1. Responding to atrocities: the new geopolitics of intervention

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I. The challenge of civilian protection

Our age has confronted no greater ethical, political and institutional challenge than ensuring the protection of civilians, as victims of both war and of mass atrocity crimes. In wartime, civilians have for long now been killed and maimed in numbers far exceeding armed combatants. Whether in peacetime or war, the murder, torture, rape, starvation or forced expulsion of groups of men, women and children, for no other reason than their race, ethnicity, religion, nationality, class or ideology, has been a recurring stain on the world's collective conscience.

Many fewer wars are fought today than just two decades ago, and there are many fewer battle casualties, certainly across borders but within them as well.[1] Fewer instances, and fewer victims, of what is now called genocide and other major crimes against humanity occur today but the civilian tolls are still alarmingly high, and new threats continually arise.[2] In Iraq between 2003 and 2011, of the 162 000 deaths as a result of the US-led war, 128 000 were civilians.[3] At the end of 2011 the civilian death toll from the war in Afghanistan stood at 17 000 and still counting.[4] The war in the Democratic Republic of the Congo (DRC) formally ended in 2003 but the number of deaths from ongoing violence and war-generated malnutrition and disease continues to rise, and sexual violence continues on a horrendous scale.[5] In Sudan, the plight of 1.8 million displaced Darfuris is as acute

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[1] Human Security Report Project, *Human Security Report 2009/2010: The Causes of Peace and the Shrinking Costs of War* (Oxford University Press: New York, 2011). This report draws on data from the Peace Research Institute Oslo (PRIO) and the Uppsala Conflict Data Program (UCDP). The original *Human Security Report 2005: War and Peace in the 21st Century* (Oxford University Press: New York, 2005) also contains much material that is still relevant. See also Pinker, S., *The Better Angels of Our Nature: The Decline of Violence in History and Its Causes* (Allen Lane: London, 2011), chapter 7, especially pp. 297–305.

[2] Human Security Report Project (note 1); and Pinker (note 1), pp. 336–43.

[3] 'Iraqi deaths from violence 2003–2011', Iraq Body Count, 2 Jan. 2012, <http://www.iraqbody count.org/analysis/numbers/2011/>.

[4] United Nations Assistance Mission in Afghanistan (UNAMA), 'Civilian casualties rise for fifth consecutive year in Afghan conflict', Press release, 4 Feb. 2012, <http://unama.unmissions.org/Default.aspx?tabid=1762&ctl=Details&mid=1920&Itemid=16267>.

[5] See e.g. International Coalition for the Responsibility to Protect, 'Crisis in the Democratic Republic of Congo', <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-drc>; and Global Centre for the Responsibility to Protect (GCR2P), 'Imminent risk: Democratic Republic of the Congo', *R2P Monitor*, no. 1 (10 Jan. 2012), pp. 7–8. *R2P Monitor* documents situations of 'current crisis', 'imminent risk' and 'serious concern'.

as ever, and in late 2011 the new border with South Sudan witnessed the aerial bombardment of civilian areas, extrajudicial killings and the forced displacement of local populations opposed to Sudanese rule.[6] During the course of 2011, the international community had to respond to a merciless assault by the regime of Muammar Gaddafi in Libya on its initially unarmed civilian opponents, with the overall civilian death toll at the end of the year amounting to many thousands.[7] In the even more alarming situation in Syria, by early 2012 the death toll from 9 months of regime crackdown on initially unarmed protesters stood at well over 5000 and was increasing rapidly.[8]

Not all the news is bad. Awareness of the problem of civilian protection is as great as it has ever been, not least as a result of the emergence and consolidation in the post-cold war years of an array of actors, including effective media organizations (e.g. most recently and to spectacular effect during the Arab Spring, Al Jazeera); highly professional non-governmental organizations such as the International Crisis Group and Human Rights Watch; and more official institutions like the Office of the High Commissioner for Human Rights (OHCHR) and the United Nations Joint Office of the Special Advisers on the Prevention of Genocide and Responsibility to Protect. All this made it impossible for policymakers to pretend, as they could as recently as the Rwandan genocide in 1994, to be unaware of horrors that may be unfolding.

Consciousness of the problem has been accompanied by a much greater evident willingness—at least in principle—to do something about it. This chapter charts two big normative advances in this area: first, the dramatically upgraded attention given since 1999 to the law and practice relating to the protection of civilians (POC) in armed conflict; and, second, the emergence in 2001, and far-reaching global embrace since 2005, of the new concept of the responsibility to protect (R2P). There is now more or less universal acceptance of the principles that state sovereignty is not a licence to kill, but entails a responsibility not to do or allow grievous harm to one's own people (Pillar 1); a responsibility on the part of the wider international community to assist those states that need and want help in

[6] Global Centre for the Responsibility to Protect (note 5), pp. 4–6.

[7] No properly verified Libyan death toll figures exist. The best available evidence, according to an International Criminal Court (ICC) estimate, suggests that 500–700 civilians were killed in Feb. 2011, before the international intervention and outbreak of civil war. 'Hague court seeks warrants for Libyan officials', New York Times, 4 May 2011. However, estimates of the overall death toll from the fighting between Mar. and Oct. 2011 vary wildly, from 10 000 to 30 000 or more. Milne, S., 'If the Libyan war was about saving lives, it was a catastrophic failure', The Guardian, 26 Oct. 2011. The number of civilian deaths directly attributable to the NATO-led military action seems likely to have been fewer than 100. Chivers, C. J. and Schmitt, E., 'In strikes on Libya by NATO, an unspoken civilian toll', New York Times, 17 Dec. 2011.

[8] 'Syria should be referred to ICC, UN's Navi Pillay says', BBC News, 13 Dec. 2011, <http://www.bbc.co.uk/news/world-middle-east-16151424>.

meeting that obligation (Pillar 2); and—although this element has been harder to translate into consistent practice—a responsibility to take timely and decisive collective action in accordance with the UN Charter, including under the enforcement provisions of Chapter VII, if a state is manifestly failing to protect its populations from genocide and other mass atrocity crimes (Pillar 3).[9]

UN Security Council Resolution 1973, authorizing military intervention in Libya to halt what was seen as an imminent massacre, was a resounding demonstration of these principles at work, and seemed to set a new benchmark against which all future arguments for such intervention might be measured.[10] However, the subsequent implementation of that mandate led to the reappearance of significant geopolitical divisions. The Security Council's paralysis over Syria during the course of 2011, culminating in the veto by Russia and China on 4 February 2012 of a very cautiously drafted condemnatory resolution, has raised the question, in relation to the sharp-end implementation of R2P, of whether Resolution 1973 would prove to be the high-water mark from which the tide will now retreat.

China and Russia have always been susceptible to the suggestion that if Western powers are given an inch they will take a mile, and their position had real resonance through the course of 2011 with the major new emerging power bloc of India, Brazil and South Africa (the IBSA countries), which also had seats on the Security Council at the time. This was a fascinating foretaste of what might be expected if the Security Council's permanent membership can ever be configured to reflect contemporary power realities rather than those of the mid-20th century.

The crucial question to be explored is whether the new geopolitics of intervention that appeared to have emerged with Resolution 1973—with previously reluctant powers prepared not only to acknowledge in principle the imperative of civilian protection but also to accept strong practical action, and to do so squarely within the framework of the UN Charter—is in fact sustainable, or whether, as suggested by the subsequent response to the situation in Syria, a more familiar, and more cynical, geopolitics will in fact reassert itself. A no less important related question is whether powers such as France, the United Kingdom and the United States, which have been the strongest supporters of robust intervention in the past, will retain their appetite for strong action in an environment of acute financial constraint

[9] Charter of the United Nations, signed 26 June 1945, entered into force 24 Oct. 1945, <http://www.un.org/en/documents/charter>. The UN General Assembly unanimously endorsed the concept of the responsibility to protect in UN General Assembly Resolution 60/1, 24 Oct. 2005, paras 138–39. The 'Pillars' language was introduced in 2009 and is now generally accepted as usefully refining and clarifying the 2005 language. United Nations, General Assembly, 'Implementing the responsibility to protect', Report of the Secretary-General, A/63/677, 12 Jan. 2009.

[10] UN Security Council Resolution 1973, 17 Mar. 2011. The resolution was passed with several abstentions—Brazil, China, Germany, India and Russia—but no opposition.

and uncertain domestic support for any foreign adventures that are not seen to be squarely related to identifiable national interests.

This chapter takes the optimistic view that the new normative commitment to civilian protection is alive and well, and that, in the aftermath of the intervention in Libya, the world has been witnessing not so much a major setback for a new cooperative approach as the inevitable teething troubles associated with the evolution of any major new international norm. Section II summarizes the related concepts of protection of civilians and the responsibility to protect, and outlines some of the challenges that may affect their future applicability and effectiveness. Section III focuses on the 2011 intervention in Libya and the implementation of Resolution 1973, and seeks to answer two specific questions. First, was the intervention a case of overreach? Second, given the shifts in the geopolitical environment since the intervention, is there potential for a new consensus? Section IV, finally, argues for a set of policy approaches that could make the path back to effective consensus significantly easier to tread, both in principle and in practice.

II. New paradigms for a new century: protection of civilians and the responsibility to protect

Protection of civilians in armed conflict

International action to protect civilians in time of war has a long history, with legal foundations in the body of international humanitarian law that has been developed since the 19th century in successive Hague and Geneva conventions, especially as now enshrined in the 1949 Geneva Conventions and Additional Protocols of 1977 (the latter extending the relevant protections to non-international armed conflicts).[11] International human rights law and refugee law, most of which originated in the years following World War II, also create obligations on states to protect civilians in multiple ways in both war and peacetime. Many international organizations have also long exercised significant civilian protection mandates, including the International Committee of the Red Cross (ICRC), the OHCHR, the Office of the UN High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF).

It is only since 1999, with the presentation of the first report by the Secretary-General to the UN Security Council on the protection of civilians in armed conflict, that there has been systematic policy focus on this issue

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[11] For brief summaries of the 1949 Geneva Conventions and their 1977 protocols—which are the basis for international humanitarian law—see annex A in this volume.

at the highest international level.[12] The report was a comprehensive overview, addressing the threats posed by attacks on and forced displacement of civilians; the mixing of combatants and civilians in camps for refugees and internally displaced persons; the denial of humanitarian assistance and access; the targeting of humanitarian and peacekeeping personnel; the specific problems faced by children and women; the destructive role played by small arms and anti-personnel mines; and the humanitarian impact of sanctions. It recommended a series of measures to strengthen both legal protection (including ratification and implementation of international instruments, and increasing accountability for war crimes) and physical protection (including more effective peace operations, stronger guarantees of humanitarian access and targeted sanctions).

Most of these recommendations were embraced, albeit in general terms, in a subsequent Security Council thematic resolution on POC and, in various permutations, have been the subject of regular annual debates and resolutions since.[13] Ban Ki-moon's reports and briefings since 2009, and the debates following them, have focused on the 'five core challenges' of enhancing compliance with international humanitarian and human rights law, including Security Council measures to initiate commissions of inquiry and refer relevant matters to the International Criminal Court (ICC); engaging more effectively with non-state armed groups to enhance compliance; properly training and resourcing peace operations to enhance the protection of civilians; enhancing humanitarian access to affected populations; and generally enhancing accountability for violations of international law.[14]

Building on these foundations, over the past decade the Security Council has frequently taken POC action in specific cases, including calling on parties to conflict to observe international humanitarian law; imposing sanctions on violators; creating special tribunals (notably for Rwanda and the former Yugoslavia) and making references to the ICC to hold individuals accountable; and using Chapter VII of the UN Charter to impose arms embargoes. Very importantly, the Security Council has also used Chapter VII to authorize peace operations to use force when providing physical protection to civilians under imminent threat of violence, with

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[12] United Nations, Security Council, Report of the Secretary-General to the Security Council on the protection of civilians in armed conflict, S/1999/957, 8 Sep. 1999.

[13] UN Security Council Resolution 1265, 17 Sep. 1999.

[14] United Nations, Security Council, Report of the Secretary-General on the protection of civilians in armed conflict, S/2009/277, 29 May 2009; United Nations, Security Council, Report of the Secretary-General on the protection of civilians in armed conflict, S/2010/579, 11 Nov. 2010; United Nations, Security Council, 6650th meeting, 'Protection of civilians in armed conflict', S/PV.6650, 9 Nov 2011; and Security Council Report, *Protection of Civilians*, Cross-cutting Report no. 2 (Security Council Report: New York, 20 July 2011).

14 missions being so mandated since 1999.[15] An important further under-pinning of these expanded peacekeeping mandates came with the 2000 Report of the Panel on United Nations Peace Operations, chaired by Lakhdar Brahimi, which made absolutely clear that the principle of UN impartiality could not mean—as it had during the 1990s, much to the organ-ization's discredit—a reluctance to distinguish victim from aggressor.[16]

Beyond the issue of peacekeeping mandates, the POC reports and debates have tended until recently to avoid the larger issue of coercive military intervention, although Kofi Annan opened up the issue in his initial 1999 report.[17] In Resolution 1296 in 2000 the Security Council noted

that the deliberate targeting of civilian populations or other protected persons and the committing of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and, in this regard, reaffirms its readiness to consider such situations and, where necessary, to adopt appropriate steps.[18]

The responsibility to protect

Important as this new emphasis on civilian protection was after 1999, some crucial ingredients were missing in the way the issue was being con-ceptualized. Nothing in the POC reports and resolutions addressed mass atrocity crimes occurring as one-sided violence—as had been the case for some of the worst atrocities of all, notably those in Cambodia in the 1970s and Rwanda in 1994—or other than in the context of full-blown war. Per-haps even more importantly, there was nothing directly politically responsive to the major debate on 'humanitarian intervention' that had been raging throughout the 1990s and deeply dividing the international community.

A fundamental conceptual gulf was evident throughout this decade between those, largely in the Global North, who rallied to the banner of humanitarian intervention or 'the right to intervene' (*droit d'ingérence* in Bernard Kouchner's influential formulation) and those, largely in the Global South, who defended the traditional prerogatives of state sover-eignty, invoking the primacy of Article 2(7) of the UN Charter, and arguing

that internal events were none of the rest of the world's business.[19] The outcome was that the international community reacted incompletely or not at all—as with the catastrophe of Rwandan genocide and the almost unbelievable default in Srebrenica in Bosnia and Herzegovina in 1995—or unlawfully, as in Kosovo in 1999 when the North Atlantic Treaty Organ-ization (NATO), anticipating a Russian veto, intervened without the Secur-ity Council's authorization.

It was to find a way out of this political impasse that the 'Responsibility to Protect' concept was born, in the 2001 report of that name by the Inter-national Commission on Intervention and State Sovereignty (ICISS).[20] The Commission was established by the Canadian Government as an explicit response to the challenge issued by Kofi Annan in the UN General Assembly in 2000: 'If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica—to gross and systematic violations of human rights that offend every precept of our common humanity?'[21]

The ICISS report sought to meet this challenge in three main ways. First, in terms of presentation, it turned abrasive 'right to intervene' language into the potentially much more acceptable 'responsibility to protect'. Second, it broadened the range of actors in the frame: whereas humani-tarian intervention focused just on the international response, the new formulation spread the responsibility, starting with the spotlight on the sovereign state itself and its responsibilities (the idea of 'sovereignty as responsibility' that had been earlier given prominence by Francis Deng and Roberta Cohen), and only then shifting to the responsibility of the wider international community.[22] Third, it dramatically broadened the range of possible responses: whereas humanitarian intervention focused one-dimensionally on military reaction, R2P involves multiple elements in the response continuum, including both long-term and short-term preventive action, reaction when prevention fails, with coercive military action only contemplated as an absolute last resort after multiple criteria are satisfied, and post-crisis rebuilding aimed at preventing recurrence.

[15] See Security Council Report (note 14); Security Council Report, 'Publications on protection of civilians in armed conflict', 20 Dec. 2011, <http://www.securitycouncilreport.org/site/c.glKWLeMT IsG/b.2400839/>; and Global Centre for the Responsibility to Protect, 'The relationship between the responsibility to protect and the protection of civilians in armed conflict', Policy brief, Jan. 2009, <http://globalr2p.org/advocacy/>.

[16] United Nations, General Assembly and Security Council, Report of the Panel on Peace Oper-ations, A/55/305-S/2000/809, Executive Summary, pp. ix–x; and Evans, G., *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Brookings Institution Press: Washington, DC, 2008), pp. 120–25.

[17] United Nations (note 12), para. 67.

[18] UN Security Council Resolution 1296, 19 Apr. 2000, para. 5.

[19] Article 2(7) of the UN Charter (note 9) requires the UN not to 'intervene in matters which are essentially within the domestic jurisdiction of any state'. *Droit d'ingérence* came to prominence at the time of the US-led intervention in Somalia in 1992 and was first articulated in Bettati, M. and Kouchner, B. (eds), *Le devoir d'ingérence: peut-on les laisser mourir?* [The duty to interfere: can one let them die?] (Denoël: Paris, 1987), p. 300. See also Evans (note 16), pp. 32–33.

[20] International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility to Protect* (International Development Research Centre: Ottawa, 2001). For a fuller account of the birth and evolution of the concept see Evans (note 16), pp. 31–54.

[21] United Nations, General Assembly, 'We the peoples: the role of the United Nations in the 21st century', Millennium Report of the Secretary-General, A/54/2000, 3 Apr. 2000, p. 48.

[22] See Deng, F. and Cohen, R., 'Mass displacement caused by conflicts and one-sided violence: national and international responses', *SIPRI Yearbook 2009*, pp. 15–38.

Articulated this way, the new concept gained remarkable international traction within a very short time, winning unanimous endorsement by the more than 150 heads of state and government meeting as the UN General Assembly at the 2005 World Summit; and within another year it had been embraced in Security Council Resolution 1674.[23] Since 2005 the task has been to ensure that this new normative development—spectacular as it might look on paper, with the historian Martin Gilbert, for example, describing it as 'the most significant adjustment to sovereignty in 360 years'—actually translates into effective action in real-world situations that cry out for it.[24] That has meant surmounting conceptual, institutional and political challenges.

As to the conceptual challenge, it is evident—writing in early 2012—that this has largely been met. Assisted by a series of well-received reports to the General Assembly by the Secretary-General in 2009, 2010 and 2011 (written by his Special Adviser on R2P, Edward Luck), the debate about what constitutes an R2P situation is much less confused now than it was in the period shortly after 2005.[25] As successive situations have arisen and been debated, it has come to be widely understood and accepted that R2P is not about human security, human rights violations or conflict situations in general; nor is it concerned with natural disasters or other humanitarian catastrophes. Rather, R2P is about responding to the 'four crimes' specified in the 2005 Outcome Document—namely, genocide, war crimes, ethnic cleansing and crimes against humanity—and even here there has to be some scale and contemporaneity to the types of atrocity crime committed or feared if any kind of serious coercive response is to be justified.[26]

The institutional challenge, similarly, is being met, although much more remains to be done to fully develop the necessary preparedness—diplomatic, civilian and military—to deal with future situations of mass atrocity crime. Within key national governments and international organizations, 'focal points' are being established with officials whose job it is to worry

[23] For the key primary documents in the process of international take-up of the ICISS report see United Nations, *A More Secure World: Our Shared Responsibility*, Report of the Secretary-General's High-level Panel on Threats, Challenges and Change (United Nations: New York, 2004); United Nations, General Assembly, 'In larger freedom: towards development, security and human rights for all', Report of the Secretary-General, A/59/2005, 21 Mar. 2005; UN General Assembly Resolution 60/1 (note 9), paras 138–39; and UN Security Council Resolution 1674, 28 Apr. 2006.

[24] Gilbert, M., 'The terrible 20th century', *Globe and Mail* (Toronto), 31 Jan. 2007.

[25] United Nations, A/63/677 (note 9); United Nations, General Assembly, 'Early warning, assessment and the responsibility to protect', Report of the Secretary-General, A/64/684, 14 July 2010; and United Nations, General Assembly and Security Council, 'The role of regional and subregional arrangements in implementing the responsibility to protect', Report of the Secretary-General, A/65/877–S/2011/393, 28 June 2011.

[26] On the emerging consensus about particular cases see Evans, G., 'The raison d'etre, scope and limits of the responsibility to protect', Address, Centre de Droit International, Université Paris Ouest, 14 Nov. 2011, <http://www.gevans.org/speeches/speech456.html>; and Global Centre for the Responsibility to Protect (note 5).

about early warning and response to new situations as they arise, and to energize the appropriate action throughout their respective systems. One of the strongest examples is the USA, with a special unit in the National Security Council, and an inter-agency Atrocities Prevention Board being created with the object of taking whole-of-government responses to these situations to a new level of effectiveness.

The ICC and a number of other ad hoc tribunals have been established, enabling not only trial and punishment for some of the worst mass atrocity crimes of the past, but also potentially providing an important new deterrent for the future. Although the establishment of effective military rapid reaction forces on even a standby basis remains more an aspiration than a reality, key militaries are now devoting serious time and attention to debating and putting in place new force configuration arrangements, doctrines, rules of engagement and training to run what are being increasingly described as mass atrocity response operations (MARO).[27]

The most troubling challenge, as always, is the political one: finding the will to translate clear understanding of need, and available institutional capacity, into effective action. While the paralysed Security Council response to the situation in Syria since mid-2011 has brought this problem once again to the fore, the available evidence points to unequivocal in-principle acceptance of all the core elements of the R2P norm by the overwhelming majority of states. The clearest proof lies in the outcomes of the series of debates in the UN General Assembly since 2005, especially those in response to the Secretary-General's R2P reports in 2009, 2010 and 2011. For those who had never accepted the 2005 consensus, the 2009 debate was seen as a real opportunity to overturn it but it became apparent that, out of the whole UN membership, only four states—Cuba, Nicaragua, Sudan and Venezuela—wanted to go that far.[28] Since then, while lively debate continues about the pros and cons of particular responses to particular situations, general opposition to the R2P norm itself has been even more muted. That was so even in 2011 in the midst of concerns being widely voiced about the 'overstretching' of the Libya mandate.[29] Moreover,

[27] Sewall, S. et al., *Mass Atrocity Response Operations: A Military Planning Handbook* (Harvard University, Carr Center for Human Rights Policy: Cambridge, MA, 2010).

[28] Global Centre for the Responsibility to Protect (GCR2P), *Implementing the Responsibility to Protect—The 2009 General Assembly Debate: An Assessment*, GCR2P report (GCR2P: New York, Aug. 2009), p. 4.

[29] On the July R2P debate see International Coalition for the Responsibility to Protect, 'General Assembly holds third interactive dialogue on the role of regional and sub-regional arrangements in implementing the Responsibility to Protect', 13 July 2011, <http://www.wfm-igp.org/site/general-assembly-holds-third-dialogue-rtop-focuses-role-regional-organizations>. On the Sep. general debate see Global Centre for the Responsibility to Protect, 'The responsibility to protect and the 66th opening of the General Assembly, September 2011', 7 Oct. 2011, <http://globalr2p.org/advocacy/>. On the Nov. POC debate see International Coalition for the Responsibility to Protect, '12th Security Council Open Debate on the Protection of Civilians in Armed Conflict', 9 Nov. 2011, <http://www.responsibilitytoprotect.org/index.php/component/content/article/136-latest-news/3733>. In the

by the end of 2011 the Security Council itself had referred to R2P on three occasions since the Libya resolutions: in its resolutions on Sudan and Yemen, and in a presidential statement on prevention.[30] As Ban Ki-moon put it in September 2011: 'It is a sign of progress that our debates are now about how, not whether, to implement the Responsibility to Protect. No government questions the principle'.[31]

The relationship between protection of civilians and the responsibility to protect

The two new paradigms that have dominated international policy debate on civilian protection in the new century march comfortably alongside each other and there is no particular point, except as an intellectual exercise, in trying to disentangle them in the many real-world situations where they overlap.[32] The preamble to UN Security Council Resolution 1973 on Libya, for example, makes clear its reliance on both R2P and POC norms, in 'Reiterating the responsibility of the Libyan authorities to protect the Libyan population and reaffirming that parties to armed conflicts bear the primary responsibility to take all feasible steps to ensure the protection of civilians'.[33]

The UN Under Secretary-General for Humanitarian Affairs, Jan Egeland, briefing the Security Council in its open debate on the protection of civilians in 2006, made clear the common normative foundations of the two bodies of doctrine, stressing that the responsibility to protect was a 'core principle of humanity' which must 'become a truly shared interest and translate into joint action by all members of this Council and our global Organisation'.[34] The first endorsement of R2P by the Security Council came in its POC resolution of 2006.[35] Both POC and R2P have the same legal

general debate opening the General Assembly, 2 of the most fascinating acknowledgements that R2P is here to stay came from ministerial contributions from 2 manifestly unlikely sources: Syria and Zimbabwe.

[30] UN Security Council Resolution 1996, 8 July 2011; UN Security Council Resolution 2014, 21 Oct. 2011; and United Nations, Security Council, Statement by the President of the Security Council, S/PRST/2011/18, 22 Sep. 2011.

[31] United Nations, 'Effective prevention requires early, active, sustained engagement, stresses Secretary-General at ministerial round table on "responsibility to protect"', Press Release SG/SM/13838, 23 Sep. 2011.

[32] For detailed analyses of the 2 concepts and their interrelationship ('sisters but not twins' in Popovski's account) see Popovski, V. et al., 'Responsibility to Protect and Protection of Civilians', Security Challenges, vol. 7, no. 4 (summer 2011). A succinct but very useful account is Global Centre for the Responsibility to Protect (note 15). See also Breakey, H. et al., Enhancing Protection Capacity: A Guide to the Responsibility to Protect and the Protection of Civilians in Armed Conflicts (Asia-Pacific Civil Military Centre of Excellence/Institute for Ethics, Governance and Law: Canberra/Brisbane, 2012).

[33] UN Security Council Resolution 1973 (note 10) (emphasis in original).

[34] United Nations Security Council, 5577th meeting, S/PV.5577, 4 Dec. 2006.

[35] UN Security Council Resolution 1674 (note 23).

underpinnings in international humanitarian law, human rights law and refugee law as far as the responsibility of individual states is concerned. In addition, neither body of doctrine is synonymous with military intervention: R2P is about a very wide range of preventive and reactive responses, and while POC is heavily focused, operationally, on peace operations mandates, its agenda is much broader than that.

The two norms differ in just two respects, neither of which is significant for present purposes. POC is broader than R2P to the extent that the rights and needs of populations caught up in armed conflict go well beyond protection from mass atrocities. However, in one major respect the scope of R2P goes well beyond POC, in that it is concerned with preventing and halting mass atrocity crimes regardless of whether they occur in times of armed conflict. Cambodia in the mid-1970s, Rwanda in 1994, Kenya in 2008 and Libya, at least at the time of Resolution 1973 in February 2011, are major examples of such non-war situations.

III. Libya and its aftermath: the limits of intervention?

Implementing Resolution 1973: a case of overreach?

Libya in 2011 was, at least initially, a textbook example of how R2P is supposed to work in the face of a rapidly unfolding mass atrocity situation during which early-stage prevention measures no longer have any relevance. In February, Gaddafi's forces responded to the initial peaceful protests against the excesses of his regime, inspired by the Arab Spring revolutions in Tunisia and Egypt, by massacring at least several hundred of his own people.[36] That led to UN Security Council Resolution 1970, which specifically invoked 'the Libyan authorities' responsibility to protect its population', condemned its violence against civilians, demanded that this stop and sought to concentrate Gaddafi's mind by applying targeted sanctions, an arms embargo and the threat of ICC prosecution for crimes against humanity.[37]

Then, as it became apparent that Gaddafi was not only ignoring that resolution but planning a major assault on Benghazi in which 'no mercy or pity' would be shown to perceived opponents, armed or otherwise—his reference to 'cockroaches' having a special resonance for those who remembered how Tutsis were being described before the 1994 genocide in Rwanda—the Security Council followed up with Resolution 1973.[38] This also invoked the R2P principle (and POC as well); reasserted a determination to ensure the protection of civilians; deplored the failure to

[36] See note 7.

[37] UN Security Council Resolution 1970, 26 Feb. 2011.

[38] UN Security Council Resolution 1973 (note 10).

comply with the first resolution; called for an immediate ceasefire and a complete end to violent attacks against and abuses of civilians; and explicitly authorized military intervention by member states to achieve these objectives.

That coercive military action was allowed to take two forms: 'all necessary measures' to enforce a no-fly zone, and—in an important and far-reaching addition proposed by the USA at the last minute—'all necessary measures . . . to protect civilians and civilian populated areas under threat of attack'. Only 'a foreign occupation force' was expressly excluded: ground troops were just a bridge too far for the Arab League to contemplate, and the political support of this regional organization was absolutely crucial in ensuring both a majority on the Security Council and no exercise of the veto by China or Russia. (That regional support was also, politically, an absolute precondition for the UK and the USA to act without leaving themselves open to the allegation throughout the Arab-Islamic world of being up to their old Iraq-invading, crusading tricks.)

NATO action commenced immediately, and can certainly be credited with stopping a major catastrophe in Benghazi that would have cost a great many civilian lives. To this extent R2P again worked exactly as it was intended, and justified the exultation at the time of those who, like the present author, believed that a major page had been turned and that maybe, just maybe, after centuries of indifference or worse to mass atrocity crimes, the world could look forward to a future in which there would be no more Rwandas or horrors like it. But not everyone shared even that initial exultation. Right from the outset there were critics who argued that the likely Benghazi death toll, with no international intervention, would have been much less than claimed, and that negotiations could have succeeded given more time.[39] It is impossible after the event to test such arguments, but these particular ones are unpersuasive. Whatever the distaste unquestionably felt for Gaddafi in both the West and the Arab League, it is inconceivable that the 'all necessary measures' resolution in the Security Council would have been pursued, let alone accepted, if there had not been at the time a widespread and quite genuine belief (shared by China, Russia and the others who did not oppose Resolution 1973) that Gaddafi's regime had killed many civilian protesters and was on the verge of killing a great many more in Benghazi. Gaddafi's behaviour over the three weeks since the preceding Security Council resolution had shown him to be determinedly resistant to any negotiated political settlement, certainly one that involved him relinquishing any significant power.

The criticisms of the intervention that have more traction, and continuing resonance, are those mounted not against the initial military response—destroying Libyan Air Force infrastructure, and attacking the ground forces advancing on Benghazi—but what came after, when it became rapidly apparent that the NATO-led forces would settle for nothing less than regime change and do whatever it took to achieve that. Such action included not only rejecting outright early ceasefire offers that may or may not have been serious, but also attacking from the air fleeing personnel who posed no immediate risk to civilians (including, in the October endgame, Gaddafi himself); striking locations that were not obviously militarily significant (such as the Tripoli compound in which Gaddafi's son Khamis and three grandchildren were reportedly killed in April); and, more generally, comprehensively supporting the rebel side (even to the extent of breaching the Security Council arms embargo in the case of France and Qatar) in what rapidly became a full-scale civil war.[40]

All these actions were characterized, inevitably, by a number of critics as exceeding the mandate conferred by Resolution 1973, or at the very least stretching its letter to the limits and breaching its spirit. They generated negative reactions as a result from the Arab League, which originally strongly supported that resolution, and from many of the countries that initially did not oppose the resolution including Brazil, Russia, India, China and South Africa (the BRICS countries). They were also used as justification, again by these states, for opposing any substantive Security Council resolution on Syria throughout 2011.[41] On the other side, the argument was made that, while the intervention was always about civilian protection, the only way civilians could reliably be protected in areas, such as Tripoli, that were under Gaddafi's control was by removing him from power. Some critics have been quick to ascribe darker commercial or other motives, or simply a congenital trigger-happiness on the part of the 'war party' of France, the UK and the USA but it seems fairer to describe the Western powers' response as primarily a genuinely motivated reaction to a genuinely perceived humanitarian need.[42]

The question remains, nonetheless, whether that reaction was an over-reaction. Could it in fact have been possible to respond militarily to the situation as it presented itself in Libya without taking sides and fighting an all-out war? The original 2001 ICISS report certainly approached the issue of R2P military interventions from a limited perspective of this kind:

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[39] See e.g. Roberts, H., 'Who said Gaddafi had to go?', *London Review of Books*, 17 Nov. 2011, pp. 8–18, and the subsequent exchange in 'Letters', *London Review of Books*, 15 Dec. 2011, pp. 4–5.

[40] On implementation of the arms embargo see chapter 10, section III, in this volume.

[41] See e.g. the statements, of varying degrees of explicitness but with a clear common message, by the permanent representatives of Brazil (pp. 15–17), India (pp. 17–18), South Africa (pp. 21–23), Russia (pp. 23–24) and China (pp. 24–25) in United Nations, S/PV.6650 (note 14).

[42] See e.g. Roberts (note 39); and, among many other critics of the relevance and utility of R2P in these situations, O'Connor, M., 'How to lose a revolution' and Hehir, A., 'The illusion of progress: Libya and the future of R2P', *The Responsibility to Protect* (e-International Relations: Nov. 2011).

Because the objective of military intervention is to protect populations and not to defeat or destroy an enemy militarily, it differs from traditional warfighting. While military intervention operations require the use of as much force as is necessary, which may on occasion be a great deal, to protect the population at risk, their basic objective is always to achieve quick success with as little cost as possible in civilian lives and inflicting as little damage as possible so as to enhance recovery prospects in the post-conflict phase.[43]

The present author, concerned about the backlash that the Libyan intervention was generating, went on record suggesting that it would have been preferable for the NATO-led coalition to conduct the operation on a more restrained basis: maintaining a no-fly zone, and attacking any concentration of forces clearly about to put civilians at risk, and beyond that leaving the rebels to fight their own war.[44]

This is, it must be acknowledged, a hard position to sustain. Conducting the operation in this way would certainly have led to a more protracted, messier war with the likelihood of larger civilian casualties as a result, and it may have given freer rein to Gaddafi to do his worst, without attackable concentrations of troops, in Tripoli and elsewhere.[45] The domestic politics of an open-ended but limited brief would have been much more difficult to manage in Europe and the USA than a short, reasonably sharp war with the avowed aim of removing a universally abhorred dictator, successfully accomplished. Additionally, militaries are always going to be hard to dissuade from conducting the kind of operations with which they feel most comfortable: using all available resources to defeat a clearly defined enemy. It may be that the Libyan intervention could not practicably have been conducted any other way.

And yet. The trouble is that there is no broad-based international constituency for an approach to mass atrocity crimes that does not set very carefully defined limits on the most extreme response option, military coercion. If the necessity, in a rule-based international order, for Security Council endorsement for any coercive use of military force other than self-defence is accepted, then operations must be conducted within a framework that is capable of generating, and sustaining, consensus in that body. If some key states act in ways that are seen by others to be pushing that consensus beyond endurable limits, then not only will it be almost impossible in the future to win Security Council consensus on any further use of

[43] International Commission on Intervention and State Sovereignty (note 20), para. 7.1, p. 57. See also Evans (note 16), p. 214.

[44] Evans, G., 'Letters' (note 39), p. 4.

[45] The argument that the international intervention as conducted resulted in more civilian casualties than would otherwise have been the case cannot be proven. It seems reasonable to assume that without it there would still have been a bloody civil war, with atrocity crimes ending only with either Gaddafi's overthrow or his crushing all dissent, and body counts either way impossible to guess. On this type of methodology see Seybolt, T. B., SIPRI, *Humanitarian Military Intervention: The Conditions for Success and Failure* (Oxford University Press: Oxford, 2007).

military force in atrocity crime situations, but it will be hugely difficult to get agreement on even lesser measures. This seems to be the lesson of Syria, at least while nerves remain raw about the Libyan experience.

The geopolitical environment after Libya: potential for a new consensus?

There are two basic directions in which the debate could now go. One is that mapped by David Rieff, who concludes that rather than trying to fashion a new, constrained concept of R2P military intervention—and indeed, rather than staying with the whole R2P project, with its multi-layered approach and focus on international consensus building across the whole spectrum of preventive and reactive atrocity crime responses—'we could have simply stayed with the concept of just war'.[46] Presumably, although he does not spell it out, this means relying on ad hoc interventions—outside the framework of the Security Council and depending on moral legitimacy rather than legal authority—of the kind that have occasionally occurred in the past (e.g. in the humanitarian interventions periodically mounted in the 19th century to protect Christians at risk in various parts of the Ottoman Empire, and most recently with NATO in Kosovo in 1999).[47]

The other approach is not to throw the R2P baby out with the bathwater in this way, but to go back to basics, build on the very substantial foundations that have already been laid, and work at refining and further developing the R2P norm in a way that is capable of generating consensus around even the hardest cases. Achieving this will involve the key states on both sides of the post-Libya intervention debate stepping back a little from the positions they have staked out. In the present geopolitical environment that may not be as hard as it first seems: if the positions of each of the major current players are reviewed, it is evident that in every case there are contradictory dynamics at work, which are far from pushing them into inexorably opposed camps.

While the three Western permanent members of the Security Council have been by far the most overtly committed to R2P in all its dimensions (and the most willing to argue for coercive military force to be applied in appropriate cases), the UK and France are incapable of going it alone, except in relatively small-scale operations like the UK's Operation Palliser in Sierra Leone in 2000 or the France-led (although notionally an EU mis-

[46] Rieff, D., 'Saints go marching in', *National Interest*, July/Aug. 2011, pp. 6–15.
[47] Rodogno, D., *Against Massacre: Humanitarian Interventions in the Ottoman Empire 1815–1914* (Princeton University Press: Princeton, NJ, 2012); and Evans (note 16), pp. 19, 29–30.

sion) Operation Artemis in the DRC in 2003.[48] As for the USA—the 'indispensable nation' as Madeleine Albright famously described it in the context of its unique capacity to project power just about anywhere in the world—it can be expected to be deeply cautious in the future about plunging into new military commitments except when national interests, narrowly defined, are very obviously threatened.[49] The isolationist current always evident in US public and congressional sentiment is, if anything, strengthening. Some hard lessons have been learned in Afghanistan and Iraq over the past decade about the limits of military power; and the budgetary pressures imposed by the global financial crisis and its aftermath will bite hard on US military expenditure in the years ahead. Overall, there is much less cause for anxiety now than there may have been at the time of the Iraq war in 2003 about the major Western powers' willingness to engage in cynical neo-imperialist adventurism.

The other two permanent members of the Security Council, China and Russia, have been much more traditionally inclined to champion—cynically or otherwise, and some scepticism is permissible, particularly in the case of Russia—the principles of 'non-interference in countries' internal affairs and of respect for the sovereignty, unity and territorial integrity of states'.[50] Notwithstanding this, China, contrary to many expectations, did not play any kind of spoiling role in the discussion leading up to the World Summit debate which embraced R2P in 2005 and has not been the strongest obstructive voice since. It did not oppose the initial Resolution 1973 on Libya, and has framed its subsequent objections not absolutely but in terms of the need to use 'extreme caution' in authorizing the use of force to protect civilians, and to 'fully and strictly' implement Security Council resolutions and not 'wilfully misinterpret' them.[51] It is increasingly apparent that China is self-conscious about its need to be seen to be playing a constructive, responsible role in international affairs and should not be assumed to be instinctively unresponsive to the need for sometimes quite robust cooperative responses to mass atrocity crimes.[52] Its veto early in 2012, against the wishes of the Arab League, of the condemnatory but not

[48] The EU, not least as a result of Germany's continuing deep reluctance to contribute to any such missions (as evident in its abstention from UN Security Council Resolution 1973), remains unlikely for the foreseeable future to become a serious collective player in these enterprises.

[49] NBC Television, 'An interview with Secretary of State Madeleine K. Albright on "The Today Show" with Matt Lauer', 19 Feb. 1998, <http://usembassy-israel.org.il/publish/press/state/archive/1998/february/sd4220.htm>.

[50] E.g. Li Baodong, Chinese Permanent Representative, United Nations, S/PV.6650 (note 14), p. 24.

[51] E.g., again, Li Baodong, United Nations, S/PV.6650 (note 14), p. 25.

[52] China's potentially constructive multilateral role has started to generate some attention from commentators: 'It starts out still relatively poor, is geographically insecure and is short of almost any natural resource you can think of. Its economy relies on western markets. It needs a stable, open international system. It's an intriguing thought: how long before China emerges as the new champion of the multilateral order?' Stephens, P., 'How a self-sufficient America could go it alone', *Financial Times*, 12 Jan. 2012.

otherwise interventionist proposed Security Council resolution on Syria was unexpected and may have reflected other factors—in particular anxiety about the USA putting increasing pressure on its Middle East energy sources—more than a determination to reassert a hard line on R2P as such.[53]

Both in the lead up to 2005 and since, Russia has been a more obdurate opponent of robust action but in the event it did not oppose the World Summit Outcome Document, the 2011 Libya resolutions or other Security Council resolutions referring to R2P. In fact, Russia explicitly relied on R2P to justify its own military invasion of Georgia in 2008, not that the wider international community found this remotely persuasive.[54] Its subsequent objections have been more directed to the way in which R2P was applied in Libya ('double standards dictated by short term circumstances or the preferences of particular states') than to its inherent normative content.[55] Russia has been particularly supportive of the role of regional organizations in the prevention and settlement of conflicts and was clearly influenced, as were others, by the strong support of the Arab League for intervention in Libya. All that said, strong support by the Arab League—and 13 members of the Security Council—for the proposed resolution on Syria put to it on 4 February 2012, condemning the violence and backing an action plan for political transition but not threatening any coercive measures, was not enough to prevent Russia vetoing the resolution: the realpolitik of its close and long-standing economic and strategic relationship with Syria and the regime of President Bashar al-Assad prevailed.[56] But it is not to be assumed that its intransigence will be as complete in other contexts in the future.

Of the remaining BRICS countries, India was the last significant state to be persuaded to join the 2005 consensus, and has remained a generally unenthusiastic supporter of R2P since (save in the context of the Sri Lankan conflict in 2009, when the Foreign Minister, Pranab Mukherjee, called on the Sri Lankan Government to exercise its responsibility to protect its own citizens). Certainly it has been among the strongest critics, both in the Security Council and the Human Rights Council, of the way the Libyan intervention mandate was implemented. It did support the initial interventionist measures against Libya in Resolution 1970, while not

[53] 'Russia and China veto resolution on Syria at UN', BBC News, 4 Feb. 2012. <http://www.bbc.co.uk/news/world-16890107>. See also Sayigh, Y., 'China's position on Syria', Carnegie Endowment for International Peace, 8 Feb. 2012, <http://www.carnegieendowment.org/2012/02/08/china-s-position-on-syria/>.

[54] Global Centre for the Responsibility to Protect, 'The Georgia–Russia crisis and the responsibility to protect', Background note, 19 Aug. 2008, <http://globalr2p.org/advocacy/>.

[55] The Russian Permanent Representative, Vitaly Churkin, refrained from mentioning Russia's invasion of Georgia in this context. United Nations, S/PV.6650 (note 14), p. 23.

[56] See Trenin, D., 'Russia's line in the sand on Syria', Carnegie Endowment for International Peace, 5 Feb. 2012, <http://carnegieendowment.org/2012/02/05/russia-s-line-in-sand-on-syria/9g77>.

opposing Resolution 1973; issued a condemnatory statement on Syria as president of the Security Council; and supported the proposed Syria resolution in February 2012.[57] Further, India supported the use of UN forces to protect civilians in Côte d'Ivoire, has itself been a willing provider of peacekeeping forces with strong POC mandates and has generally focused not on opposing military force so much as on setting conditions for its exercise, including that it 'be the measure of last resort and be used only when all diplomatic and political efforts fail' and that Security Council mandates be closely monitored.[58] India has wanted to be seen internationally as a champion of human rights and democracy, but at the same time to maintain its non-interventionist credentials with the Non-Aligned Movement (NAM), a difficult balance to maintain (as is its position as simultaneously a global champion and national resister of nuclear disarmament).[59] It seems reasonable to assume that as India looks more and more to assume a global leadership role, it will contribute to bridge building on these issues in a more active and systematically constructive way.

South Africa, in contrast, was an enthusiastic proponent of R2P at the 2005 World Summit, was a crucial player in mobilizing and articulating sub-Saharan African support for it, and has since been generally supportive and keen to maintain its post-apartheid human rights and democracy credentials. However, it has been pulled in a different direction by its other international personalities as an outspoken advocate for pan-African and South–South solidarity, and as a strong supporter of mediation and conflict resolution through dialogue. Above all, in the context of Libya, as a long-standing friend of the Gaddafi regime and the leader of the African Union mediation effort, South Africa has been an outspoken critic of the military intervention there, describing it as going 'far beyond the letter and spirit of Resolution 1973'.[60] If its explicit concerns about less than even-handed mandate implementation can be addressed, it seems reasonable to hope that it will again become a strong supporter of R2P in all its dimensions.

Brazil is another state visibly torn between its overall desire to maintain support from the Global South, and its increasing self-consciousness as a rapidly growing global player of real stature and willingness in that context to employ more human rights rhetoric in its foreign policy.[61] Again, more like South Africa than India, it was one of the key Latin American countries

[57] For the condemnatory statement on Syria see United Nations, Security Council, Statement by the President of the Security Council, S/PRST/2011/16, 3 Aug. 2011.

[58] Puri, H. S., Permanent Representative of India, United Nations, S/PV.6650 (note 14), p. 18. See also Tardy, T., 'Peace operations: the fragile consensus', SIPRI Yearbook 2011.

[59] See e.g. Piccone, T. and Alinikoff, E., Rising Democracies and the Arab Awakening: Implications for Global Democracy and Human Rights (Brookings Institute: Washington, DC, Jan. 2012), pp. 11–17.

[60] Sangqu, B., Permanent Representative of South Africa, United Nations, S/PV.6650 (note 14), p. 22. See also Piccone and Alinikoff (note 59), pp. 23–30.

[61] Piccone and Alinikoff (note 59), pp. 4–10.

embracing, in a historically significant way, limited-sovereignty principles in the lead-up to 2005 and has generally given quite strong support to the R2P norm. But as with all the BRICS countries, the bridge too far for Brazil was the perceived overreach by the NATO-led operation in Libya in implementing Security Council Resolution 1973. What has distinguished Brazil's role, however, is its evident willingness now to search actively for a way to regenerate consensus around the issue of forcible intervention in hard cases, with its proposal to develop, in parallel to the present concept of R2P, an 'agreed set of fundamental principles, parameters and procedures' on the theme of 'responsibility while protecting'.[62] As discussed in section IV, this does seem to have the potential to put back on track a multilateral, cooperative approach to civilian protection, including in the most difficult cases.

None of these three major emerging powers have taken as hard a negative line as China and Russia on the question of international engagement in Syria, and they seem more likely between them to play a more substantial and influential role than China or Russia in rebuilding international consensus about how to respond to mass atrocity crimes. Another extremely influential emerging power whose role will be important in the years ahead on this as on many other issues is Turkey, which has been a consistently strong supporter of the R2P principle, an increasingly active, forthright and respected player in its own region and beyond, and a particularly strong critic of the Syrian regime's murderous response to its civilian opponents.

IV. The future for civilian protection

It will not be easy to rebuild the consensus on the implementation of the R2P, and more general POC, norms that were fleetingly achieved at the time of the Security Council resolutions on Libya and Côte d'Ivoire in March 2011, but the best chance of doing so will be for civilian protection policymakers and advocates—building on the general political support for R2P that clearly exists among UN member states (as described in section II)—to focus in the period ahead on making progress in the following five specific areas.

Criteria for the authorization of military force

First, and most importantly, some understanding will need to be reached on the kinds of condition, or criterion, which should have to be satisfied before coercive military force is authorized, and on a process to ensure that the

[62] See statement of de Auguiar Patriota, A., Brazilian Foreign Minister, presented by Ribeiro Viotti, M. L., Permanent Representative of Brazil, United Nations, S/PV.6650 (note 14), pp. 15–17.

limits inherent in any mandate granted by the Security Council continue to be observed. These are the issues at the heart of the backlash that has accompanied the implementation of Resolution 1973, and the concerns of the BRICS countries in particular should be taken seriously by France, the UK and the USA. They are too serious to be simply dismissed as indicative of the kind of complaints, rationalizations or evasions of responsibility that are bound to arise whenever states have to make hard decisions that have the potential to offend international friends or domestic constituencies.

One way of approaching the criteria issue would be to return directly to the recommendations of the ICISS, the High-level Panel on Threats, Challenges and Change and Kofi Annan that the Security Council formally adopt the five following prudential guidelines for authorizing the use of force.[63]

1. *Seriousness of risk.* Is the threatened harm of such a kind and scale as to justify prima facie the use of force?

2. *The primary purpose of the proposed military action.* Is it to halt or avert the threat in question, whatever other secondary motives might be in play for different states?

3. *Last resort.* Has every non-military option been fully explored and the judgement reasonably made that nothing less than military force could halt or avert the harm in question?

4. *Proportionality.* Are the scale, duration and intensity of the proposed military action the minimum necessary to meet the threat?

5. *Balance of consequences.* Will those at risk ultimately be better or worse off, and the scale of suffering greater or less? This is usually the toughest legitimacy test.

Such criteria could clearly not guarantee consensus in any particular case, but requiring systematic attention to all the relevant issues—which simply does not happen at the moment—would hopefully make its achievement much more likely. One of the further virtues of this approach is that it would make it abundantly clear from the outset just how different coercive military action is to other response mechanisms, and how many hurdles should have to be jumped before ever authorizing it: that it is something that should not be contemplated as a routine escalation, but only in the most extreme and exceptional circumstances. If such criteria were able to be agreed, and applied with some rigour and consistency to new situations as they arise, it should be a lot easier to avoid the 'slippery slide' argument

[63] International Commission on Intervention and State Sovereignty (note 20), pp. 32–37, 74–75; United Nations, *A More Secure World* (note 23), p. 67; and United Nations, 'In larger freedom', A/59/2005 (note 23), p. 43. These recommendations differ slightly in their language and presentation but the core concepts are exactly the same.

which has contributed to the Security Council paralysis on Syria, making some countries unwilling to even foreshadow non-military measures like targeted sanctions or ICC investigation because of their concern that military coercion would be the inevitable next step if lesser measures failed.

Until now, however, all such arguments have foundered in the face of strong arguments by most of the relevant states and UN insiders—even those who agree on the utility of having such criteria in place—that getting there would be a procedural nightmare, generating endless wrangling about abstractions and unproductively diverting attention away from real issues. What has given fascinating new life to the question is Brazil's initiative in November 2011 in introducing the idea of 'responsibility while protecting' (RWP) to be pursued not as an alternative but a complement to R2P, evolving together with it.[64] The concept paper distributed to generate discussion recommends that there be an 'agreed set of fundamental principles, parameters and procedures' that include at least three of the five criteria described above (last resort, proportionality and balance of consequences).[65] Indications at the time of writing in early 2012 are that the Brazilian proposal has been well received, certainly by its fellow BRICS countries, and—with further development—is likely to feature centrally in the next General Assembly Interactive Dialogue on R2P in mid-2012, which will focus squarely on Pillar 3 enforcement issues.

It is clear that the Brazilian RWP proposal, in its initial formulation, is generating a positive response from other BRICS countries, not least because it also focuses specifically on the need for military action to 'abide by the letter and the spirit of the mandate conferred by the Security Council or the General Assembly', arguing that 'Enhanced Security Council procedures are needed to monitor and assess the manner in which resolutions are interpreted and implemented to ensure responsibility while protecting'.[66] While this part of the initiative will no doubt be particularly sensitive for the three Western permanent members of the Security Council, if it proves—as now seems very possible—to be the vehicle through which a new cooperative commitment to sharp-end implementation of R2P is capable of emerging, it would be irresponsible for France, the UK and the USA, and others who share their basic outlook, not to participate seriously in crafting workable procedures of the kind sought.

[64] de Auguiar Patriota (note 62).

[65] United Nations, General Assembly and Security Council, 'Responsibility while protecting: elements for the development and promotion of a concept', annex to Letter dated 9 November 2011 from the Permanent Representative of Brazil to the United Nations addressed to the Secretary-General, A/66/551–S/2011/701, 11 Nov. 2011.

[66] United Nations (note 65), para. 11(d), (h).

Measures falling short of coercive military intervention

The second major area to which more attention needs to be devoted by policymakers is the scope and limits of Pillar 3 measures that fall short of coercive military intervention, with Security Council members focusing on how they can better join up diplomatic initiatives, targeted sanctions, threats of reference to the ICC and other tools. A good example of the Security Council linking some of these tools reasonably effectively is Côte d'Ivoire, which became a threat to the UN's credibility in early 2011, with both Russia and South Africa blocking more decisive action. UN sanctions primarily implemented by the EU helped contain the crisis while African diplomats tried to negotiate a peace deal. When that proved impossible, with other options manifestly exhausted, a unanimous Security Council resolution approving the use of force by French and UN troops was readily achievable by the end of March.[67] That said, it is important that 'exhaustion of other options' not be seen as requiring non-military options to be physically worked through in circumstances where they are obviously likely to prove totally unproductive: where killing is occurring or imminent, the requirement is to be able to make a reasonable judgment, quickly, that no non-military action is likely to be productive.

Long-term preventive strategies

It will also be important to give, and for the key states to be seen to be giving, more systematic attention to longer-term preventive strategies. These should be relevant both to conflict generally and mass atrocity crimes in particular, not only before such events have ever occurred but—in many ways even more pertinently—after they have occurred, in the peace-building stage where the effort is to prevent recurrence. While the toolbox of relevant structural measures—across the whole spectrum of political and diplomatic, economic and social, constitutional and legal, and security strategies—is well known and regular lip service is paid to this need in the Security Council, including in regular thematic debates on conflict prevention, the record of effective action is not stellar.[68] One theme strongly emphasized in commentary from the Global South, and in lessons-learned analyses from Afghanistan and Iraq, is the critical need for more sensitive attention to be paid by external interveners and assisters to local social dynamics and cultural realities, and to perceptions of their own require-

[67] See Gowan, R., 'The Security Council's credibility problem', UN Security Council in Focus, Friedrich-Ebert-Stiftung, Dec. 2011, <http://www.fes.de/gpol/inhalt/publikationen_unsc.php>, p. 4. See also chapter 3, section III, in this volume.

[68] On structural measures see e.g. Evans (note 16), chapter 4. On Security Council debates see United Nations, Security Council, 6621st meeting, S/PV.6621, 22 Sep. 2011.

ments by local populations at all levels.[69] The more that states in the Global North, in particular, are seen to be taking seriously and sensitively their Pillar 2 assistance responsibilities, the less prospect there is of them being criticized as intolerably preoccupied with punitive measures.

Developing appropriate institutional response capacities

A fourth major need is for rapid further development of appropriate institutional response capacity, both preventive and reactive, and both civilian and military, of the kind referred to in section II. The main challenges here are the establishment, in many more governments and intergovernmental organizations, of early warning and response 'focal points'; and the organization and resourcing of civilian capability able to be used, as occasion arises, for diplomatic mediation, civilian policing and other critical administrative support for countries at risk of atrocity crimes occurring or recurring. Further, it will be important to create a culture of effective support—crucial at the national level in the absence of any international marshals service—for the ICC and the developing machinery of international criminal justice; and to have in place properly trained and capable military resources available both for rapid 'fire-brigade' deployment in Rwanda-type cases and for long-haul stabilization operations like those in the DRC and Sudan, not only in no-consent situations, but also where vulnerable governments request this kind of assistance. Again, a major, visible commitment by countries of the Global North to building this kind of capacity is not only very important in its own terms, but can also help to reduce scepticism about their good intentions when more sensitive policy responses have to be considered.

Here as elsewhere on global security issues in the future, regional organizations can be expected to play an ever more important role, exercising the full range of the responsibilities envisaged for them in Chapter VIII of the UN Charter. So far, although both the African Union and the EU have shown occasional willingness to act collectively, and the Arab League demonstrated in 2011 a hitherto-lacking capacity for concerted political action in the contexts of both Libya and Syria, only the Economic Community of West African States (ECOWAS) has so far shown a consistent willingness to respond with a full range of diplomatic, political, economic and ultimately military strategies in response to civilian protection crises. Still there will, and should be, ever more pressure on regional and subregional organizations elsewhere in Africa, and in Asia and Latin America, to be front-line responders in these situations. It may be going too far to

[69] See e.g. Mani, R. and Weiss, T. G. (eds), Responsibility to Protect: Cultural Perspectives in the Global South (Routledge: London, 2011); and Stewart, R. and Knaus, G., Can Intervention Work? (Norton: New York, 2011).

say that the engagement of regional organizations will over the next few years be either a necessary or a sufficient condition for any military intervention in mass atrocity cases—each situation will have its own dynamic—but their role will be ever more important.

Rethinking the concept of 'national interest'

A fifth need worth mentioning relates to those many states that are sensitive to potential domestic resistance to morally worthy foreign entanglements (or which are perhaps oversensitive in perceiving such resistance: it is not unknown for publics to be more generously and internationally minded than their own governments). There is much to be said for rethinking the concept of 'national interest' as involving not just the two traditional dimensions of economic and security interests, but a third as well: every state's interest in being, and being seen to be, a good international citizen. The argument is that, even when there may be no direct economic or strategic pay-off, actively helping to solve global public goods 'values' challenges—for example, climate change, drug trafficking, cross-border population flows, weapons of mass destruction and mass atrocity crimes—is not just the foreign policy equivalent of boy-scout good deeds. Selfless cooperation on these issues does actually work to a country's advantage, in terms of both reputation and the generation of reciprocal support: my help in solving your drug trafficking issue today will increase the chances of you supporting my asylum-seeker problem tomorrow. A story couched in these realist terms is likely to be an easier sell to domestic constituencies than one pitched as disinterested altruism.

Nobody suggests that the geopolitics of ensuring effective civilian protection is ever going to be easy, especially in cases where early-stage prevention, if any, has manifestly failed. What has to be accepted, and treated as a challenge rather than cause for despair, is that there is always going to be tough debate about the really hard cases, where violations that are occurring are so extreme that the question of coercive military force comes into play as something which, prima facie at least, might have to be seriously contemplated as the only way to halt or avert the harm that is occurring or feared. The higher the stakes, the higher the emotion and the more that realpolitik will come into play.

When it comes to generating consensus on military action, some cases will always be easier than others, for example, where small, relatively friendless countries with weak military forces are involved, and where a military intervention is not particularly likely to have wider regional ramifications, as compared to cases where it almost certainly will, perhaps because of cross-over ethnic or sectarian loyalties. What is most important

in all of this is not to let the idea take hold that because—for any one of a number of reasons, good or bad or both—it will not be possible to intervene militarily everywhere that a mass atrocity crime situation arguably justifies this, then intervention should not take place anywhere. The bottom line is that, while the responsibility to protect and the protection of civilians generally face some real challenges after Libya, these challenges are not insuperable. The R2P principle is firmly and globally established and has demonstrably delivered major practical results but its completely effective implementation is going to be a work in progress for a long time yet.

2. Armed conflict

Overview

During 2011 the sudden and dramatic popular uprisings in parts of the Middle East and North Africa, which together constituted the Arab Spring, produced diverse patterns of conflict. From the street protests that led to the flight into exile of Tunisia's president, to the serious armed confrontations that developed in Libya and Syria, the emergence of mass opposition to the region's ruling regimes was the precursor to dynamic and complex forms of violence (see section I in this chapter).

The events of the Arab Spring in 2011 were not, however, isolated in terms of contemporary conflict trends. Rather, developments across the region served to underline some of the long-term changes that have occurred in armed conflict over recent decades. This has involved important shifts in the scale, intensity and duration of armed conflict around the world, and in the principal actors involved in violence. Together these changes point to the emergence of a significantly different conflict environment than that which prevailed for much of the 20th century.

Since 1988 the SIPRI Yearbook has, in cooperation with the Uppsala Conflict Data Program, published data on armed conflict that has reflected a focus on 'major armed conflict' as the predominant type of conflict around the globe. This form of conflict, like all types of state-to-state conflict, has been in long-term decline, even while other forms of violent conflict have emerged as a key issue shaping international security. The data suggests that new approaches are needed to capture empirically and convey effectively the nature of modern conflict, which is increasingly moving beyond established definitions.

In order to gain a fuller picture of the nature of contemporary conflict, the 2012 Yearbook presents for the first time data on three broader types of organized violence: armed conflict (involving one or more states), non-state conflict and one-sided violence (against civilians). While all three types of violence decreased over the decade 2001–10, the sharpest fall was in the number of the most intense armed conflicts—those with at least 1000 battle-related deaths in a year (see section III).

The shift to non-state conflicts and a decline in the scale of conflicts has been matched by a substantial long-term decline in the deadliness of warfare, with the number of battle-related deaths in the average conflict continuing to fall. At the same time, there have been falling rates of successful conflict termination, resulting in more recurring or protracted conflicts. Such situations of 'hybrid peace' involve low levels of near continuous or recurring violence.

The dynamic, multidimensional and fluid nature of contemporary violence was particularly highlighted in 2011 by the active conflicts in Afghanistan, Côte d'Ivoire, the North Caucasus and Turkey. In Afghanistan, the confrontation involving the armed forces of the United States and its allies, the Government of Afghanistan, and violent non-state actors—notably the Taliban and the Haqqani network—with support from Afghanistan's neighbours, principally Pakistan, continued into its 10th year.

In Côte d'Ivoire, armed violence erupted in March 2011 between forces loyal to President Laurent Gbagbo and supporters of the internationally recognized president-elect, Alassane Ouattara. Following months of unsuccessful negotiations and sporadic violence, United Nations and French forces intervened, resulting in the arrest of Gbagbo and his eventual extradition to face trial at the International Criminal Court.

In the North Caucasus, a broad insurgency continued despite the official end of the decade-long Russian counterterrorism operation in Chechnya in 2009. While violence was largely confined to the republics of Chechnya, Dagestan, Ingushetia and Kabardino-Balkaria, Russian authorities were unable to make substantial progress in bringing to an end the set of conflicts underpinning the insurgency. Similarly, in southern districts of Thailand an insurgency that has resulted in over 5000 deaths entered its eighth year.

The long-running conflict involving Turkey and various Kurdish insurgent groups resumed in 2011 following a partially observed ceasefire from the summer of 2010. A series of clashes and mass protests took place across the country and, in October, 26 Turkish soldiers were killed in fighting with armed rebels of the Partiya Karkerên Kurdistan (PKK, Kurdistan Workers' Party).

Finally, the many ongoing and long-running conflicts in the Horn of Africa point to the interaction of different forms of violence and state and non-state actors, as well as regional factors in shaping the form of conflict in the area (see section II).

The emergence of new patterns and dominant forms of armed violence, as the conflict incidents during 2011 highlight, constitutes a major challenge to the international community. Effective policy responses require clear understandings of both the nature of and trends in contemporary violence. The steady decline in the number of state-based conflicts, even while conflict has continued in different forms, has opened a growing debate about the scope and significance of armed violence in society. Boundaries between political, criminal and gender-based violence have become blurred, as has the distinction between war and peace, with significant violence occurring in conditions defined conventionally as peace or at least an absence of war.

NEIL MELVIN

I. The first year of the Arab Spring

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The 2011 uprisings in the Arab world came as a surprise to most observers. While successive Arab Human Development Reports had identified lingering problems affecting the Arab regimes—including inequality, lack of economic development, low levels of participation in policy formation and the marginalization of women—few experts expected either the series of mass revolts that were carried out with such persistence and with such a global impact or the increasing use of violence to suppress them.[1]

The uprisings, which quickly became known as the Arab Spring, spread rapidly from country to country and soon affected large parts of North Africa and the Middle East (see table 2.1). While they shared a number of traits—including large-scale demonstrations, non-violent actions, the absence of single leaders and the use of central squares in major cities—they also differed in certain respects. The extent of the demands made by the protesters varied, ranging from improved economic situations to regime change, as did the level of violence. While there were comparatively few fatalities in Algeria and Morocco, other countries (including Bahrain, Egypt, Tunisia and Yemen) were much more severely affected. The highest levels of violence were reported in Libya and Syria.

This section first outlines domestic developments in the six countries—Bahrain, Egypt, Libya, Syria, Tunisia and Yemen—that experienced at least 25 fatalities related to the Arab Spring in 2011.[2] It then examines international involvement in the different cases, including external support given to aid one of the parties, and third-party involvement and neutral interventions carried out to attempt to solve the crises. It concludes with some general reflections on the first year of the Arab Spring.

Domestic developments

Bahrain

The 2011 protests in the Bahraini capital Manama and several nearby towns and villages were preceded by months of political repression and years of unfulfilled promises of democratic reforms. In mid-February, thousands of protesters assembled at the Pearl Roundabout in Manama, which became

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[1] United Nations Development Programme (UNDP), Regional Bureau for Arab States, *Arab Human Development Report, 2002–2005, 2009* (UNDP: New York, 2002–2005, 2009).

[2] Other conflicts occurred simultaneously in some countries in North Africa and the Middle East, notably those inspired by al-Qaeda. These had different dynamics and are not discussed here.

Table 2.1. The Arab Spring, 2011

The countries are the member states of the Arab League.

Country	Level of violence[a]	First fatality[b]	Regime type[c]	External support[d]	Third-party involvement[e]	Demand[f]
Algeria	Low	6 Jan.	Monocracy	No	No	Economic reform
Bahrain	Intermediate	14 Feb.	Monarchy	Yes	No	Regime change
Comoros	–	–	Other	–	–	–
Djibouti	Low	18 Feb.	Monocracy	No	No	Political reform
Egypt	Intermediate	25 Jan.	Monocracy	No	No	Regime change
Iraq	Low	16 Feb.	Other	No	No	Economic reform
Jordan	Low	25 Mar.	Monarchy	No	No	Political reform
Kuwait	None	–	Monarchy	No	No	Political reform
Lebanon	None	–	Other	No	No	Political reform
Libya	High	16 Feb.	Monocracy	Yes	Yes	Regime change
Mauritania	None	–	Monarchy	–	–	Political reform
Morocco	Low	20 Feb.	Monarchy	No	No	Political reform
Oman	Low	27 Feb.	Monarchy	No	No	Economic reform
Palestinian Authority	None	–	Other	–	–	Political reform
Qatar	–	–	Monarchy	–	–	–
Saudi Arabia	Low	21 Nov.	Monarchy	No	No	Political reform
Somalia	–	–	Other	–	–	–
Sudan	Low	30 Jan.	Monocracy	No	No	Political reform
Syria	High	18 Mar.	Monocracy	Yes	Yes	Regime change
Tunisia	Intermediate	8 Jan.	Monocracy	No	· No	Regime change
United Arab Emirates	–	–	Monarchy	–	–	–
Yemen	Intermediate	16 Feb.	Monocracy	No	Yes	Regime change

[a] 'Level of violence' refers to the number of people killed in Arab Spring-related violence, with 'Low' indicating a death toll of 1–24, 'Intermediate' of 25–999 and 'High' of 1000 or more. 'None' indicates protests without fatalities and '–' indicates that there was no Arab Spring-related protests. Much of the violence connected to the Arab Spring was of a character that makes it difficult to record in UCDP's 3 categories of organized violence (armed conflict, non-state conflict and one-sided violence—see section III). Other fatalities are therefore included in these totals, such as from violence involving protesters throwing rocks or Molotov cocktails or attacking government institutions (e.g. the interior ministry or police or army barracks).

[b] 'First fatality' is the date of the first death connected to Arab Spring-related violence. All dates are in 2011.

[c] Regime type is as at 1 Jan. 2011. 'Monarchy' refers to both absolute and constitutional monarchies. 'Monocracy' is a term used to capture one-party or one-family states; it includes both electoral regimes and autocratic regimes where power is vested in an individual.

[d] 'External support' can range from the provision of sanctuary or financial assistance to aid a party, via provision of arms, logistics and military support, up to sending combat troops.

[e] 'Third-party involvement' is an intervention aiming to regulate or solve a conflict or crisis with diplomatic means. Typical third-party activities are mediating between the parties in a conflict, hosting negotiations or attending a peace conference, or monitoring a ceasefire or a peace agreement.

[f] 'Demand' is based on a hierarchy: economic reform is the least threatening to the regime, followed by calls for political reform and then by calls for a complete regime change. The demand noted here is the highest level voiced during 2011 by protesters or the opposition regarding domestic issues.

the centre of the protests. Initially, the protesters' demands focused on political reforms but as security force actions against them intensified, more and more protesters began calling for a complete regime change. Nevertheless, the demands of Wifaq, the largest opposition party, continued to focus on political reforms.[3]

While the state of emergency imposed in mid-March was lifted on 1 June, protesters as well as health workers who treated the wounded continued to be attacked and hundreds of people were detained and prosecuted in military courts.[4]

Egypt

By the time of the January 2011 protests in Egypt, the National Democratic Party (NDP) had led a de facto one-party state for 33 years, with Hosni Mubarak as president since 1982. In addition to the local context of rigged elections, corruption and mismanagement, Egypt's relatively organized opposition was inspired by earlier developments in Tunisia.[5]

Demonstrations against Mubarak had occurred before. But an announcement, made via Twitter and Facebook, of a protest on 25 January led to tens of thousands taking part in what was named a 'day of rage'.[6] Police harshly repressed the demonstrations but the protestors remained in Tahrir Square in central Cairo and other cities and the situation escalated as they clashed repeatedly with riot police.[7] To calm the situation, Mubarak offered several concessions. These were seen as 'too little, too late', and the protesters' repeated demands for regime change were finally met when Mubarak resigned on 11 February.[8]

The Supreme Council of the Armed Forces (SCAF), led by Field Marshall Mohamed Hussein Tantawi, stepped in to fill the political vacuum.[9] While SCAF initially received praise, the political situation soon appeared to be little more democratic than earlier.[10] Elections to the lower house of parliament were held between November 2011 and January 2012. Simultaneously with the first round of elections Egyptians once again took to the streets, this time to show their discontent with SCAF and the lack of progress since

[3] Katzman, K., *Bahrain: Reform, Security, and U.S. Policy*, Congressional Research Service (CRS) Report for Congress 95-1013 (US Congress, CRS: Washington, DC, 21 Feb. 2012), p. 8; and 'Mass march in Bahrain as Mullen wraps up visit', Agence France-Presse, 25 Feb. 2011.

[4] Human Rights Watch (HRW), *Targets of Retribution: Attacks against Medics, Injured Protesters, and Health Facilities* (HRW: New York, 2011), pp. 10–12.

[5] 'The view from Liberation Square', *New York Times*, 28 Jan. 2011.

[6] 'Egypt's day of rage goes on: is the world watching?', *The Guardian*, 27 Jan. 2011.

[7] 'Two die in Egypt protests as US urges concessions', Agence France-Presse, 26 Jan. 2011.

[8] 'Mubarak concessions "insufficient"', Al Jazeera, 2 Feb. 2011.

[9] Tantawi had been Minister of Defence since 1991, and was seen by many as Mubarak's right-hand man. Knell, Y., 'Egypt after Mubarak: Mohamad Hussain Tantawi profile', BBC News, 22 Nov. 2011, <http://www.bbc.co.uk/news/world-middle-east-12441512>.

[10] Amnesty International (AI), *Year of Rebellion: The State of Human Rights in the Middle East and North Africa*, Index no. MDE 01/001/2012 (AI: London, 9 Jan. 2012), p. 12.

February.[11] This resulted in demonstrations that were met with violence, resulting in further criticism, both domestically and internationally.

Libya[12]

The February 2011 demonstrations in Libya were related to a history of brutality by the regime of Muammar Gaddafi.[13] The massacre in June 1996 of over 1000 inmates in Abu Salim Prison—many of them political prisoners—had created a sense of resentment against Gaddafi.[14] In February 2006 security forces killed 12 people involved in a non-violent demonstration in Benghazi, while the arrest in early 2011 of Fathi Terbil, a human rights lawyer who represented the families of the victims of the 1996 massacre, led to new protests.[15] The unrest soon spread and, as more people took to the streets, repression increased. The opposition was particularly active in the east of the country, and Benghazi quickly became its centre. Gaddafi ordered his military to curb the demonstrations with harsh methods and this led the international community to condemn the atrocities.[16]

As the campaign of repression continued, the rebel organization operating from Benghazi began referring to itself as a National Transitional Council (NTC) with the explicit intention of removing Gaddafi from power.[17]

While the Gaddafi regime launched an offensive against the rebellious towns, the international community debated courses of action to prevent civilian casualties. This led to the passing of United Nations Security Council Resolution 1973 on 17 March, which authorized the establishment of a no-fly zone over Libya and authorized UN member states 'to take all necessary measures ... to protect civilians and civilian populated areas under threat of attack'.[18] The introduction of de facto air support for the rebel cause—led by the North Atlantic Treaty Organization (NATO) in Operation Unified Protector—changed the dynamics of the conflict; after inconclusive battles in the Libyan desert, during which towns changed hands on several

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[11] Amnesty International, 'Egypt: military rulers have "crushed" hopes of 25 January protesters', 22 Nov. 2011, <http://www.amnesty.org/en/news/egypt-military-rulers-have-crushed-hopes-25-january-protesters-2011-11-22>.

[12] On developments in Libya in 2011 see also chapter 1 and chapter 3, section II, in this volume.

[13] Amnesty International, 'The battle for Libya: killings, disappearances and torture', Sep. 2011, <http://www.amnesty.org/en/library/info/MDE19/025/2011/en>, p. 7.

[14] Human Rights Watch, 'Libya: June 1996 killings at Abu Salim prison', 27 June 2006, <http://www.hrw.org/en/news/2006/06/27/libya-june-1996-killings-abu-salim-prison>; and Franklin, S., 'Abu Salim: walls that talk', The Guardian, 30 Sep. 2011.

[15] 'Libya protests: second city Benghazi hit by violence', BBC News, 16 Feb. 2011, <http://www.bbc.co.uk/news/world-africa-12477275>.

[16] 'Libya protests: pressure mounts on isolated Gaddafi', BBC News, 23 Feb. 2011 <http://www.bbc.co.uk/news/world-middle-east-12550719>.

[17] 'UPDATE 1-Rebel Libyan council chief vows "victory or death"', Reuters, 4 Mar. 2011.

[18] UN Security Council Resolution 1973, 17 Mar. 2011, paras 4–12.

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occasions, the rebels, supported by NATO, slowly advanced towards the capital, Tripoli.

In late August the rebels gained the upper hand and by the end of the month Tripoli was under rebel control. Gaddafi, who had managed to escape, was not located until rebels took control of his hometown, Sirte, on 20 October. In the tumultuous situation following his apprehension, Gaddafi was killed, bringing a definite end to a regime that had been in place for over 40 years.

The situation following Gaddafi's death was turbulent. The NTC moved its base from Benghazi to Tripoli and attempted to steer Libya towards democratization. However, an abundance of weapons remained in circulation and unemployment was rampant. Combined with a traditionally divided society, this led to clashes between NTC soldiers representing different tribes.[19] While these clashes did not develop beyond skirmishes, the threat of tribal conflict remained. Another unresolved issue was the apparent abuses carried out by the rebel forces during the final phases of the conflict.[20] Shortly after the death of Gaddafi, Luis Moreno-Ocampo, the prosecutor of the International Crime Court (ICC), stated that NATO forces and rebel soldiers—as well as members of the Gaddafi regime—would be investigated for war crimes.[21]

Syria[22]

It initially seemed that the Arab Spring would not affect Syria, whose stability during past decades had been remarkable, particularly given its religious and ethnic heterogeneity. Prior to 2011, the only significant challenge to the 40-year rule of President Hafez al-Assad and his son and successor, President Bashar al-Assad, had been an uprising launched by the Muslim Brotherhood in the late 1970s which, while brought under control by 1982, led to 10 000–25 000 deaths, mostly civilians.[23]

Initial protests broke out in February 2011, but they were limited and quickly subdued by the regime. The situation changed on 18 March in Dará, in the south of the country, with a protest triggered by the arrest and torture of a group of young boys. The security services unsuccessfully attempted to end the protests with tear gas, water cannons and ultimately live ammunition, killing four people. From this point the protests quickly spread, resulting in further civilian deaths in Dará and other cities.

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[19] 'Fighters clash again near Tripoli, several dead', Reuters, 12 Nov. 2011.

[20] Human Rights Watch, 'Libya: apparent execution of 53 Gaddafi supporters', 24 Oct. 2011, <http://www.hrw.org/news/2011/10/24/libya-apparent-execution-53-gaddafi-supporters>.

[21] United Nations, Security Council, 6647th meeting, S/PV.6647, 2 Nov. 2011.

[22] On developments in Syria in 2011 see also chapter 3, section II, in this volume.

[23] United Nations, Human Rights Council, Report of the independent international commission of inquiry on the Syrian Arab Republic, A/HRC/S-17/2/Add.1, 23 Nov. 2011.