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R2P IN THE MIDDLE EAST AND NORTH AFRICA

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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.

Twelfth century Iranian poet, Sa'adi

Introduction

The events unfolding before our eyes in Egypt, Tunisia, Yemen, Bahrain, Iran, Syria, and Libya have turned the Middle East and North Africa (MENA) into a social laboratory of theories of social movements and doctrines of regime change and humanitarian intervention. Tunisia and Egypt are two prime examples of successful grassroots socio-political changes from *within*. The use of naked violence against civilians by Gaddafi's regime facilitated foreign intervention in Libya; this has turned Libya into the first test case of the implementation of the R2P doctrine in the MENA. Civil unrests in Syria, Yemen, Bahrain, and Iran have not achieved a swift victory against their regimes. These regimes have systematically murdered their population and failed to live up to their obligations to protect civilians. Iran and Syria, two opponents of the US hegemony in the region, and Yemen and Bahrain, two allies of the United States, committed crimes against humanity by killing civilians in peaceful civil protests. Moreover, the military intervention of the closest US ally in the region, Saudi Arabia, in Bahrain and its full support to the Yemeni regime exacerbated the systematic violation of human rights in Bahrain and Yemen. However, the R2P doctrine has not been implemented in any of those cases to protect civilians from the regime's atrocity. Moreover, the US-led invasion of Iraq in 2003, the war in Afghanistan and the Global War on Terror (2001–present), as well as the old question of Israel–Palestine, and particularly the Israel–Gaza war of 2008–9, remain points of contention for the implementation of the R2P doctrine in the region.

This chapter is an attempt to problematize the implementation and interpretation of the R2P doctrine in the MENA. It aims to examine and answer the following key questions: to what extent is the enforcement of the R2P doctrine in the MENA just, fair, consistent, and constructive? To what extent 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”?¹ To what degree does the interference of international actors/factors exacerbate or

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improve the people's position? Whether and how the implementation of the R2P doctrine within the current structure of international politics helps or hinders improving human rights in the region? Are the people of the region capable of bringing progressive changes from *within*, or do they need foreign intervention to bring changes? Does the implementation of the R2P doctrine reinforce the hegemonic neo-liberal international *power relations*, or does it strengthen *people's position*?

The chapter is divided into two parts. First, it will outline the political and intellectual origins of R2P at three phases, followed by a brief examination of the implications of the R2P doctrine/norms in practice. Second, it will problematize the application and implication of the R2P doctrine/norms in the context of the MENA. The conclusion suggests that the question is not to act or to not act; inaction is not an option. Rather, the question remains "*who* has the responsibility to protect *whom* under *what conditions* and toward *what end*?"² 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."³

I. R2P: origins and implications

The R2P doctrine is only a new chapter in the old history of promotion and protection of human rights. At the risk of sacrificing comprehensiveness for parsimony, it is possible to categorize the politico-intellectual origins of R2P into three distinct phases. The first phase is probably marked by the adoption of the Genocide Convention by the UN General Assembly. The UN adopted the *Convention on the Prevention and Punishment of the Crimes of Genocide* in 1948 and put it into practice in January 1951.⁴ The next major step in the first phase was taken in November 1968, when the UN General Assembly resolution 2391 acknowledged *war crimes* and *crimes against humanity* as two major legally binding crimes in international law.⁵ The second phase begins with the end of the Cold War in the early 1990s. This new era marked a beginning of a new chapter in international law 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 former Yugoslavia, among others. The UN Security Council openly recognized the use of *humanitarian intervention* in reference to Chapter VII of the UN Charter.⁶ The third phase is marked by the adoption of the R2P doctrine at the UN World Summit in 2005 and is seen as a paradigm shift from the twentieth-century narrative of humanitarian intervention to a new doctrine of Responsibility to Protect. The R2P doctrine challenged certain key assumptions/norms in international ethics and redefined the relationship between state sovereignty and humanitarian intervention. Responsibility to Protect differs from humanitarian intervention in that the latter, Gareth Evans argues, "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."⁷

What does the R2P doctrine mean in practice? How different are its norms from previous norms of humanitarian intervention? To what extent is it a paradigm shift in the discourse of global ethics and cosmopolitan justice? These are some key questions, which warrant closer and critical inquiries.

First, R2P norms imply a people-centered approach/doctrine in international politics. It attempts to "put people first." In theory it replaces a realist, state-centered and militant concept of security with a new concept of "human security."⁸

Second, R2P norms challenge the dichotomy of state sovereignty and global responsibility to protect/promote human rights. The concept of "sovereignty as responsibility" says that the state is responsible and accountable to its people; the people are the real sovereign and the state is

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their delegate/agent.⁹ It also entails that sovereignty is a joint function, meaning that the international community is responsible to protect human rights and help/check the humanitarian standards of citizens of other states should the state be unable or unwilling to protect the rights of its citizens. In other words, “sovereignty as responsibility” has internal and external dimensions. Sovereignty becomes a joint function of the states, to be protected and shared when necessary.¹⁰

Third, the guiding principle of R2P norms proposes a discursive paradigm shift from the alleged “right” of potential interveners to the “responsibility” of the international community at large to protect the people at risk. This implies that the R2P doctrine is/should be different from other twentieth-century humanitarian intervention paradigms.¹¹

Fourth, the R2P doctrine is built on three inseparable pillars: Responsibility to Prevent, Responsibility to React, and Responsibility to Rebuild. This implies that the R2P doctrine clearly distances itself from a one-dimensional military doctrine of humanitarian intervention. It clearly underlines the responsibility of 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 population at risk.”¹² 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.¹³ The second pillar, *Responsibility to React*, implies that 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 ICISS Report states that political measures such as travel sanctions, economic sanction, and legal measures through ICC trails are the first options, and military measures are the last resort, mandated by UNSC. The third pillar, Responsibility to Rebuild, indicates that the international community is responsible for post-conflict rebuilding through socio-economic development, the brokering of national reconciliation and the stabilizing of political institutions. In sum, the R2P doctrine, in theory, is an attempt to move away from a military humanitarianism towards a critical, comprehensive, multidimensional, and humanist approach to tackle structural and non-structural causes of violation of human rights before, during, and after the crime. The question is to what extent this doctrine is capable of transforming “promise into practice and words into deeds.”¹⁴ The next section problematizes the implementation and interpretation of the doctrine in the context of the MENA.

II. R2P in the MENA: “Responsibility to Protect” and/or “Right to Punish”?

Ramesh Thakur, one of the 12 high-profile individual authors of ICISS best explains how the R2P doctrine is often perceived in the Global South including the MENA:

‘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?¹⁵

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Similarly, in his background note of 2009, then UN General Assembly President Father Miguel D'Escoto Brockmann of Nicaragua, describe R2P as “redecorated colonialism,” to “justify arbitrary and selective interventions against the weakest states.” He also raised serious concern over the double standard in the implication of R2P and the absence of enforceable accountability on the abusers of the R2P doctrine.¹⁶ 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 R2P doctrine.

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.”¹⁷ There is nothing entirely new to this international humanitarian order; rather, “it draws on the history of modern western colonialism.”¹⁸ 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.”¹⁹ 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*.²⁰

In this context Edward Said's concept of *Orientalism* is applied to the international politics of the MENA, 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*.²¹ Furthermore, the selective and arbitrary enforcement of international law in the region has reinforced the perception of Middle East exceptionalism. It is in this context that one needs to examine the implication of the R2P doctrine in the MENA region.

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.²² Moreover, it is often difficult to prevent crimes if there is no consensus over the *root causes* of conflicts/crimes.²³ Interests of strong powers often hinder the international community tackling the root causes of crimes/conflicts. Rather, interests and policies of strong power centers feed into the root causes of crimes/conflicts. The Western intervention in MENA during the Cold War and the policy of the Global War on Terror in post-Cold War/post-9/11 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

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reject this argument because the R2P norms put people first. However, there is an old history, lived memory/perception, and clear evidence of neocolonialism in the region. History together with the current double-standard policies reinforced the idea that the R2P doctrine is a new intellectual, legal, and political product of the unjust hegemonic global order.

The presence of the US and allies in Afghanistan, the crisis of nation building and the instability and corruption together with a lack of a comprehensive policy toward *human security* contributed to more radicalization of the Pashtun community and the resurgence of the Taliban. According to Peter Galbraith, the former deputy UN envoy to Afghanistan, the US “is pursuing a counterinsurgency strategy in Afghanistan and, as General Stanley McChrystal observes, the center of gravity in counterinsurgency is the people.” 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.[NEWNOTE] 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 US has no “credible Afghan partner and there is no prospect that one will emerge.”²⁴

Iraq: a new system of trusteeship?

The selective and arbitrary enforcement of international law in the Middle East is not new. A selective and punitive enforcement of international law has reinforced “the perception regarding the qualitative Exceptionalism of the Middle East.”²⁵ The following cases took place before the adoption of the R2P doctrine at the UN World Summit in 2005. However, they clearly identify a lived 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 (1980–8), the longest war since the Second World War. 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 life 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 US administration under George W. Bush “did everything possible to squelch American outrage and block congressional sanctions against Iraq.”²⁶ Indeed the number of American licenses for exporting dual-use chemical technology to Iraq was increased by fifty percent.²⁷

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 death of half a million to one million Iraqis citizens, mostly children.²⁸ According to the most conservative account, the sanctions regime cost the death of 227,000 children under five and hundreds of thousands of Iraqi deaths.²⁹ The 1991 war and the sanctions regime together transformed Iraq “to a pre-industrial age.”³⁰ The sanctions regime did not promote or protect human rights; rather it punished the Iraqi people. It caused “great suffering,

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serious injury to body or to mental or physical health” of the entire population and as such it was a *crime against humanity*.³¹ 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 has reinforced each other.³²

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 clearly not 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, the US army used cluster munitions, which “explode in the sky and scatter over a wide area in southern Iraq, and cost the life of some 1,000 people.” Furthermore, the UN Security Council or a comparable multilateral body 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.”³³ 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.³⁴ It is evident that the US and its allies waged the war based on a few unfounded claims, including the possession of WMD, and the regime’s links with al-Qaeda and the 9/11 attacks.

Moreover, the former chief UN nuclear inspector and Nobel Peace Prize-winning Mohamed El-Baradei suggests in a new memoir that Bush administration officials should face international criminal investigation for their “deliberate deception” or “grotesque distortion” on weapons of mass destruction, despite contrary evidence collected by UN 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.³⁵

The action of private security contractors such as Blackwater in Iraq is another point of contention about war crimes committed by the US forces in Iraq. There are three incidents involving Blackwater that are particularly controversial: the Fallujah ambush, March 31, 2004; the Najaf shoot-out, April 4, 2004; and the Nisour Square shootings, September 16, 2007.³⁶ 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 2010.³⁷

The human costs of war are immense. According to a conservative estimate, Iraqi civilian death is close to 100,000 until 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 90,846.³⁸ 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 need of humanitarian care. Of these, more than 2.7 million Iraqis are

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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.”³⁹ 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 hundred of thousands were displaced. The welfare of Iraqi society was kept at bay. For example, Iraqis received only six hours electricity per day for the first three years of post-invasion, and they currently receive only 15 hours in every 24.⁴⁰

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 (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 life, prosperity, dignity, and agency evaporated through a new system of semi-trusteeship.

Israel/Palestine: Right to Punish?

Israel/Palestine is another test case for the implementation of the R2P doctrine in the MENA. Clear evidence suggests that Israel has failed to live up to its legal obligations as an occupying power to protect civilians in the occupied territories. The Palestinian authority has not succeeded in protecting Palestinians and Israeli citizens from violence. The US has constantly vetoed all UNSC resolutions asking Israel to stop illegal settlements and/or condemning Israeli illegal military operations.⁴¹ And the international community has failed to prevent, react, and rebuild properly in this case. It is true that the R2P doctrine is an emerging norm developed in 2001; however, the following examples suggest that the international community has missed a few occasions to act properly, and to protect and put people first in the Israel/Palestine context.

The Gaza Conflict (Operation Cast Lead) December 2008–January 2009 concludes that Israel and Hamas committed serious violations of international human rights and humanitarian law amounting to war crimes and possibly crimes against humanity.⁴² Disproportionate and indiscriminate use of force such as sniper and tank fire in the civilian neighborhood aimed at provoking massive public outrage against Hamas. Israel’s goal was to implement the doctrine of deterrence against Hamas in 2008. Amnesty International confirmed the death of 1,400 Palestinian civilians, including women and children, in such a highly asymmetrical war.⁴³

The Gaza Strip still is not free. After Israel’s disengagement policy in 2005, the Israeli troops were withdrawn from the Gaza strip but never fully ended the occupation. 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. The Gaza blockade is probably a strong case for *crime against humanity* under Article 33 of the Fourth Geneva Convention. UN Human Right Chief, Navi Pillay, argues that Israel’s blockade on the Gaza strip is illegal and accused Israel of violating international humanitarian law. Likewise, the head of the UNRWA operation in Gaza, John Ging, had called on the UN itself to deliver humanitarian assistance because the blockade is a direct violation of Article 33 of the Fourth Geneva Convention, which prohibits “collective punishment.”⁴⁴ Although, the blockade might not fall into a legal definition or category of a mass atrocity as defined by the R2P doctrine, the Gaza blockade is clearly a mass punishment, which exacerbates violence, anger, and further crimes. Hence, the international community is obliged to act and fulfill its responsibility to prevent crimes.

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Legal arguments aside, the people of the Gaza strip and occupied Palestine deserve the implementation of responsibility to prevent further crimes, to react and to rebuild. The best action to prevent further crimes and violence is to recognize Palestine as a sovereign state. A full membership for Palestine at the United Nations would be a good start. The R2P doctrine puts people first and underlines “human security.” This means that the international community is obliged to resist Israeli and the United States policy should these two countries oppose the Palestinian application.

Syria and Iran: geopolitics prevail?

Syria and post-revolutionary Iran are probably two complex cases for the study of R2P in the MENA. Both revolutionary regimes are not friendly to the West and/or Israel. Both have witnessed unprecedented popular uprising, have failed to fully suppress the protests, and committed crimes against humanity. It is now evident that the Syrian regime under Bashar al-Asad has killed over a thousand civilians during the peaceful demonstration in 2011.

As for the Iranian case, the post-revolutionary regime has committed serious systematic crimes against humanity by killing its citizen in 1980–1, 1987–90s, and 2009–11. In the semi-civil war of 1980–1, the regime tortured and executed large numbers of the opposition. According to Amnesty International, over 4,000 of the political opposition were killed during 1987–90s.⁴⁵ In the summer of 1988, in particular a few thousand political prisoners were executed.⁴⁶ The regime also committed a systematic violation of human rights in the post-June 2009 disputed presidential election by raping, torturing, and killing ordinary citizens participating in peaceful street demonstrations. The regime continues to violate the basic rights of supporters of the pro-democracy Green Movement.⁴⁷ Yet R2P has not been fully implemented in either the case of Syria or Iran partly due to the objection of Russia and China in UNSC, the possibility of an Islamist regime in the post-Asad regime in Syria, and the risk of Iran’s retaliation to the US forces in Iraq and Afghanistan.⁴⁸

Bahrain and Yemen: responsibility to protect the regimes?

Similarly, R2P has not been implemented in Yemen and Bahrain. Both regimes brutally killed civilians during peaceful demonstrations in 2011 but the international community has done little to nothing to protect Yemenis and Bahrainis.

For decades President Roosevelt’s well-known statement about Somoza, dictator of Nicaragua, set the agenda for the US foreign policy towards Third World dictators during the Cold War: “they may be sons of bitches but at least they are our sons of bitches.” When neo-conservatives came to the White House, then US Secretary of State Condoleezza Rice argued in 2005 that “now, we are taking a different course; we are supporting the democratic aspirations of all people.”⁴⁹ 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: “[T]oday 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.”⁵⁰ The cases of Bahrain and Yemen demonstrate how much democracy in the MENA remains “a top priority” for the West and whether it has actually “translated into concrete actions.”

Inspired by Egyptian and Tunisian movements, Bahrainis’s “Day of Rage” began on February 14, 2011. The regime’s harsh response was followed by the foreign intervention in support of the regime on March 14, 2011. Saudi Arabia and the United Arab Emirates sent

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troops to protect the Bahraini regime, home to the US fifth fleet in the region. The military intervention of Saudi Arabia, the closest American ally in the region, Bahrain, and its full support to the Yemeni regime exacerbated the systematic violation of human rights in both countries. However, the R2P doctrine has not been implemented in any of these cases to protect civilians from mass atrocities.

Libya: right to prevail, or responsibility to what?

Last but certainly not the least is the Libyan case. It is worth noting that Libya under king Edris was a rural and backward country until the early 1960s. Libya under Gaddafi, especially in the first two decades of his rule, was transformed into a model of the 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.”⁵¹ In the second part of Gaddafi’s rule, the regime had 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.⁵²

The Libyan popular uprising is the most complex case in the current Arab Spring. Colonel Gaddafi’s response to the civic popular demands was harsh and brutal; the regime bombarded civilian demonstrations. 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,” “no-fly zone,” and “sanctions” on the Gaddafi regime. The resolution suggests 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.”⁵³

The Libyan case deserves a careful and critical examination. First, this is the first case where no member of UNSC objected to the implementation of the R2P doctrine since it came to 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 are currently 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 the Persian Gulf (Saudi Arabia, United Arab Emirates, Kuwait, Qatar, Oman, and Bahrain) – also supported the imposition of a no-fly zone on Libya.⁵⁴

Second, 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 no-fly zone and what we want is the protection of civilians and not bombing other civilians.”⁵⁵ 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.”⁵⁶

Third, the UNSCR 1973 will probably set a *precedence* to the future foreign involvements and it is not quite clear whether/how such a use of force would benefit the current and future

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grassroots, authentic, and non-violent pro-democracy movement in the MENA. It will probably contribute to radicalization of Iran's nuclear policy as it has already reinforced the *perception* that the West first dismantled Libya's nuclear program in 2003 and then invaded the country in 2011. The spokesperson of the North Korean foreign ministry argued that "the Libyan crisis is teaching the international community a grave lesson."⁵⁷ The lesson is that the West/US used diplomacy to disarm Libya from nuclear capabilities and then invaded the country. 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."⁵⁸

Fourth, the public opinion has already raised the question of the double standard policy to the implementation of R2P in this region. The question is why R2P is implemented in Libya and not in Bahrain and Yemen, two American allies in the region? Is Libya another Iraq and Afghanistan with a legal mandate? The skepticism over the intention 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.⁵⁹ Daniel Ortega of Nicaragua, Morales of Bolivia, Castro of Cuba, among others condemned the use of force by the international community.⁶⁰ 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 Gaddafi's attack. However, it is not clear how the future will evolve in post-invasion Libya. Will the current foreign involvement exacerbate sectarianism, leading to the division of a country into two parts: Western Libya (Tripoli) and Eastern Libya (Benghazi)? Or will this bring a new Iraq and Afghanistan to the already troubled region of the MENA? According to Richard Falk, 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."⁶¹ 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 a real problem."⁶²

Fifth, 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 US, EU, and 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.⁶³ This brings us to three points of contention about politics and people's perception of foreign intervention in Libya:

US Secretary of State Hilary Clinton argued that the political unrest in Bahrain has 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 is 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.⁶⁴ 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.⁶⁵

The UNSCR 1973 called on the Secretary-General to freeze Libyan assets. The Libyan assets in the US and Europe are hundreds of billions dollars. The US Treasury froze US\$30 billion of liquid assets and the US banks froze US\$18 billions. The point is "the assets are turned into a

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booty, an interest-free loan, in this instance, to US Treasury and US banks.” The real issue is, “money trail” not humanitarianism.⁶⁶ 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 the post-Gadhafi regime. They enable “the new Libyan leadership to embark upon financial recovery and reconstruction comes as part of a package containing undisclosed political conditions and economic expectations.”⁶⁷

One bitter and harsh reality of the 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.”⁶⁸

The implementation of the R2P doctrine in the MENA is new but there is an old history, lived memory/perception, and clear evidence of neocolonialism in the region. History together with the current double-standard policies reinforce the idea of Middle Eastern exceptionalism.

Conclusion: Responsibility for Justice (R4J)?

A twelfth-century Iranian poet, Sa’adi, wrote a poem that later graced the entrance to the Hall of Nations of the United Nations building in New York. Sa’adi’s poem on *Oneness of Mankind* quoted at the start of this chapter captures the core value of our responsibility and obligation to our fellow human beings. This implies that our *cosmopolitan existence* should translate into a *cosmopolitan justice*.

The R2P doctrine provides a minimum *normative* agenda and, to a lesser degree, a minimum *institutional* framework for cosmopolitan justice. However, the reality of unequal power relations, both at the individual state and global politics, 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 in a fair, just, and consistent manner. The structure of 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 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 a 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.”⁶⁹ 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.”⁷⁰ 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

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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 nothing 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.”⁷¹ 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 more physical assets are destroyed, the less sovereign will be the next government.”⁷²

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 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.”⁷³ 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.⁷⁴ For example, Canada is the architect of the R2P doctrine but its “development aid is lagging behind the standard 0.7 percent target of gross national product (GNP) established in 1969.” In 2005 Canada gave “approximately 0.3 percent,”⁷⁵ which has led 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 require a serious commitment and action to prevail short-term policies supported by strong domestic lobbies and 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.⁷⁶ Ironically, Canada under the Conservative Government was the “first country to suspend all aid to the Palestinian Authority on the morrow of Hamas’s electoral victory in early 2006.” Moreover, Canada “modified its stance at the UN, abstaining on resolutions that reaffirmed the Palestinians’s 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.”⁷⁷ Canada’s reaction to war between Israel and Lebanese Hizbollah on July 2006 is another example of how much power relations prevail norms. In this six-week war Israel lost 122 citizens and soldiers but Lebanon lost over 1,000 civilians, including Canadian civilians together with seven members of a single family, “with a full 25 percent of the country’s population displaced.” 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.”⁷⁸ 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.”⁷⁹

There is, in sum, a clear gap between the discourse and practice, between norms/doctrines 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

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peoples are often caught between a rock and a hard place – between a local autocratic politics and a hegemonic self-interest global politics. We need to problematize and strive for practical answers to empower people and protect the *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 powerful to choose human rights over power politics, and ethics over material interests. On occasion, policy makers might take critical advice seriously and appreciate that the promotion of human rights and long-term constructive comprehensive policies are 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 the international politics. A realistic examination of what has been achieved and what remains to be accomplished is warranted. A third approach strives for such a critical task.

R2P is one of the most significant achievements of international norms promotion in the discourse of humanitarian intervention. It puts people first, underlines “human security” and emphasizes “sovereignty as responsibility.” It asks a simple and legitimate question summed up by then UN Secretary-General Kofi Annan: “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?”⁸⁰ 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*?”⁸¹ The third approach is an attempt to acknowledge and answer the legitimate concerns over the implementation of the R2P doctrine while striving for a 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 global structure, striving for reform and change of the system, and minimizing the violation of human rights by using/improving the existing unjust structure. This includes acknowledging the core values of “human security,” “sovereignty as responsibility,” “putting people first,” striving for radical reforms in the UN, empowering regional organizations, mobilizing world public opinion, and democratizing the world order.

A just implementation of the R2P doctrine is, in sum, pending on the accomplishment of R4J: Responsibility for Justice. This is where the Sa’adi’s message of cosmopolitan existence encounters Martin Luther King’s call for cosmopolitan justice. *Justice* is where the East meets the West.

Notes

- 1 Jean Allain, “Orientalism and International Law: The Middle East as the Underclass of the International Legal Order,” *Leiden Journal of International Law*, 17 (2004), 391–404.
- 2 Mahmood Mamdani, *Saviors and Survivors: Darfur, Politics, and the War on Terror* (New York: Pantheon Books, 2009), 276.
- 3 UN Secretary General Ban Ki-Moon, “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, July 15, 2008).
- 4 Convention on the Prevention and Punishment of the Crime of Genocide, adopted 9 December 1948, 78 UNTS 277, <http://www2.ohchr.org/english/law/genocide.htm> (accessed on April 11, 2011). 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 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, DC: Carnegie Endowment for International Peace, 1994), 79–95.
- 5 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, <http://www2ohchr.org/english/law/warcrimes.htm> (accessed on April 11, 2011).
 - 6 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* 2001, vol. 3 (The Hague: T. M. C. Asser, 2001). 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 *core* crimes, including genocide, war crimes, and crimes against humanity. See “Rome Statute of the International Criminal Court,” *Treaty Series*, vol. 2187, July 17, 1998, p. 3, Rome: United Nations.
 - 7 Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, DC: The Brookings Institution, 2008), 5.
 - 8 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* 7, No. 1: 19, 2001. It is worth noting that the Human Development Report of the UN Development Program (UNDP) in 1994 introduced the concept of human security.
 - 9 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, DC: 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 as your people are suffering, the world will not leave you alone.” See David A. Hamburg, “Preventing Genocide: Interview with Francis Deng,” March 20, 2008 (New York: Stanford University, Libraries & Academic Information Resources), https://lib.stanford.edu/files/PG_Deng.pdf (accessed on May 1, 2011).
 - 10 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* 352: 49–50 (September 18, 1999).
 - 11 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 12 distinguished individuals from the Global North and South – 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), 100–118.
 - 12 ICISS Report, “The Responsibility to Protect,” *International Commission on Intervention and State Sovereignty* (ICISS) (Ottawa: International Development Research Centre, 2001), xi.
 - 13 United Nations Charter, Chapter IX, www.un.org/aboutun/charter/ (accessed May 2, 2011).

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- 14 UN Secretary General Ban Ki-Moon, "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).
- 15 Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006), 267.
- 16 Miguel D'Escoto Brockmann, "General Assembly Agrees to Hold More Talks on Responsibility to Protect," *UN News Services*, 14 September 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: United Nations 2009), <http://www.un.org/ga/president/63/statements/openingr2p230709.shtml> (accessed September 10, 2011). 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 trust* of 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 UNSC.
- 17 Mamdani, *Saviors and Survivors*, 273.
- 18 *Ibid.*, 276.
- 19 Mamdani, *Saviors and Survivors*, 282. Italics added.
- 20 *Ibid.*, 275. Italics added.
- 21 See Edward Said, *Orientalism* (New York: Vintage Books Edition, 1979).
- 22 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, August 13, 2010, http://globalr2p.org/media/pdf/The_Responsibility_to_Protect_and_Kenya_Past_Successes_and_Current_Challenges.pdf (accessed on 28 September 2011).
- 23 See W. Andy Knight, "The Development of the Responsibility to Protect – From Evolving Norms to Practice," *Global Responsibility to Protect* 3 (2011), 3–36.
- 24 Peter Galbraith, *The Economist*, May 17, 2010, <http://www.economist.com/debate/days/view/516> (accessed on June 28, 2011). According to Tariq Ali, the Afghan war could have a different outcome had the NATO forces introduced "a massive New Deal" program by rebuilding the Afghan social infrastructure. However, the post-invasion socio-economic 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 were indifferent to them. Tariq Ali, "Afghanistan: 'Obama's war'," <http://links.org.au/node/1756> (accessed on June 27, 2011). Also see Tariq Ali, *The Obama Syndrome: Surrender at Home, War Abroad* (London: Verso, 2010).
- 25 Jean Allain, "Orientalism and International Law: The Middle East as the Underclass of the International Legal Order," *Leiden Journal of International Law* 17 (2004), 391–404, 400–401.
- 26 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), 83.
- 27 *Ibid.*, 98.
- 28 *Ibid.*, 185.
- 29 David Cortright and Gorge Lopez, with Richard W. Conroy, Jaleh Dashti-Gibson, and Julia Wagler, *The Sanctions Decade: Assessing UN Strategies in the 1990s* (Boulder, CO: Lynne Rienner, 2000), 46. The number of the child death ranges from a quarter million to half a million in different sources.
- 30 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.
- 31 Rome Statute, Article 7(2); see also Core Crimes prepared by the Coalition for the International Criminal Court, <http://www.iccnw.org/documents/FS-CICC-CoreCrimesinRS.pdf> (accessed on May 11, 2011).
- 32 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).

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- 33 Kenneth Roth, Fernando R. Tesón, and Paige Arthur, "Ending Tyranny in Iraq: A Debate," <http://www.carnegiecouncil.org/resources/transcripts/5268.html>, October 6, 2005 (accessed on August 20, 2011).
- 34 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).
- 35 Mohamed El-Baradei, *The Age of Deception* (New York: Henry Holt and Company, 2011). The US and its allies committed war crimes in Abu-Ghraib by torturing prisoners, and in Fallujah by killing civilians and using bombs in civilian neighborhoods. 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, and others have also been killed. Execution of an unarmed prisoner is identical to kicking a civilian and both are clear violation of Geneva Conventions. The Geneva Conventions also require that you cannot deport people from occupied territory, but the United States has been deporting people out of Iraq. See Amy Goodman's conversation with Jules Lobel, "U.S. War Crimes in Fallujah," 19 November 2004, http://www.democracynow.org/2004/11/19/u_s_war_crimes_in_fallujah (accessed May 10, 2011).
- 36 Jeremy Scahill, *Blackwater: The Rise of the World's Most Powerful Mercenary Army* (New York: Nation Books, 2007), 91–104, 117–39.
- 37 On April 22, 2011, a US federal appeals court reopened the criminal case against four members of Blackwater involved in the Nisour Square shooting. However, justice is still not done.
- 38 "Iraq Body Count: Documented Civilian Deaths from Violence," *Iraq Body Count*, <http://www.iraqbodycount.org/> (accessed May 20, 2011).
- 39 "The Iraq Situation," UNHCR.org, <http://www.unhcr.org/iraq.html> (accessed May 20, 2011). 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 UN Secretary-General's list. See www.consumersforpeace.org.
- 40 <http://www.reuters.com/article/2011/08/07/iraq-electricity-idUSL6E7J707Q20110807> (accessed on 24 January 2012).
- 41 For example, the US vetoed a UNSC resolution, which asked for the condemnation of Israel for killing 18 Palestinians, mostly children, in Beit Hanoun on November 11, 2006.
- 42 Final Report of the Goldstone Fact Finding Mission, <http://www.diakonia.se/sa/node.asp?node=3134> (accessed on August 20, 2011).
- 43 Amnesty International, "Gaza Accountability Campaign – Background Information," <http://www.amnestyusa.org/our-work/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/gaza-accountability-campaign-backgro> (accessed on August 20, 2011).
- 44 Statement by John Ging, UNRWA Director of Operations in Gaza, <http://www.unrwa.org/etemplate.php?id=357> (accessed on August 20, 2011).
- 45 Amnesty International, "Document – Iran: Violations of human rights 1987 – 1990," <http://www.amnesty.org/en/library/asset/MDE13/021/1990/en> (accessed May 20, 2011). Iranian opposition groups suggest that the number of prisoners executed was far higher.
- 46 Geoffrey Robertson, "The Massacre of Political Prisoners in Iran, 1988, Report of An Inquiry," [www.irantribunal.com/ ... /Iran%20Massacre%20of%20Political%20Prisonners%201988.pdf](http://www.irantribunal.com/.../Iran%20Massacre%20of%20Political%20Prisonners%201988.pdf) (accessed on May 12, 2011).
- 47 For example, in June 2011 the security forces killed a women civil activist, Haleh Sahabi, during the funeral of her father, and killed another human rights activist and political prisoner, Hoda Saber, in Evin prison by beating and forcing him to break his hunger strike.
- 48 It is worth noting that the sanctions regime is already applied to the case of Iran since the early years of post-revolutionary politics of the 1980s.
- 49 "Rice calls for Mid-East democracy," BBC News, June 20, 2005, <http://news.bbc.co.uk/2/hi/4109902.stm> (accessed on August 20, 2011).
- 50 "Obama's Mideast Speech," *The New York Times*, May 19, 2011.
- 51 See <http://hdrstats.undp.org/en/countries/profiles/LBY.html> (accessed on January 25, 2012).
- 52 Mahmood Mamdani, "Libya after the NATO Invasion," April 9, 2011, <http://english.aljazeera.net/indepth/opinion/2011/04/201148174154213745.html> (accessed April 10, 2011).
- 53 <http://www.un.org/News/Press/docs/2011/sc10200.doc.htm> (accessed on August 20, 2011).
- 54 <http://parliamentflagpost.blogspot.com/2011/03/libya-and-united-nations-security.html> (accessed on May 11, 2011).

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- 55 Ibid.
- 56 Ibid.
- 57 See <http://www.nytimes.com/2011/03/25/world/asia/25korea.html> (accessed on 25 January 2012).
- 58 Mahmood Mamdani, "Libya after the NATO Invasion," April 9, 2011, <http://english.aljazeera.net/indepth/opinion/2011/04/201148174154213745.html> (accessed on April 10, 2011).
- 59 See <http://allafrica.com/stories/201109201529.html> (accessed on January 25, 2012).
- 60 Algeria, Iran, Syria, and Venezuela condemned the use of force. President Chavez of Venezuela blamed the West and insisted that this is another war for oil.
- 61 Richard Falk, "In Libya, Decoding an uncertain future," August 31, 2011, <http://aljazeera.com/indepth/opinion/2011/08/201182885646839710.html> accessed (September 28, 2011).
- 62 The main opposition groups in Libya, Mamdani argues, constitute radical Islamists, royalists, tribalists, and secular middle-class activists. The first group has more battle experience than others, which gives it more leverage to the outcome of a military solution to the current problem. The outcome will probably be an Afghan-type civil war and the intervention will probably lead to sectarianism, not democracy. Mahmood Mamdani, "Libya: Politics of Humanitarian Intervention," March 31, 2011, <http://english.aljazeera.net/indepth/opinion/2011/03/201133111277476962.html> (accessed April 10, 2011).
- 63 Ibid.
- 64 Phyllis Bennis, "Libya and the Limits to the R2P," July 6, 2011, http://www.ips-dc.org/articles/libya_and_the_limits_to_the_r2p (accessed on September 28, 2011).
- 65 Ibid.
- 66 Ibid. The oil reserve in Libya is also a point of contention. It is worth noting that Libya holds one of the finest, largest, and cheapest oil reserves in the region.
- 67 Richard Falk, "In Libya, Decoding an uncertain future," August 31, 2011, <http://aljazeera.com/indepth/opinion/2011/08/201182885646839710.html> (accessed September 28, 2011).68 Mahmood Mamdani, "Libya: Politics of Humanitarian Intervention," March 31, 2011, <http://english.aljazeera.net/indepth/opinion/2011/03/201133111277476962.html> (accessed on April 10, 2011).
- 69 Donald Rumsfeld, *Department of Defense news briefing*, 12 February 2002, US Department of Defence, <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2636> (accessed on January 29, 2012).
- 70 Slavoj Zizek, *Iraq: The Borrowed Kettle* (London: Verso, 2004), 10, quoted in Colin Moores, ed., *The New Imperialists: Ideologies and Empire* (Oxford: Oneworld Publications, 2006), 3.71 Mahmood Mamdani, "Libya: Politics of Humanitarian Intervention," March 31, 2011, <http://english.aljazeera.net/indepth/opinion/2011/03/201133111277476962.html> (accessed on April 10, 2011).
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