflect the views of various practitioners and academics in this field as set out in the literature to date as well as aspects of state practice;
2. asserts that an inability to intervene in one situation should not be used as a justification for not intervening in another;
3. limits the use of force by way of humanitarian intervention to situations of actual or apprehended large scale loss of life. It is not therefore intended to be a human rights advocacy tool but rather a protection against the most serious breaches of international humanitarian law. As such, it gains legitimacy rather than contributing to perceptions of imperialism; and
4. most significantly, its acceptance by United Nations confirms the legality of declarations by the Security Council in which they find genocide, war crimes, ethnic cleansing or crimes against humanity within the borders of one state constitute a threat to peace.

In aggregate, any reasonable person would agree that the R2P works in a constructive manner on the current writing on philanthropic intercession. Specifically it gives more prominent particularity to rules to mediation that had started to take shape because of utilization in both scholarly circles and state practice. The rivals in this way, who see the possibility of helpful mediation as an arrival to semi-provincial works on partitioning the world into the edified

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(equitable and human rights watching) and the uncivilized(undemocratic and human rights mishandling), don't give the teaching its due. The R2P confirmations an all inclusive (instead of simply Western) acknowledgment that specific parts of un-development can establish a risk to harmony.

One intervention in every nation assisted with sparing lives. Simultaneously, in any event one mediation in every nation didn't spare lives and now and again intercession may have cost a larger number of lives than would have been lost if no military intercession had happened. The

mortality gauges are more precise at times than in others. For instance, best in class measurable projections in Kosovo move more certainty than narrative gauges in Rwanda, where the first size of the populace was not precisely known. Along these lines, counterfactual projections are more sure at times than in others. The impact of untreated ailment on the Iraqi Kurd exile populace is simpler to foresee than the impact of proceeded with rebellion and counter-uprising in Kosovo. By and by, the investigation introduced in this section is unmistakably more precise than the numbers bandied about by helpful associations and legislators during emergencies. Absence of data at the hour of an emergency is somewhat to fault. Similarly significant and conceivably increasingly hazardous, guide laborers and government authorities control numbers to suit their motivation. Individuals who need an intercession overestimate the quantity of passings and outcasts, as occurred in Kosovo and East Timor. Individuals who would prefer not to intercede make light of the numbers, as occurred in Rwanda. Interceding governments and philanthropic associations will in general overestimate the quantity of lives they spare. US claims, uncritically announced in the news media, that up to 1 million individuals had been spared in Somalia are a genuine model.

A superior comprehension of the effect of past intercessions on mortality prompts a few ends.

1. Humanitarian military intervention assisted with sparing lives the greater part of the time—in nine out of the 17 cases, with an extra four cases having some achievement and four neglecting to spare lives.
2. The vast majority of the tasks that didn't spare lives could have done as such on the off chance that they had been executed quicker, or with more assets, or with greater solidarity of order, or with a mix of these and different elements. The announcement isn't redundant, for some compassionate activities had little possibility of achievement under any practical conditions. In Bosnia and Herzegovina, for instance, control of help to the populace was such a significant piece of the Serb system that increasingly forceful security of guards was probably not going to work except if the whole UNPROFOR strategic changed into a battle activity.
3. Huge numbers of the effective interventions could have spared a greater number of lives than they. Slow reaction was a ceaseless issue until Kosovo and East Timor. Absence of adequate assets, from correspondences rigging to trucks to helicopter gunships, was a typical issue. Misjudging or thinking little of nearby foes was the standard as opposed to the special case.
4. Military intervention frequently didn't spare the same number of individuals as ordinarily accepted on the grounds that the activities of alleviation associations and misled individuals themselves accomplish more to diminish mortality than is broadly figured it out. The survivors of compassionate emergencies are not vulnerable—they need help, however once in a while are they altogether needy.
5. Political pioneers as often as possible underplayed the unintended outcomes of intercession—for instance, in precluding the job from claiming besieging in setting off the

gigantic removal of Kosovar Albanians. This is a risky and flippant practice. The best way to maintain a strategic distance from comparative issues later on is to remember them and gain from them

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