
A Postcolonial Critique of Responsibility to Protect in the Middle East¹

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Abstract

This article is a postcolonial critique of the doctrine of Responsibility to Protect (R2P) in the Middle East. It problematizes a selective, arbitrary and punitive implementation of international law in Iraq, Israel/Palestine, Libya and Syria. It proposes that the hegemonic neo-liberal discourse of Humanitarianism and a paternalistic legacy of Orientalism have reinforced policing language of human rights and widened the gap between the ethical norms and their practice in global politics. A postcolonial critique of R2P calls for decolonizing and emancipating global ethical norms from the hegemonic discourse of neo-liberal order; striving for a consistent, just, people-centered, and fair implementation of norms; pushing for radical reforms in the UN; empowering regional and subaltern organizations; mobilizing world public opinion; and democratizing the world order. It suggests that a just implementation of the R2P doctrine is pending on the accomplishment of R4J: Responsibility for Justice.

Key Words

Responsibility to Protect (R2P), postcolonialism, orientalism, Middle East, geopolitics, realpolitik, global war on terror.

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“They cannot represent themselves; they must be represented.”²

Karl Marx

Introduction

A selective and arbitrary enforcement of international law in the region has reinforced the perception of Middle East Exceptionalism. In this context Edward Said’s concept of *Orientalism* and his postcolonial approach are applied to the international politics of the Middle East, where people of the Orient are perceived as passive recipients of Western charity, not active agents of their own grassroots, bottom-up emancipation. The Orient lacks internal dynamism for a sustainable progressive change from within; it cannot represent its own interests; it must be represented by the *Other*.³ It is in this context that this paper is a postcolonial critique of R2P. It attempts to problematize the implementation of the doctrine of Responsibility to Protect (R2P) in the Middle East. It aims to examine and answer the following key questions: To what extent is the enforcement of the R2P doctrine in

the Middle East just, fair, consistent and constructive? To what degree has a selective, arbitrary, paternalistic and punitive enforcement of the doctrine of humanitarian intervention turned the Middle East into “the underclass of the international legal order”? Whether and how does the implementation of the R2P doctrine within the current structure of neo-liberal global order exacerbate or improve the people’s position, help or hinder improving human rights in the region?

A postcolonial critique of R2P calls for decolonizing and emancipating global ethical norms from the hegemonic discourse of neo-liberal order; striving for a consistent, just, people-centered, and fair implementation of norms; pushing for radical reforms in the UN; empowering regional and subaltern organizations; mobilizing world public opinion; and democratizing the world order.

The paper is divided into two parts. First, it will conceptualize and outline the origins of R2P at three phases, followed by a brief examination of the connotations of the R2P doctrine/norms

in practice. Second, it will problematize the implication of the R2P doctrine/norms in the context of the Middle East. The conclusion suggests that the question is not to act or not to act; inaction is not an option. Rather, the question remains “*who* has the responsibility to protect *whom* under *what conditions* and toward *what end*?”⁴ It examines whether and how the norms and practice of R2P in the region “puts people first” and is capable of transforming “promise into practice and words into deeds.”⁵

Conceptualizing the R2P Doctrine

The R2P doctrine is the latest phase and a new face of the old liberal discourse of humanitarian intervention. It is inspired by the liberal theory of “democratic peace.” More importantly, it is ontologically rooted in Immanuel Kant’s idea of “perpetual peace,”⁶ in which the civilized, liberal and peace-loving world is obliged to bring in peace to the uncivilized and non-liberal world plagued by wars and conflicts. *Kantian cosmopolitanism* underlines the Western superior right and universal moral responsibility to save and civilize the *Other*.

A postcolonial critique of humanitarian intervention challenges the objectivity and neutrality of such doctrines. It suggests that “liberal and neoliberal institutionalist discourses often appear

as rationalization of hegemony disguised as universal humanism.”⁷ Further, “echoes of Orientalism” can be detected from such discourses as they “reiterate today yesterday’s images of ‘Oriental despotism’ and of the everyday of Bedouins and others as cave-dwelling.”⁸ More importantly,

It is near fictitious to maintain an opposition between ‘total European virtue’ and ‘total Oriental barbarism’. For this opposition to hold, one would have to negate that Nazism and fascism were manifestations of modern European ideologies and practices. The photographs taken of Abu Ghraib provide sufficient evidence that techniques of torture and ‘barbarism’ are not the sole province of Middle East states.⁹

But before we problematize the doctrine of Responsibility to Protect, we will first conceptualize R2P and then contextualize its practice in the Middle East.

The R2P doctrine is probably the third phase in the development of the liberal discourse of humanitarian intervention: in the first phase, the UN General Assembly adopted the *Convention on the Prevention and Punishment of the Crimes of Genocide* in 1948 and put it into practice in January 1951.¹⁰ Further, in November 1968, the UN General Assembly resolution 2391 acknowledged *war crimes* and *crimes against humanity* as two major legally binding crimes in international law.¹¹ In the second phase, the UN Security Council recognized the use of *humanitarian intervention* in reference to

Chapter VII of the UN Charter.¹² This new period coincided with the end of the Cold War in the early 1990s and in response to structural changes in global politics, ranging from the collapse of the Soviet Union to the escalation of mass killings in Liberia, Somalia, Rwanda, and the former Yugoslavia, among others. In the third phase, the UN World Summit in 2005 adopted the R2P doctrine. In theory, the R2P doctrine differs, argues Gareth Evans, from *Humanitarian Intervention* in that the latter “remained so inherently one-sided, not in any way acknowledging the anxieties of those in the global South who had too often been the beneficiaries of *missions civilisatrices* in the past.”¹³ It has been argued that R2P has challenged certain key assumptions/norms in international ethics and redefined the relationship between state sovereignty and humanitarian intervention.

The following three principles probably capture best the main features of the R2P doctrine. First, in theory it replaces a realist, militant and state-centric conception of security with a new concept of “human security”.¹⁴ R2P norms imply a people-centered approach in international politics. It attempts to ‘put people first’.

Second, it introduces a new concept of “sovereignty as responsibility,” meaning that states are responsible to their people; the people are the real sovereigns and the state is their delegate.¹⁵ “Sovereignty

as responsibility” has internal and external dimensions. It entails that Sovereignty becomes a joint function of states, to be protected and shared when necessary.¹⁶ In other words, sovereignty is a joint function by the state and the international community. The latter is responsible to protect human rights of citizens of other states should a state be unable or unwilling to protect the rights of its citizens. Moreover, R2P norms propose a discursive shift from the alleged “right” of humanitarian intervention to the “responsibility” of the international community at large to protect people at risk.¹⁷

Postcolonialism begins with the dictum that it is both unethical and dysfunctional to maintain hegemonic concepts of international order, international morality, and international law.

Third, the R2P doctrine is built on three inseparable pillars of *Responsibility to Prevent*, *Responsibility to React*, and *Responsibility to Rebuild*. In theory, it distinctly distances itself from a one-dimensional military doctrine of *humanitarian intervention*. It clearly underlines the responsibility of the international community before, during and after a case.

The first pillar of R2P, *Responsibility to Prevent*, aims at tackling “both root causes and direct causes of internal conflict and other man-made crises putting a population at risk.”¹⁸ This refers to Article 55 of the UN Charter, which calls for respect for human rights and higher standards of political, economic and social welfare.¹⁹ The second pillar, *Responsibility to React*, implies that the UNSC is the primary international body to mandate political, economic, legal and military intervention in accordance with Article 41 and 42 of the UN Charter under Chapter VII. The International Commission on Intervention and State Sovereignty (ICISS) Report suggests that political measures such as travel sanctions, economic sanctions and legal measures through ICC trials are first options and military measures are the last resort mandated by the UNSC. The third pillar, *Responsibility to Rebuild*, indicates that the international community is responsible for post-conflict rebuilding through socio-economic development, brokering of national reconciliation and stabilizing of political institutions. In sum, the R2P doctrine, in theory, is an attempt to move away from a military humanitarianism towards a comprehensive, multidimensional and humanist approach to tackle structural and non-structural causes of violations of human rights before, during and after the crime.

Nonetheless, the question is to what extent this doctrine is capable of

transforming “promise into practice and words into deeds.”²⁰ One must problematize the implementation of the R2P norms and the limitations of the theory in practice. What does the R2P doctrine mean in *practice*? Is it a paradigm shift in the discourse of global ethics and global justice? The following section contextualizes the concept of R2P in the Middle East.²¹

Norms in Practice: Problematizing R2P in the Middle East

Postcolonialism begins with the dictum that it is both unethical and dysfunctional to maintain hegemonic concepts of international order, international morality, and international law. More importantly, international order, morality and law are “more practical than purely theoretical contestations” due to the fact that “the experiences of the conquered and colonized contrast with those of conquerors and colonizers.”²² An illustration of such experiences is best represented in the words of Ramesh Thakur, one of the twelve high profile individual authors of ICISS. In his remarks, Ramesh Thakur demonstrates how the R2P doctrine is often perceived in the Global South including the Middle East:

“They” (the European colonizers) came to liberate “us” (the colonized natives) from our local tyrants and stayed to

rule as benevolent despots. In the name of enlightenment, they defiled our lands, plundered our resources and expanded their empires.... Should they be surprised that their fine talk of humanitarian intervention translates in our consciousness into efforts to resurrect and perpetuate rule by foreigners? That we look for the ugly reality of geostrategic and commercial calculations camouflaged in lofty rhetoric? Should we be mute accomplices when they substitute their mythology of humanitarian intervention for our narratives of colonial oppression? Do they think we do not remember or do not care, or is it simply that they themselves do not care?²³

Similarly, in his background note of 2009, then UN General Assembly President Father Miguel D’Escoto Brockmann of Nicaragua, described R2P as “redecorated colonialism,” to “justify arbitrary and selective interventions against the weakest states.” He also raised his serious concern over the double standard in the implication of R2P and the absence of enforceable accountability on the abusers of the R2P doctrine.²⁴ The 2009 UN General Assembly debates on R2P, in sum, revealed differences between some members of the Global South and Global North on the implementation of the R2P doctrine.²⁵

Mahmood Mamdani echoes Miguel D’Escoto Brockmann’s critique of the R2P doctrine. He argues that the end of the Cold War brought a new “systematic shift” in international politics. Such a shift signaled “an international

humanitarian order that promises to hold state sovereignty accountable to an international ‘human rights’ standards.”²⁶ There is nothing entirely new to this international humanitarian order; rather, “it draws on the history of modern western colonialism.”²⁷ Although in theory, it differs from old forms of interventions, in practice it is not. The R2P doctrine, Mamdani argues, “is not an antidote to international power relations but its latest product.” We must problematize the *politics* of this order. More specifically, “the discourse on ‘rights’ emerged historically as a language that claimed to define limits of power. Their political ambition was to turn victims into *agents of resistance*. Today, the overwhelming tendency is for the language of rights to enable power.... It seeks to turn victims into so many proxies. It justifies intervention by big powers as an antidote to malpractices by newly independent small states.”²⁸ According to Mamdani, this new language of international humanitarian order

refers to its subjects not as bearers of rights – and thus active agents in their own emancipation- but as passive beneficiaries of an external ‘responsibility to protect.’ Rather than right-bearing citizens, beneficiaries of humanitarian order are akin to *recipients of charity*. Humanitarianism does not claim to reinforce agency, only to sustain bare life. If anything, its tendency is to promote dependency. Humanitarianism heralds a system of *trusteeship*.²⁹

The Ugly Reality of Geostrategic: Geopolitics Prevails over Norms?

For decades, the well-known statement about Somoza, dictator of Nicaragua, and generally attributed to President Franklin Roosevelt, set the agenda for US foreign policy towards Third World dictators during the Cold War: “[he] might be a son of a bitch but at least he’s our son of a bitch.” When neo-conservatives came to the White House in the early 2000s, then US Secretary of State, Condoleezza Rice, argued that “now, we are taking a different course; we are supporting the democratic aspirations of all people.”³⁰ And President Obama in his Middle East Speech in May 2011 argued that “it will be the policy of the United States to promote reform across the region, and to support transitions to democracy.” He also suggested “today I want to make it clear that it is a top priority that must be translated into concrete actions, and supported by all of the diplomatic, economic and strategic tools at our disposal.”³¹ However, the question is whether ethical norms remain “a top priority” in international politics and they actually “translated into concrete actions.”

As discussed earlier, the R2P doctrine constitutes three inseparable pillars of responsibility to prevent, to react, and to rebuild. Responsibility to react is often

used at the cost of the other two pillars. Most often the dominant structure of international politics and the logic of *realpolitik* deter and discourage international community from assuming the responsibilities to prevent and rebuild.³² Moreover, it is often difficult to prevent crimes if there is no consensus over the *root causes* of conflicts/crimes.³³ Interests of strong powers often hinder the international community tackling the root causes of crimes/conflicts. Rather, interests and policies of strong powers feed into the root causes of crimes/conflicts. Western intervention in the region during the Cold War and the policy of the Global War on Terror in the post-Cold War/post-9/11 era fostered and cultivated the root causes of violent extremism and terror in the region. The policy of prioritizing stability over democracy, and geopolitics over human rights, together with supporting the *friendly tyrants*, and pursuing the policy of containment and free flood of cheap oil nourished people's anger, frustration and violent extremism. Advocates of the R2P doctrine would simply reject this argument because the R2P norms put people first. However, there is an old history, live memory/perception, and clear evidence of neocolonialism in the region. History together with the current double-standard policies reinforces the idea that the R2P doctrine is a new intellectual, legal and political product of the unjust hegemonic global order.³⁴

Afghanistan is a case in point: the crisis of democratic nation building and the instability and corruption, together with a lack of a comprehensive policy toward *human security* contributed to the resurgence of the Taliban. The Bush administration played a major role in installing President Hamid Karzai in 2002 and he is in office as a result of a rigged election in 2009. For many Afghans, Karzai is no more than a mayor of Kabul – a president of a “corrupt”, ineffective,” and “illegitimate” government. Hence the government, “the keystone of American strategy” is in a deep legitimacy crisis. “As long as victory is defined as the defeat of the Taliban insurgency, the war in Afghanistan is not winnable.” This is an unwinnable war because the U.S. has no “credible Afghan partner and there is no prospect that one will emerge,” and “the center of gravity in counterinsurgency is the people.”³⁵

Similarly, in the current context of the Arab Spring, the cases of Bahrain, Yemen, and Syria demonstrate that geopolitics prevails over norms in international politics. Inspired by the Egyptian and Tunisian movements, Bahrainis’ “Day of Rage” began on 14 February 2011. The regime’s harsh response was followed by foreign intervention in support of the regime on 14 March 2011. Saudi Arabia and the United Arab Emirates sent troops to protect the Bahraini regime, home to the

US fifth fleet in the region. The military intervention of Saudi Arabia, America's closest ally in the region, in Bahrain and its full support to the Yemeni regime exacerbated the systematic violation of human rights in both countries. Likewise, it is now evident that the Syrian regime under Bashar al-Assad has killed tens of thousands of Syrians since 2011. The argument here is not to advocate the implementation of R2P in the abovementioned cases. Rather, the point is that geopolitics/*realpolitik* most often prevail over abstract norms/ethics in international politics.

Iraq? It's "Power Politics", Stupid!³⁶

The following cases took place before the adoption of the R2P doctrine at the UN World Summit in 2005. Nonetheless, they clearly identify a live memory/perception in the region that the international community either has failed to act, or act properly because both inaction and a type of action have been determined by *realpolitik*. Take the case of the Iran-Iraq War (1980-1988), one of the longest wars since World War II. Iraq under Saddam Hussein invaded Iran in 1980 but UNSCR 589 under Chapter VII of the UN Charter only enforced a ceasefire in 1988. Post-revolutionary Iran was hostile to US policies in the region and Saddam Hussein was

instrumental in stopping its neighbor. The same passive policy applied to the Israeli invasion and occupation of southern Lebanon (1982-2000) as the UNSC failed to enforce Chapter VII of the UN Charter. However, the UNSC quickly authorized the United States and its allies to evict Iraqi forces from Kuwait in 1991 while Southern Lebanon remained occupied by Israel during the same time. Moreover, the act of genocide in March 1988, which cost the lives of some 5,000 Kurds in Halabja, a Kurdish city in Iraq, went unpunished by Saddam Hussein's allies. Russia, France and the United States continued to support the Iraqi regime in its war against Iran and its own people. In the wake of the Halabja genocide, the U.S. administration under George H. W. Bush "did everything possible to squelch American outrage and block congressional sanctions against Iraq."³⁷ Indeed the number of American licenses for exporting dual-use chemical technology to Iraq was increased by 50%.³⁸

The sanctions, weakened the regime but at the cost of killing its people. Moreover, the sanctions weakened Iraqi civil society and destroyed the Iraqi middle class, the main agents for change from within.

Equally problematic is a type of action determined by certain interests. UNSCR 661 imposed a comprehensive sanctions regime against Iraq that remained in place for a decade. Two years after the Halabja genocide, the sanctions maintained mainly by Britain and United States were responsible for the deaths of half a million to one million Iraqi citizens, mostly children.³⁹ According to the most conservative account, the sanctions regime cost the lives of 227,000 children under five and hundreds of thousands of Iraqi deaths.⁴⁰ The 1991 war and the sanctions regime together transformed Iraq “to a pre-industrial age.”⁴¹ The sanctions regime did not promote or protect human rights; rather it punished the Iraqi people. It caused “great suffering, serious injury to body or to mental or physical health” of the entire population and as such it was a *crime against humanity*.⁴² Such a humanitarian catastrophe “resembled the crime against humanity known as ‘extermination;’” in other words “a widespread or systematic attack directed against any civilian population” as elaborated in Article 7 of the Statute of the International Criminal Court. The sanctions, in sum, weakened the regime but at the cost of killing its people. Moreover, the sanctions weakened Iraqi civil society and destroyed the Iraqi middle class, the main agents for change from *within*. Hence, it paved the way for another destructive reaction against the

Saddam Hussein regime, meaning the US-led military invasion of 2003. The cycle of inactions and bad actions thus reinforced each other.⁴³

According to Kenneth Roth, there was not a “humanitarian motivation” in the 2003 Iraq war for a number of reasons: The Bush administration was not willing to approach the International Criminal Court and rushed to wage a war on some unfounded allegations; the war was not the “last reasonable option.” The war did not maximize protection for Iraqi civilians because “several hundred thousand troops were needed to avoid postwar chaos.” This was not clearly a concern for the Bush administration. “Rumsfeld liked the Afghanistan war- a handful of special forces on the ground and a lot of very high-tech bombing.” Moreover, the war in many important respects “did not comply with international humanitarian law, the laws of war, and the Geneva Conventions.” For example, in southern Iraq the US army used cluster munitions, which explode in the sky and scatter over a wide area, and cost the lives of some 1,000 people.” Furthermore, the U.N. Security Council did not approve of the war. It was much easier to justify humanitarian intervention to stop the massacre of the Kurds in 1988, or to stop the suppression of the uprising in 1991. However, “there was nothing even close to that level of killing taking place in March 2003.”⁴⁴ The efforts to

justify the Iraq war “in humanitarian terms has been a disaster for the concept of humanitarian intervention.” This was not a just war.⁴⁵ It is evident that the U.S. and its allies waged the war based on a few unfounded claims, including the possession of WMDs, and the regime’s alleged links with Al-Qaeda and the 9/11 attacks.

Moreover, the former chief U.N. nuclear inspector and Nobel Peace Prize-winner Mohamed El-Baradei suggests in his memoir that Bush administration officials should face international criminal investigation for their “deliberate deception” or “grotesque distortion” on the issue of weapons of mass destruction, despite contrary evidence collected by U.N. arms inspectors, leading up to the Iraq invasion in 2003. According to El-Baradei, the invasion was no less than “aggression where there was no imminent threat,” and thus Bush administration officials should face international criminal investigation for the “shame of a needless war” in Iraq. This might well be the case for a possible *war crime* to be investigated by international courts.⁴⁶

The action of private security contractors such as Blackwater in Iraq is another point of contention about war crimes committed by US forces in Iraq. There are three incidents involving Blackwater that are particularly controversial: The Fallujah ambush on

31 March 2004; the Najaf shoot-out on April 4, 2004; and the Nisour Square shootings on 16 September 2007.⁴⁷ Due to the allegations against Blackwater, primarily regarding Nisour Square, the Iraqi Government banned Blackwater from Iraq in January 2009. However, Blackwater has since changed its name to Xe Services LLC and received a new contract with the US government in October 2010.⁴⁸

The human costs of war are immense. According to conservative estimates, the Iraqi civilian death toll was close to 100,000 by January 2009. According to the “Iraq Body Count” organization, “the documented civilian deaths from violence” between the US-led invasion in March 2003 and January 2009 were between 90,554 and 90,846.⁴⁹ In December 2008, the United Nations High Commissioner for Refugees (UNHCR) “estimates more than 4.7 million Iraqis have left their homes, many in dire humanitarian care. Of these, more than 2.7 million Iraqis are displaced internally, while more than 2 million have fled to neighboring states, particularly Syria and Jordan.... In 2006, Iraqis became the leading nationality seeking asylum in Europe.”⁵⁰ The sanctions regime and war weakened Iraqi civil society and national identity. Hence, after the invasion the Iraqis organized along ethno-sectarian lines and politicized their religio-ethnic identities. The war

and post-war policies did more harm to national cohesion.

The responsibility to rebuild in post-conflict Iraq was not remarkably successful either. The war in fact brought Al-Qaeda to Iraq, intensified civil war and sectarianism, and did not put an end to torture and corruption in Iraq. Thousands of civilians were killed and hundreds of thousands were displaced. The welfare of the Iraqi society was kept at bay. For example, Iraqis received only six hours electricity per day for the first three years post-invasion.⁵¹

Disproportionate and indiscriminate use of force such as sniper and tank fire in civilian neighborhoods aimed at provoking massive public outrage against Hamas.

The Iraqi case, in sum, suggests that both the local dictator and the global hegemon committed crimes against humanity and war crimes. The local dictator and the victims (the Iraqi people) were punished, but the global hegemon remains immune from prosecution. The main victims of the sanctions regime and the war were people whose lives, prosperity, dignity and agency evaporated through a new system of semi-trusteeship.⁵²

Palestine/Israel: Right to Punish?⁵³

It is true that the R2P doctrine is an emerging norm developed in 2005; however, as will be shown, the international community has missed a few particular occasions to act properly, and to protect and put people first in the Israel/Palestine context.

Clear evidence suggests that Israel has failed to live up to its legal obligations as an occupying force to protect civilians in the occupied territories. The USA has constantly vetoed all UNSC resolutions asking Israel to stop illegal settlements and/or condemning Israel's illegal military operations.⁵⁴ And the international community has failed to prevent, react, and rebuild properly in this case.

The Richard Goldstone Fact Finding Mission on the Gaza Conflict (Operation Cast Lead) in December 2008 to January 2009 concludes that both Israel and Hamas committed serious violations of international human rights and humanitarian law amounting to *war crimes* and possibly crimes against humanity.⁵⁵ Israel's goal was to implement the doctrine of deterrence against Hamas in 2008. Disproportionate and indiscriminate use of force such as sniper and tank fire in civilian neighborhoods aimed at provoking massive public

outrage against Hamas. Amnesty International confirmed the death of 1,400 Palestinian civilians, including women and children, in such a highly asymmetrical war.⁵⁶ Moreover, in the summer of 2014, a 50-day war between Israel and Hamas in Gaza “left at least 2,189 Palestinians dead, including more than 1,486 civilians, according to the UN, and 11,000 injured. On the Israeli side, 67 soldiers and six civilians were killed, with scores more wounded.”⁵⁷ According to Philip Luther, Middle East and African Director of Amnesty International, “All the evidence we have shows this large-scale destruction was carried out deliberately and with no military justification.” He adds “the attacks were a collective punishment against the people of Gaza and were designed to destroy their already precarious livelihoods.”⁵⁸

The Gaza Strip still is not free. After the Israel’s disengagement policy in 2005, the Israeli troops were withdrawn from the Gaza strip but the occupation was never fully ended. Even if we accept the end of occupation, the blockade is illegal because the Gaza strip is not a sovereign state and it has no sovereignty over its aerial and sea borders. UN Human Rights Chief, Navi Pillay, argues that Israel’s blockade on Gaza strip is illegal and has accused Israel of violating international humanitarian law. Likewise, the head of the United Nations Relief and Works Agency for Palestine Refugees

in the Near East (UNRWA) operation in Gaza, John Ging, called on the UN itself to deliver humanitarian assistance because the blockade is a direct violation of Article 33 of the Fourth Geneva Convention that prohibits “collective punishment”.⁵⁹ The Gaza blockade is probably a strong case for a *crime against humanity*. Although, the blockade might not fall into a legal definition/category of a mass atrocity as defined by the R2P doctrine, the Gaza blockade is clearly a collective punishment, which exacerbates anger and further violence. Hence, the international community is obliged to act and fulfill its responsibility to prevent crimes in this context. The best action to prevent further violence is to recognize Palestine as a sovereign state.⁶⁰

Libya: Right to Prevail?⁶¹

It is evident that “vast majorities of Africans variously subscribe to the *notion* of protection of populations and punishment of war criminals.”⁶² Nonetheless, the implementation of R2P in Libya has paradoxically undermined “the spirit and practice of participatory global governance.”⁶³

The Libyan case deserves a careful and critical examination. It is known that Colonel Qadhafi’s response to the civic popular demands in the Libyan Spring was harsh and brutal; the regime bombarded civilian demonstrations.⁶⁴

The response from the United Nations was relatively quick: UNSCR 1973 was adopted by a vote of ten in favor to none against. Brazil, China, Germany, India and Russia were the five abstention votes. The resolution called for an “immediate ceasefire”, a “no-fly zone” and “sanctions” on the Qadhafi regime. The resolution suggested that the international community should take “all necessary measures to protect civilians under threat of attack in the country, including Benghazi.” It also explicitly “excludes a foreign occupation force of any kind,” or “in any part of Libyan territory.”⁶⁵

The Libyan case was the first occasion where no member of the UNSC objected to the implementation of the R2P doctrine, since it came into existence in 2005. Moreover, regional support was instrumental in the adoption of the resolution. The Arab League, an important regional organization, gave its initial support to UNSCR 1973. Three African Union members (Nigeria, Gabon and South Africa) who were non-permanent members of the UN Security Council voted in favor of the resolution. And the Gulf Cooperation Council (GCC)- a regional organization of conservative Arab countries in Persian Gulf (Saudi Arabia, United Arab Emirates, Kuwait, Qatar, Oman and Bahrain)- also supported the imposition of a no-fly zone over Libya.⁶⁶

We need to make a clear distinction between justification of reaction and the execution of reaction.

One should not, however, ignore that the five absenting governments (Brazil, China, Germany, India and Russia) represent the majority of the international community and they *did not vote in favor* of the resolution. This is probably a good indication of why/how the global community has serious concerns over the *implementation* of the doctrine. Furthermore, once air strikes began the Arab League voiced skepticism over the way the resolution was being exercised. Arab League Secretary-General Amr Moussa argued that “what has happened in Libya differs from the goal of imposing a no-fly zone and what we want is the protection of civilians and not bombing other civilians.”⁶⁷ Likewise, the African Union, the largest regional organization in Africa, condemned “the disproportionate use of force” by the Libyan government but it also criticized the idea of a no-fly zone: “The council reaffirms its firm commitment to the respect of the unity and territorial integrity of Libya, as well as its rejection of any form of foreign military intervention.”⁶⁸

Moreover, it has been argued that UNSCR 1973 will probably set a *precedent* for future foreign involvements and it is not quite clear whether/how such a use of force would benefit the current and future grassroots, authentic and non-violent pro-democracy movement in the region. In Mamdani's words, "the irony is that the invasion mounted to save civilian lives in Libya is likely to end up making the world more insecure."⁶⁹

More importantly, public opinion has raised the question of the double standard policy to the implementation of R2P in this region. The question is why R2P was implemented in Libya and not in Bahrain, the American ally in the region? Is Libya another Iraq and Afghanistan with a legal mandate? The skepticism over the intentions of the West/NATO forces in Libya is a fact in the global south: shortly after bombs were dropped on Libya, the Arab League, Nigeria and South Africa openly opposed the broad scope of the coalition bombing.⁷⁰ Daniel Ortega of Nicaragua, Morales of Bolivia, Castro of Cuba, among others, condemned the use of force by the international community.⁷¹ There is skepticism, in short, over *how* and *who* will do *what* in the implementation of the doctrine. There is also a serious concern over the *unintended consequences* of using force in each particular case.

It is clear that the NATO aerial bombing protected the people of Benghazi from Qadhafi's attack. However, as Richard Falk argues, building a united

constitutional democracy in Libya is not easy because Libya has no "constitutional experience with citizen participation, an independent judiciary, or the rule of law."⁷² Moreover, let's not forget that both Iraq and Afghanistan "teach us that humanitarian intervention does not end with the removal of the danger it purports to target. It only begins with it. Having removed the target, the intervention grows and turns into real problem."⁷³

Furthermore, we need to make a clear distinction between *justification* of reaction and the *execution* of reaction. The UNSC is central to the justification process but remains marginal to the process of execution. In practice, the most powerful forces (i.e. the USA, EU, NATO) exercise the resolutions. Although, the doctrine/legal justification might be neutral, the execution process is not; the UN has not much leverage over the implementation of the doctrine.⁷⁴ This brings us to three points of contention about politics and people's perception of foreign intervention in Libya: First, US Secretary of State Hillary Clinton argued that the political unrest in Bahrain had a political solution. Although, it is not clear how Saudi Arabia's military intervention in Bahrain can be described as a political solution, the question here is did Libya have a political solution? According to Phyllis Benis, the West/NATO was probably not interested in

a political solution in Libya because the African Union delegation to Libya was denied permission to fly over Tripoli by the NATO forces.⁷⁵ Moreover, the *New York Times* reported that the Libyan tanks on the road to Benghazi were bombed when they were retreating and not when they were advancing. For Mamdani, this resembles US war strategy in Iraq in 2003 when the neo-conservatives had already planned to invade Iraq.⁷⁶ Moreover, why would the Libyan National Transition Council, the opposing supported by the West, negotiate with Qaddafi “when the largest armies in the world are committed to the destruction of the one obstacle to their own path to power?”⁷⁷

Each war is a laboratory for testing the next generation of weapons.... the objective is to destroy physical assets within minimum cost in human lives.

Second, UNSCR 1973 called on the Secretary-General to freeze Libya’s assets. The Libyan assets in the USA and Europe amounted to hundreds of billions dollars. The USA Treasury froze US\$ 30 billion of liquid assets and the USA banks froze US\$ 18 billion. The point is that these assets were “turned into a booty, an

interest-free loan, in this instance, to US Treasury and US banks.” The real issue is, “money trail” not humanitarianism.⁷⁸ According to Richard Falk, the fact that the United States, France and the UK “are pulling strings to release” billions of dollars of frozen assets of the Libyan state suggests that “oil companies and their government sponsors are scrambling to get an inside track” in a post-Gadhafi regime. Of course, by enabling “the new Libyan leadership to embark upon financial recovery and reconstruction” these actions “come as part of a package containing undisclosed political conditions and economic expectations.”⁷⁹

Third, one bitter and harsh reality of modern/post-modern politics of war is that “war furthers many interests. Each war is a laboratory for testing the next generation of weapons.... the objective is to destroy physical assets within minimum cost in human lives.” This is one aspect of NATO involvement in Libya. The cruel consequence of such a policy is that “the more physical assets are destroyed, the less sovereign will be the next government in Libya.”⁸⁰

It is probably in this context that one should read the Malian President’s remarks: Asked by the interviewer why he would not join the West to remove Qadhafi from office, the President of Mali replied: “We are asked to promote democracy in Libya against a man who holds power at the barrel of the gun

and you want me to unseat him at the barrel of the gun and seat another group in his place. If Qadhafi's unwillingness to negotiate and compromise is the problem today why is the other side relying on forced removal."⁸¹

The Syrian Tragedy: The Limits of R2P in an Ugly Proxy/Civil War?

The Syrian tragedy is indicative of the limits of the R2P doctrine. Today Syria is a war of destiny for a number of international and regional actors. Each actor seeks to shift the regional balance of power in order to maximize its interests. Syria provides a *strategic depth* for both Russia and Iran. The geopolitics and geostrategic significance of Syria include, but are not limited to, its access to the Mediterranean Sea, its proximity to Israel and Lebanon, and its political influence over the Lebanese Hezbollah. Moreover, Russia (and to a lesser extent China) is deeply skeptical of the Western humanitarian intervention in Syria because it feels that the West/NATO betrayed Russia in the implementation of R2P in Libya in 2011. While the UNSC Resolution authorized the implementation of a "no-fly zone" to protect the civilian population in the city of Benghazi, NATO turned such a limited mandate into a regime change under the rubric of R2P. Syria has thus gained more significance for Russia

after the overthrow of Qaddafi in Libya. Syria probably remains Russia's war of destiny.

Furthermore; Iran, Hezbollah of Lebanon, Russia, and to a lesser degree China support the Syrian regime. On the other hand; the United States, France, the United Kingdom, Israel, Saudi Arabia, Qatar, and Turkey have supported their proxies in this conflict, as they would like to contain Iran's regional influence. A post-Assad Syria would shift the regional balance of power against Iran, and in favor of the West and its regional allies.

The international community has missed the opportunity to put an end to crimes against humanity and war crimes committed by the Assad regime and sections of the opposition forces.

The West and its regional allies support rebels of the Free Syrian Army with military assistance. Some of these countries support Al-Qaeda and its Syrian offshoot, *Jabhat al-Nusra*, and the radical Salafis of the "Islamic State of Iraq and al-Sham." The sad reality is that such military assistance has turned the Syrian Spring into a proxy war, and exacerbated an ugly and bloody civil war among ethnic and religious minorities.

The fear of war and instability, and the horror of the rise of an Islamist state ruled by radical Salafis have forced some Christian, Druze and Alawite minorities to choose the lesser evil and side with the Assad regime.

The international community has missed the opportunity to put an end to crimes against humanity and war crimes committed by the Assad regime and sections of the opposition forces. With more than two hundred thousand dead, some two million refugees, thousands of people tortured and imprisoned in jail, several million internally displaced, and numerous victims of chemical weapons, Syria clearly represents a catastrophic humanitarian crisis. Given the complexity of the Syrian case, a *military* intervention to implement the R2P would most likely deteriorate the situation and lead to a greater humanitarian crisis. Instead, inclusive negotiations among all the parties and tough diplomacy seem a more viable *humanitarian* intervention.

The choice is not between supporting the brutal Assad regime and a military intervention. This is a false dichotomy. Supplying arms to the opposition will not benefit the Syrian civil rights movement for democracy. Militarism and sectarianism exacerbate more violence and undermine the future of democracy in Syria. The global society,

international community and states such as the BRICS (Brazil, Russia, India, China and South Africa), among others should support a genuine and inclusive international attempt for tough dialogue and serious diplomacy to stop the civil and proxy war and give a boost to the Syrian Spring.

In sum, the “post” in postcolonialism does not simply refer to “the *period* after the colonial era;” more importantly, it signals “the *effects* of this era” in sharing the contemporary global (dis) order.⁸² One must contextualize the implementation of the R2P doctrine in light of the *effects* of postcolonialism in shaping global politics. As such, the live memory/perception from the old history of colonialism, and clear evidence of neocolonialism as well as double-standard policies in the region have reinforced the idea of Middle Eastern exceptionalism where people of the Orient are perceived as passive recipients of Western charity, or subject of the hegemonic imperial agenda, not active agents of their own grassroots movements.

The R2P doctrine in theory provides a minimum normative agenda and, to a lesser degree, a minimum institutional framework for global justice.

Conclusion: Towards Responsibility for Justice (R4J)?⁸³

Postcolonialism “is a broad commentary on present models of politics, economy, and ethics.”⁸⁴ A postcolonial order envisaged by postcolonialism advocates just and inclusive democracy both in national and global politics. It would “maintain consistent positions on politics that do not distinguish the domestic, national, and international spheres.”⁸⁵ It vigorously denounces, “the failure of postcolonial elites to integrate co-citizens- and/or domestic social and cultural formations- into democratic structures of governance within the state.”⁸⁶ It is also “mindful of the failure of hegemonic powers to integrate post-colonial states into the decision-making process of international system.”⁸⁷

The politics and discourse of R2P capture the postcolonial critiques of contemporary global (dis)order. The paradox of R2P in practice is that “humanitarian concerns come once again to serve as pretext for widening the global democratic deficit and, in the case of the Middle East, re-inscribing the term of past imperial relations under new guises.”⁸⁸

The R2P doctrine in theory provides a minimum *normative* agenda and, to a lesser degree, a minimum *institutional* framework for global justice. However,

the reality of unequal power relations, both at the individual, state, and global politics levels, has created serious structural constraints for the UN, the most legitimate and relevant international institutional framework, to transform “promise into practice and words into deeds”, to “put people first,” and to implement norms of justice with a fair, just, and consistent manner. The structure of the UNSC and the veto system, for example, offer little room for the international community to enforce and/or prevent the use of force if the case does not meet the interests of the veto power holders. The structure of the UNSC gives little chance to the international community, and the UN in particular, to prevent crimes by giving early warning to states and/or taking into consideration the socio-economic and political root causes of human wrongs.

The US-led invasion of Iraq on false pretenses in 2003, and the bitter story of the chaos and violence in post-Saddam Iraq, is an eye-opening example of non-democratized global world (dis)order. In February 2002, then US Secretary of Defense Donald Rumsfeld stated: “As we know, there are known knowns. There are things we know we know. We also know there are known unknowns. That is to say, we know there are some things we do not know. But there are also the unknown unknowns, the ones we don’t know we don’t know.”⁸⁹ But Rumsfeld,

to use Slavoj Žižek's argument, never mentioned the "unknown knowns"—that is to say, "the disavowed beliefs, suppositions and obscene practices we pretend not to know about."⁹⁰ A few "unknown knowns" in the discourse of humanitarian intervention probably include the following.

R2P is a political discourse and therefore it is an invention of the complex networks of power relations. We should also note that the (neo) liberal language of Rights and Humanitarianism has enabled the powerful. The reality of the international structure has reinforced the militarized/policing language of human rights. A paternalistic legacy of Orientalism is also evident in the language, and more so in the practice, of humanitarian intervention. Moreover, the global structure and interests of powerful states have hampered a consistent, just, and fair implementation of the R2P doctrine. The responsibility to react, and military intervention in particular, is often determined by who has the means to intervene and the UN is hardly capable of overcoming the double-standard policy in using or not using force. This has resembled a *Cinderella Shoe* approach to react, meaning unless the case fits certain interests of the strong parties, it will not be considered. More specifically, there is arguably little that is actually international about the military intervention or implementing sanctions regime. "The international

process is no more than a legitimating exercise." In other words, "legitimation is international, implementation is privatized, passing initiative to the strongest of member states. The end result is a self-constituted coalition of the willing."⁹¹ We also know that one major, intended or unintended, consequence of war and military intervention is less sovereignty and more dependency of the future regime.

The R2P doctrine in theory emphasizes three inseparable pillars of responsibility to prevent, react and rebuild. In practice, however, it has often acted as an instrument of *inconsistent* coercive intervention. There is no clear-cut division in reality between the implementation of the three inseparable pillars of R2P. There is also confusion and ambiguity over *how* and *who* should implement those three core components of R2P. In this context, the power relations/the powerful often determine the priorities, agendas and agents of who should do what at a specific time.

The responsibility to prevent "is the least developed of the concept's three pillars."⁹² The responsibility to prevent requires strong "political will" and a commitment to allocate resources in the form of development aids and comprehensive socio-economic plans.⁹³ For example, Canada is the architect of the R2P doctrine but its "development aid is lagging behind the standard 0.7 % target of gross national product (GNP) established in 1969."

In 2005 Canada gave approximately 0.3%,⁹⁴ which helped lead to the “drastic downsizing” of developmental programs in the West Bank, the Gaza Strip, Jordan and Lebanon. Political will to prevent crimes and to tackle the root causes of conflicts requires a serious commitment and action to prevail over short-term policies supported by strong domestic lobbies and the international power structure. Canada has, surprisingly, removed the countries of the Middle East from its list of development partners, which has minimized Canada’s acts to prevent the crisis.⁹⁵ Ironically, Canada, under the Conservative government was the first country to suspend all aid to the Palestinian Authority following Hamas’s electoral victory in 2006. Moreover, Canada modified its stance at the UN, abstaining on resolutions that reaffirmed the Palestinians’ right to self-determination and the importance of Israel acceding to the Nuclear Non-proliferation Treaty and refraining from exploiting natural resources in the occupied territories.⁹⁶ Canada’s reaction to the war between Israel and Lebanese Hezbollah in July 2006 is another example of how much power relations prevail over norms. In this six-week war Israel lost 122 citizens and soldiers, while Lebanon lost over 1,000 civilians-including among these some Canadian citizens- and saw 25% of its population displaced. Canadian Prime Minister Harper refused to put pressure on Israel or to question the

asymmetrical indiscriminate and illegal use of force and weaponry, including cluster munitions in civilian areas by Israel. Instead, he described Israel’s response as “measured.”⁹⁷ Likewise, for the Liberal Michael Ignatieff, “this is the kind of dirty war you’re in when you have to do this and I’m not losing sleep about that.”⁹⁸

On some occasions, policy makers might take critical advice seriously and appreciate that the promotion of human rights and long-term constructive comprehensive policies is not mutually exclusive.

There is, in sum, a clear gap between the discourse and practice, between norms/doctrine and actions; this gap needs to be addressed, examined and problematized. We need to find a practical solution to protect human dignity and to stop crimes against humanity when ordinary people are often caught between a rock and a hard place- between local autocratic politics and a hegemonic self-interested global politics. We need to problematize and strive for practical answers to empower people and protect *people’s position* in the context of unjust *power relations*. This is not easy.

Easy solutions are often illusions. One illusion is to simply preach to the local and global powerful to choose human rights over power politics, and ethics over material interests. On some occasions, policy makers might take critical advice seriously and appreciate that the promotion of human rights and long-term constructive comprehensive policies is not mutually exclusive. However, power relations most often prevails over abstract norms/ethics in the context of individual states and global politics. Preaching to the powerful is not *the* solution. Another illusion is that there is absolutely no chance to protect human rights within the current unjust global structure. Total disengagement with the international institutions is not the solution either. Neither the vulgar voluntarism of the first illusion nor the determinist structuralism of the second illusion captures the complexity of international politics. A realistic (not realist) examination of what has been achieved and what remains to be accomplished is warranted. A third approach, i.e. a *postcolonial critique* strives for such a critical task.

It is true that the (neo) liberal language of Rights and Humanitarianism and a paternalistic legacy of Orientalism in the discourse of R2P, and more so in its practice, have reinforced the policing language of human rights; that the global structure has hampered a consistent, just, and fair implementation

of the norms; and that the UN is hardly capable of challenging a Cinderella Shoe approach in international politics. But it is also true that R2P asks a simple and important question summed up by then UN secretary general, Kofi Annan: “If humanitarian intervention is, indeed, unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica- to gross and systematic violations of human rights?”⁹⁹ However, the challenge is to find a practical answer to this key and critical question: “*who* has the responsibility to protect *whom* under *what conditions* and toward *what end?*”¹⁰⁰ A postcolonial approach is an attempt to acknowledge and answer the legitimate concerns over a just, inclusive and consistent implementation of international human rights and global ethics while striving for practical solution. It calls for empowering global civil society- a world social forum- to protect and promote human rights while at the same time working within the current unjust global structure, striving for *radical* reform and change of the system, and minimizing the violation of human rights by using/improving the existing unjust structure. This includes emancipating global ethical norms from the hegemonic discourse of neo-liberal order; decolonizing and acknowledging the core values of “human security,” “sovereignty as responsibility,” “putting people first”; striving for a consistent, just, and fair implementation of norms;

pushing for radical reforms in the UN; empowering regional and subaltern organizations; mobilizing world public opinion; and democratizing the world order. A postcolonial critique of the hegemonic global order requires us to de-colonize and redefine peace, security, humanitarianism, order, and democracy, among others. This task is contingent on, to use Walter Mingolo's concept, an "epistemic disobedience."¹⁰¹

Martin Luther King, Jr. once argued that "injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly." Likewise, a twelfth century Iranian poet Sa'adi wrote this poem:

Human beings are members of a whole/
In creation of one essence and soul
If one member is afflicted with pain/
Other members uneasy will remain
If you have no sympathy for human pain/
The name of human you cannot retain.

Martin Luther King's concern for cosmopolitan justice and Sa'adi's poem on *Oeness of Mankind* capture the core value of our ethical responsibility and obligation to our fellow human beings. A just implementation of the R2P doctrine is, in sum, *pending* on the accomplishment of R4J: *Responsibility for Justice*. *Justice* is where the West meets the East. This is where Sa'adi's message of *cosmopolitan existence* encounters Martin Luther King's call for *cosmopolitan justice*.¹⁰²

Postcolonialism "favors an ethos of egalitarianism, social justice, and solidarity." It "aspires to a different kind of universalism, one based on deliberation and contestation among diverse political entities, with the aim of reaching functional agreement on questions of global concern. This kind of universalism differs from one resulting from universal injunctions by self-assured subjects."¹⁰³ I have called this "universalism from below."¹⁰⁴

Endnotes

- 1 An earlier version of some sections of this article has been published in the following book chapter: Mojtaba Mahdavi, "R2P in the Middle East and North Africa?", in W. Andy Knight and Frazer Egerton (eds.), *Routledge Handbook of the Responsibility to Protect*, London and New York, Routledge, 2012, pp. 257-275. Also, another version of this paper was presented at the following conference: "Humanitarian Diplomacy: Theory and Perspectives from the Field", İstanbul Şehir University, İstanbul, Turkey, 6-7 December 2013.
- 2 Karl Marx, *The Eighteenth Brumaire of Louis Bonaparte*, New York, International Publishers, 1987, p. 124.
- 3 Edward Said, *Orientalism*, New York, Vintage Books, 1979.
- 4 Mahmood Mamdani, *Savios and Survivors: Darfur, Politics, and the War on Terror*. New York, Pantheon Books, 2009, p. 276.
- 5 UN Secretary General Ban Ki-Moon, United Nations, Secretary General Office, Secretary General Defends, Clarifies "Responsibility to Protect" at Berlin Event on 'Responsible Sovereignty: International Cooperation for a Changed World', SG/SM/11701i New York, Department of Public Information, 15 July 2008. See, Mojtaba Mahdavi, "R2P in the Middle East and North Africa?" in W. Andy Knight and Frazer Egerton (eds.), *Routledge Handbook of the Responsibility to Protect*, London and New York, Routledge, 2012, pp. 257-258.
- 6 Immanuel Kant, "Toward Perpetual Peace", in M. J. Gregor, trans. M. J. Gregor (eds.), *Practical Philosophy*, Cambridge, Cambridge University Press, 1996, pp. 311-352.
- 7 Siba N. Grovogui, "Postcolonialism", in Tim Dunne, Milja Kurki and Steve Smith (eds.), *International Relations Theories: Disciplines and Diversity*, 3rd ed., Oxford University Press, 2013, p. 252.
- 8 Ibid., p. 254.
- 9 Ibid., p. 255.
- 10 Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9 December 1948, 78 UNTS 277, at <http://www2.ohchr.org/english/law/genocide.htm> (last visited 15 September 2015). The Genocide Convention was a legal act to acknowledge genocide as a major crime against humanity. The Polish-Jewish lawyer, Raphael Lemkin, originally coined the term genocide in 1943 in response to the Holocaust. According to the Genocide Convention, article 2, the term includes crimes "committed with the intent of destroying, in whole or in part, an entire national, ethnic, racial, or religious group." See, Raphael Limkin, *Axis Rule in Occupied Europe: Analysis, Proposals for Redress*, Washington D.C., Carnegie Endowment for International Peace, 1994, pp. 79-95.
- 11 The UN General Assembly resolution 2391 adopted *The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity*; adopted 26 December

- 1968, 754 UNTS 73, at <http://www2ohchr.org/english/law/warcrimes.htm> (last visited 3 May 2015).
- 12 Humanitarian interventions were defined as “coercive action by one or more states involving the use of armed force in another state without the consent of its authorities, and with the purpose of preventing widespread suffering or death among the inhabitants.” See, Adam Roberts, “The So-called ‘Right’ of Humanitarian Intervention”, *Yearbook of International Humanitarian Law*, Vol. 3(2001), pp. 3-51. The introduction of the *Rome Statute of the International Criminal Court* was an equally important step in the second phase. The Draft Code of Crimes before the Yugoslav and Rwandan tribunals contributed to the development of the Conference of Plenipotentiaries, which created the first permanent International Criminal Court (ICC) in Rome, Italy, in June 1998. The Rome Statute provided a legal authority to ICC to tackle with *core* crimes, including genocide, war crimes, and crimes against humanity. See *Rome Statute of the International Criminal Court*, adopted 17 July 1998, 2187 UNTS.
 - 13 Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (2008), p. 5; see, Mojtaba Mahdavi, “R2P in the Middle East and North Africa?”, p. 258.
 - 14 Canada’s then Foreign Minister, Lloyd Axworthy contributed to the development of a key concept in the R2P doctrine: “Human Security.” This concept “puts people first and recognizes that their safety is integral to the promotion and maintenance of international peace and security. The security of state is essential, but not sufficient, to fully ensure the safety and well-being of the world’s peoples.” See, Lloyd Axworthy, “Human Security and Global Governance: Putting People First”, *Global Governance*, Vol. 7, No. 1 (2001), pp. 19-23. It is worth noting that *Human Development Report* of UN Development Program (UNDP) in 1994 introduced the concept of Human Security.
 - 15 Roberta Cohen and Francis Deng introduced the concept of “sovereignty as responsibility.” This concept implies that both states and the international community have a responsibility to protect and promote human rights. The sovereign state is responsible to protect its own citizens from the violation of human rights. However, if the state is unwilling or unable to do so, the international community is equally responsible to protect universal human rights inside the boundaries of failed states. See, Roberta Cohen and Francis M. Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, Washington, D.C., Brookings Institution, 1998. Francis Deng argues “I don’t see sovereignty in a negative light as a barricade;” “I see sovereignty positively as a concept of state responsibility for its people, if need be with the support of the international community. And the subtext is that if you don’t discharge that responsibility and your people are suffering, the world will not leave you alone.” See, Francis Deng, “Preventing Genocide: Interview with Francis Deng”, Conducted by David A. Hamburg, New York, Stanford University, Libraries & Academic Information Resources, 20 March 2008, at https://lib.stanford.edu/files/PG_Deng.pdf (last visited 5 June 2015).
 - 16 Former UN Secretary-General Kofi Annan introduced “Two Concepts of Sovereignty,” making a distinction between *individual sovereignty* and *popular sovereignty*. Annan calls for

a reconciliation of sovereignty and human rights. More specifically, “state sovereignty, in its most basic sense, is being redefined.... States are now widely understood to be instruments at the service of their peoples, not vice versa.” For Annan, individual sovereignty, or “fundamental freedom of each individual, enshrined in the Charter of the UN and subsequent international treaties has been enhanced by a renewed and spreading conciseness of human rights.” As such, he moves beyond an absolute, supreme, and independent concept towards a contingent and relational concept of sovereignty. See, Kofi Annan, “Two Concepts of Sovereignty”, *The Economist*, No. 352 (18 September 1999), pp. 49-50.

- 17 R2P norms were developed through the “International Commission on Intervention and State Sovereignty” (ICISS), a Canadian initiative by Canada’s then Foreign Minister Lloyd Axworthy – who organized an international commission of twelve distinguished individuals from global North and global South, and co-chaired by Gareth Evans, former minister of Australia, and Mohamed Sahnoun, Special Advisor to the UN Secretary-General – to debate and draft the R2P doctrine. The goal and guiding principle of ICISS was to shift the debates from the purported “right” of potential interveners to the “responsibility” of the international community at large to protect the people at risk. See, Thomas G. Weiss, *Humanitarian Intervention: Ideas in Action*, Cambridge, Polity Press, 2007, pp. 100-118.
- 18 ICISS Report, “The Responsibility to Protect”, *International Commission on Intervention and State Sovereignty* (ICISS), xi.
- 19 United Nations Charter, Chapter IX, at www.un.org/aboutun/charter (last visited 10 September 2015).
- 20 UN Secretary General Ban Ki-Moon, United Nations, Secretary General Office, Secretary-General Defends, Clarifies “Responsibility to Protect” at Berlin Event on ‘Responsible Sovereignty: International Cooperation for a Changed World’, SG/SM/11701, New York, Department of Public Information, 15 July 2008.
- 21 Mahdavi, “R2P in the Middle East and North Africa?”, pp. 258-259.
- 22 Grovogui, “Postcolonialism,” p. 256.
- 23 Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect*, Cambridge, Cambridge University Press, 2006, p. 267.
- 24 Miguel D’Escoto Brockmann, “General Assembly Agrees to Hold More Talks on Responsibility to Protect”, *UN News Services*, 2009; also Miguel D’Escoto Brockmann, “At the Opening of the Thematic Dialogue of the General Assembly on the Responsibility to Protect”, *UN Headquarters*, New York, 2009. Miguel D’Escoto Brockmann’s critique of the R2P doctrine illustrates the uneasiness many delegates from Asia, Latin America and Africa feel towards the implementation of the doctrine. Although most delegates supported the *general thrust* of the three pillars of R2P, a few explicitly rejected the use of force in any circumstances. States such as Nicaragua, Cuba, Venezuela, and Sudan sought to roll back the 2005 World Summit consensus. Many expressed their concern over double standards and arbitrary implementation of R2P due to the dominant veto system in the UNSC.

- 25 See Mahdavi, "R2P in the Middle East and North Africa?" p. 260.
- 26 Mamdani, *Saviors and Survivors: Darfur, Politics, and the War on Terror*, p. 273.
- 27 Ibid., p. 276.
- 28 Ibid., p. 282. Italics added.
- 29 Ibid., p. 275. Italics added.
- 30 Rice calls for Mid-East democracy, *BBC News*, 20 June 2005.
- 31 "Obama's Mideast Speech,-", *The New York Times*, 19 May 2011.
- 32 However, it should be noted that Kenya in the wake of the disputed December 2007 presidential election is a case in point where responsibility to prevent was applied. In early 2008 a peaceful diplomatic and swift response by the international community prevented further crimes, which would have escalated to the level of crimes against humanity. Kenya revealed how non-coercive tools, such as mediation, can help halt atrocities when employed early, with sufficient resources and international support. See, "The Responsibility to Protect and Kenya: Past Successes and Current Challenges", *Global Centre for Responsibility to Protect*, at http://globalr2p.org/media/pdf/The_Responsibility_to_Protect_and_Kenya_Past_Successes_and_Current_Challenges.pdf (last visited 6 July 2015).
- 33 W. Andy Knight, "The Development of the Responsibility to Protect- From Evolving Norms to Practice", *Global Responsibility to Protect*, Vol. 3 (2011), pp. 3-36.
- 34 Mahdavi, "R2P in the Middle East and North Africa?", pp. 260-61.
- 35 Peter Galbraith, *The Economist*, 17 May 2010. According to Tariq Ali, the Afghan war could have had a different outcome had the NATO forces introduced "a massive New Deal" program by rebuilding the Afghan social infrastructure. However, the post-invasion socioeconomic structure of Afghanistan made "a tiny group of people very rich." Karzai's brother, Ahmed Wali Karzai, became the "richest man in Kabul," while the poor living in the slums "grew by half a million within the first two years of the occupation". Thanks to insecurity, poverty and ongoing occupation, the insurgents have received more support from the large segment of the population who had previously been indifferent to them. Tariq Ali, "Afghanistan: 'Obama's War'" at <http://links.org.au/node/1756> (last visited 28 June 2015); Also see, Tariq Ali, *The Obama Syndrome: Surrender at Home, War Abroad*, London, Verso, 2010.
- 36 Mahdavi, "R2P in the Middle East and North Africa?", pp. 261-263.
- 37 Barry Lando, *Web of Deceit: The History of Western Complicity in Iraq, from Churchill to Kennedy to George W. Bush*, New York, Other Press, 2007, p. 83.
- 38 Ibid., p. 98.
- 39 Ibid., p. 185.
- 40 D. Cortright and G. Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s*, Boulder, CO, Lynne Rienner, 2000, p. 46. The number of the children death ranges from a quarter million to half a million in different sources.

- 41 UNSC Report to the Secretary-General on Humanitarian Needs in Kuwait and Iraq in the Immediate Post-Crisis Environment by a Mission to the Area Led by Mr. Martti Ahtisaari, UN Doc.S/22366, 20 March 1991.
- 42 Rome Statute, Article 7(2); see also Core Crimes prepared by the Coalition for the International Criminal Court at <http://www/iccnow.org/documents/FS-CICC-CoreCrimesinRS.pdf> (last visited 8 July 2015).
- 43 For an interesting collection on this issue, see, Mokhtar Lamani and Bessma Momani, (eds.), *From Desolation to Reconstruction: Iraq's Troubled Journey*, Waterloo, Wilfrid University Press, 2010.
- 44 Kenneth Roth, Fernando R. Tesón and Paige Arthur, "Ending Tyranny in Iraq: A Debate", at <http://www.carnegiecouncil.org/resources/transcripts/5268.html> (last visited 10 July 2015).
- 45 For an interesting analysis, see, Craig M. White, *Iraq the Moral Reckoning: Applying Just War Theory to the 2003 War Decision*, Lanham, Lexington Books, 2010.
- 46 Mohamed El-Baradei, *The Age of Deception*, Henry Holt and Company, 2011. The U.S. and allies committed war crimes in Abu-Ghraib by torturing prisoners and in Fallujah by killing civilians and using bombs in civilian neighborhood. The US military used cluster bombs and white phosphorus in Fallujah. Hundreds of children and women have come across cluster bombs in Fallujah and have been physically maimed for the rest of their lives. Moreover, a US soldier executed a wounded Iraqi in a Fallujah mosque. Some have even been killed. The execution of an unarmed prisoner is identical to killing a civilian and both are in clear violation of the Geneva Convention. The Geneva Convention also requires that you cannot deport people from occupied territory, but the United States has been deporting people out of Iraq. See, Amy Goodman conversation with Jules Lobel, "U.S. War Crimes in Fallujah", at http://www.democracynow.org/2004/11/19/u_s_war_crimes_in_fallujah (last visited 6 May 2015).
- 47 Jeremy Scahill, *Blackwater: The Rise of the World's Most Powerful Mercenary Army*, New York, Nation Books, 2007, pp. 91-104 and 117-139.
- 48 On 22 April 2011, a US federal appeals court reopened the criminal case against 4 members of Blackwater involved in the Nisour Square shooting. However, justice is still not done.
- 49 "Iraq Body Count: Documented Civilian Deaths from Violence", *Iraq Body Count*, at <http://www.iraqbodycount.org> (last visited 6 May 2015).
- 50 "The Iraq Situation", at <http://www.unhcr.org/iraq.html> (last visited 6 May 2015); Ms. Parker is President of the San-Francisco-based Association of Humanitarian Lawyers (www.humanlaw.org) and Chief Delegate to the United Nations for the Los Angeles-based International Educational Development/Humanitarian Law Project (IED/AHL), an accredited non-governmental organization on the U.N. Secretary-General's list; See www.consumersforpeace.org (last visited 7 May 2015).
- 51 <http://www.reuters.com/article/2011/08/07/iraq-electricity-idUSL6E7J707Q20110807>

- 52 Mahdavi, “R2P in the Middle East and North Africa?” pp. 261-263.
- 53 *Ibid.*, pp. 263-64.
- 54 For example, USA vetoed UNSC resolution, which asked for the condemnation of Israel for killing 18 Palestinians, mostly children, in Beit Hanoun in 11 November 2006.
- 55 Final Report of the Goldstone Fact Finding Mission at <http://www.diakonia.se/sa/node.asp?node=3134> (last visited 6 May 2015).
- 56 Amnesty International, “Gaza Accountability Campaign - Background Information”, at <http://www.amnestyusa.org/our-work/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/gaza-accountability-campaign-backgro> (last visited 8 July 2015).
- 57 “Amnesty: Israeli strikes on Gaza buildings ‘war crimes’,” at <http://www.bbc.com/news/world-middle-east-30393540> (last visited 26 March 2015).
- 58 *Ibid.*
- 59 Statement by John Ging, UNRWA Director of Operations in Gaza, at <http://www.unrwa.org/etemplate.php?id=357> (last visited 5 July 2015).
- 60 Mahdavi, “R2P in the Middle East and North Africa?”, pp. 263-264.
- 61 *Ibid.*, pp. 265-267.
- 62 Grovogui, “Postcolonialism”, p. 256; italics added.
- 63 *Ibid.*
- 64 It is worth noting that Libya under King Edris was a rural and backward country until the early 1960s. Libya under Qadhafi, especially in the first two decades of his rule, was transformed into a model of a successful welfare state in Africa. “The 2010 Human Development Index, which is a composite measure of health, education, and income ranked Libya 53rd in the world and 1st in Africa”, <http://hdrstats.undp.org/en/countries/profiles/LBY.html> (last visited 5 June 2015). In the second part of Qadhafi’s rule, the regime degenerated into a tribal administration. Since 2003 the regime improved its relations with the West in return for dismantling nuclear facilities and inviting US, UK and Italian companies to Libya. Mahmood Mamdani, “Libya after the NATO Invasion”, at <http://english.aljazeera.net/indepth/opinion/2011/04/201148174154213745.html> (last visited 6 June 2015).
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- 72 Richard Falk, "In Libya, Decoding an Uncertain Future", at <http://aljazeera.com/indepth/opinion/2011/08/201182885646839710.html> (last visited 16 June 2015).
- 73 Mahmood Mamdani, "Libya: Politics of Humanitarian Intervention", at <http://english.aljazeera.net/indepth/opinion/2011/03/201133111277476962.html> (last visited 11 June 2015).
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- 75 Phyllis Bennis, "Libya and the Limits to the R2P", at http://www.ips-dc.org/articles/libya_and_the_limits_to_the_r2p (last visited 12 June 2015).
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