

# *The Responsibility to Protect?* Imposing the 'Liberal Peace'

DAVID CHANDLER

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Since the end of the Cold War, debate over international peacekeeping has been dominated by the question of the so-called 'right of humanitarian intervention'. Advocates of the right of intervention, largely Western states, have tended to uphold liberal internationalist claims that new international norms prioritizing individual rights to protection promise a framework of liberal peace and that the Realist framework of the Cold War period when state security was viewed as paramount has been superseded. In an attempt to codify and win broader international legitimacy for new interventionist norms, the International Commission on Intervention and State Sovereignty released a two-volume report, *The Responsibility to Protect*, in December 2001. In the light of this report and broader developments in international security in the wake of September 11, this essay suggests that rather than a moral shift away from the rights of sovereignty, the dominance of the liberal peace thesis, in fact, reflects the new balance of power in the international sphere. Justifications for new interventionist norms as a framework for liberal peace are as dependent on the needs of *Realpolitik* as was the earlier doctrine of sovereign equality and non-intervention.

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There is a growing consensus among Western powers that the framework of collective international security, instituted under the UN Charter regime in 1945, needs to be reconsidered in order to respond to the new problems and new demands of the post-Cold War world. The clash between what is today considered necessary and legitimate and what is permissible under the UN Charter Framework was highlighted in 1999 with the conflict over Kosovo. Although the military intervention led by NATO lacked formal legal authority in the absence of a UN Security Council mandate, the advocates of intervention claimed that the intervention was humanitarian and thereby had a moral legitimacy and reflected the rise of new international norms, not accounted for in the UN Charter.<sup>1</sup>

Advocates of the development of new international norms which seek to safeguard individual rights in international society view the state-based norms of collective security of the Charter, particularly the rights of sovereign equality and non-intervention, as failing to meet these ends.

The attempt to institutionalize a new international security framework which emphasizes the development of international norms and the promotion of democracy and human rights, by interventionist means if necessary, is often promoted under the rubric of 'liberal peace'.<sup>2</sup> The liberal peace thesis challenges both the Realist view that war is an inevitable result of shifting balances of power in an anarchic world, and the so-called English School approach, which emphasizes the consensual status quo framework of the UN Charter, which accords equal rights of protection to states regardless of their domestic political framework. Liberal peace theorists stress that international peace and individual rights are best advanced through cosmopolitan frameworks whereby democratic and peaceful states take a leading responsibility for ensuring the interests of common humanity.<sup>3</sup>

The central question posed by the liberal peace thesis, and highlighted in international discussions of the right of humanitarian intervention, is that of matching moral authority with legal and political legitimacy. This question is particularly acute in today's circumstances, when the legal framework of international society is that of state-based collective security concerns rather than the individual rights posited in the liberal peace thesis. Since the end of the Cold War attempts to reform the international legal order have met with resistance. Opponents of intervention, mainly non-Western states, have been sceptical of the grounds for privileging a moral justification for interventionist practices and have expressed concern that this shift could undermine their rights of sovereignty and possibly usher in a more coercive, Western-dominated, international order. Following the Kosovo intervention the problem of overcoming the North-South or 'have' versus 'have-not' division over coercive 'humanitarian intervention' and establishing a framework which could generate an international consensus came to the fore.<sup>4</sup>

The demand for international 'unity' around the basic questions and issues involved in 'humanitarian intervention' was sharply highlighted by United National Secretary-General Kofi Annan at the UN General Assembly in 1999 and again in 2000. In response to this demand, at the UN Millennium Assembly in September 2000 the Canadian Prime Minister Jean Chrétien announced that an independent International Commission on Intervention and State Sovereignty (ICISS) would be established to address the moral, legal, operational and political questions involved in developing broader international support for a new framework legitimizing 'humanitarian intervention'.<sup>5</sup> The Commission's mandate was, in general terms, 'to build a broader understanding of the problem of reconciling intervention for human protection purposes and sovereignty' and, more specifically, 'to try to develop a global political

consensus on how to move from polemics. . . towards action'.<sup>6</sup> The project involved consultation with governments, NGOs, academics and policy think tanks across the world and resulted in the publication in December 2001 of the final report, *The Responsibility to Protect*, along with a supplementary volume, *Research, Bibliography, Background* with more detailed findings.<sup>7</sup>

The Report argues that in order to build an international consensus for acts of 'humanitarian intervention', which may be legitimate in the eyes of Western powers but not formally sanctioned by the United Nations, the discussion needs to be refocused in three ways.

First, that the concept of 'humanitarian intervention' should be dropped to appease humanitarian organizations who argue that military action is incompatible with humanitarian aid aimed at saving lives in the short term.

Second, that rather than posing debate in the confrontational terms of human rights 'trumping' sovereignty or 'the right of intervention' undermining 'the right of state sovereignty', intervention should be seen as compatible with the concept of sovereignty.

Third, the Report argues that intervention should not be seen as undermining the centrality of the UN Security Council; rather than seeking to find alternative authorization, the aim is to strengthen the Security Council and make it work better.

Finally, the Commission wished to distance its work from the challenges faced by the international community in response to the post-September 11 'war against terrorism', arguing that 'the two situations in our judgement are fundamentally different'.<sup>8</sup> The 'war against terrorism' is viewed by many liberal peace advocates of humanitarian intervention as a return to a more traditional *Realpolitik*, where regimes, such as those in Pakistan and Turkey, may be supported by the US despite human rights problems and the focus is less on individual or human security concerns but on the more traditional concerns of state security and the defence of national interests. Making the distinction between human protection claims and the response to terrorist attacks, the Commission felt that in the latter case the UN Charter provided explicit authority for military intervention under Article 51 'the right of self-defence'.

By refocusing the discussion the Commission claims that the liberal peace thesis of reform of the international security architecture to meet the demands of 'human security' and human rights can achieve an international consensus which brings the international framework in line with the perceived demand for legitimate interventions. The following sections of this essay argue that this thesis is unlikely to win international consensus, as despite the refocusing of the discussion the essential concerns

of non-Western states have been ignored in the Report. More fundamentally, it suggests that the Commission underestimates the problems involved in distinguishing international interventions which may be motivated by moral, humanitarian, reasons from those which are motivated by traditional *Realpolitik* concerns of the Great Powers.

### Humanitarian Intervention

The Commission is against the use of the concept of humanitarian intervention for two reasons. First, in response to ‘very strong opposition expressed by humanitarian agencies, humanitarian organisations and humanitarian workers’ who have argued that it is an anathema for a concept describing humanitarian relief and assistance to be used in relation to military action.<sup>9</sup> Second, despite its remit to build an international consensus in favour of intervention, the Commission argues that use of ‘an inherently approving word like “humanitarian” tends to prejudice the very question at issue – that is whether the intervention is in fact defensible’.<sup>10</sup>

On the second point, it should be emphasized that although the Commission is reluctant to use ‘inherently approving’ words like ‘humanitarian’ or to ‘prejudge’ the issue of military intervention, the whole discussion of the ‘responsibility to protect’ in the two-volume Report is based on the ‘humanitarian’ framework. The Commission relies on ‘inherently approving’ moral reasoning to challenge Realist conceptions of the international sphere as one of competition and conflicting interests of power:

The notion of responsibility itself entails fundamental moral reasoning and challenges determinist theories of human behaviour and international relations theory. The behaviour of states is not predetermined by systemic or structural factors, and moral justifications are not merely after-the-fact justifications or simply irrelevant.<sup>11</sup>

Rather than powerful states forcing the question of rewriting the rules of intervention, the Commission poses the shift as one of moral and ethical values which empowers individuals, noting that the ‘compelling normative claim that all individuals have inalienable human rights has spread far and wide...as the ideas embodied in the [Universal] Declaration [of Human Rights] have become weapons that the powerless have mobilised against the powerful’.<sup>12</sup>

The Commission argues that their perspective is not based on power or *Realpolitik*, but morality. The ‘responsibility to protect’ implies a duty on the state to act as a ‘moral agent’.<sup>13</sup> The moral action of states is

crucial to the liberal peace thesis as rights can only be enforced by state action.<sup>14</sup> States which fail to act in a morally responsible manner and abuse the human rights of their citizens then necessitate intervention by other states which 'are indeed capable of acting as agents of common humanity'.<sup>15</sup>

On the first point, the Commission argues that intervention for human protection is not humanitarian and should not be confused with traditional UN peacekeeping which was based on consent, neutrality and the non-use of force.<sup>16</sup> Military intervention 'may make it impossible for humanitarian workers to remain', meaning that there will inevitably be 'less humanitarian assistance in the short-run'. The Commission's view of 'humanitarianism' or 'human protection' is rightly stressed as being a far cry from the traditional non-military one:

Paradoxically, the logic of the Charter to use forcible measures only as a last resort may be inappropriate to foster humanitarian objectives. Rather than gradually ratcheting up to more interventionist measures, it is plausible that an earlier resort to military force may be more humane.<sup>17</sup>

The Commission highlights the danger that a focus on humanitarianism can be a barrier to the use of force: 'When enforcement begins, there are humanitarian consequences and tough choices about short- and long-term trade-offs.'<sup>18</sup> The Report argues that the humanitarian impulse is often a misleading and short-term one and that the media 'by focusing on human suffering...tends to divert publics and policy makers from hard diplomatic and military decisions'.<sup>19</sup> The Commission stresses that humanitarian intervention can be a step backwards in crisis situations, particularly if it is perceived as 'an alternative to more serious political and military engagement':

The presence of outside aid workers in zones of deadly conflict mitigates the horror, by suggesting that help is at hand, and affords the illusion that major powers are doing something... Traditional humanitarian aid sometimes precludes (and is often intended to preclude) any sort of intervention.<sup>20</sup>

The Commission attempts to maintain the moral highground of humanitarian intervention, but without restrictions on the use of force. While the use and threat of force is viewed as essential to the liberal peace thesis, the Commission wishes to argue that force in these cases is morally progressive, as it is in the interests of the 'victims of world politics' rather than the self-interest of the intervening powers.

### Compatibility with State Sovereignty

Central to the Commission's Report is the assertion that it is important that language does not become a barrier to carrying the debate forward. For this reason, 'the language of past debates arguing for or against a "right to intervene" by one state on the territory of another state is outdated and unhelpful'. The Commission prefers 'to talk not of a "right to intervene" but of a "responsibility to protect"'.<sup>21</sup> The old language is held to be unhelpful for three reasons: first, it 'necessarily focuses attention on the claims, rights and prerogatives of the potentially intervening states' rather than the urgent needs of potential beneficiaries; second, 'the familiar language does effectively operate to trump sovereignty with intervention at the outset', setting up a conflict between the rights of intervention and the rights of sovereignty; third, previous discussion of the 'right to intervene' focused on the less popular military aspects of the liberal peace thesis rather than prior preventive efforts or post-conflict assistance.<sup>22</sup> These three concerns are considered below.

#### *Rights of Intervening Powers?*

This is the key problem faced by the Commission which is keen to assert that 'what is at stake here is not making the world safe for big powers, or trampling over the sovereign rights of small ones'.<sup>23</sup> Rather than giving rights to the Great Powers, the change in terminology reflects 'a change in perspective, reversing the perceptions inherent in the traditional language'.<sup>24</sup> The 'responsibility to protect' is held to imply an 'evaluation of the issues from the point of view of those seeking or needing support'.<sup>25</sup> The spotlight is on the victims of abuses, rather than their potential saviours in the West.

The Report stresses the 'value of shifting from an emphasis on rights to responsibilities, which focuses attention on concrete measures that states might take to operationalise a meaningful right to protection for affected populations'.<sup>26</sup> While the traditional terminology of 'rights' is removed from debate (both the rights of the intervening state and the rights of states intervened in) 'rights' are smuggled back in and given to the individuals who have the 'right to protection'. Despite the protestations of the Commission, the Report overtly argues that individual human rights 'trump' the rights of sovereignty:

Rather than accept the view that all states are legitimate... states should only qualify as legitimate if they meet certain basic standards of common humanity... The implication is plain. If by its actions and, indeed, crimes, a state destroys the lives and rights of its citizens, it forfeits temporarily its moral claim to be treated as

legitimate... This approach [has been called] 'sovereignty as responsibility'. In brief, the three traditional characteristics of a state... (territory, authority, and population) have been supplemented by a fourth, respect for human rights.<sup>27</sup>

The focus on the 'rights of protection' and the 'concrete measures that states might take to operationalise' this right, in effect puts the emphasis on the intervening powers in exactly the same way as the more confrontational assertion of a 'right of intervention'. The only difference is that where the UN Charter right of non-intervention put the burden of justification on the powers intervening, as we shall see below, the concept of 'sovereignty as responsibility' puts the burden of justification on the state intervened in to substantiate its 'moral claim to be treated as legitimate'.

### *Supporting Sovereignty?*

Rather than delegitimizing state sovereignty the Commission asserts that the 'primary responsibility' rests with the state concerned. In many cases this responsibility will be carried out with the active partnership of the international community, and only if the state is unwilling or unable to address the problem or work in cooperation with the international community would the international community assume direct responsibility. The Commission states that, viewed in these terms, 'the "responsibility to protect" is more of a linking concept that bridges the divide between intervention and sovereignty; the language of the "right or duty to intervene" is intrinsically more confrontational'.<sup>28</sup>

In avoiding 'confrontation' the Commission seeks to preserve the 'importance' of sovereignty by recasting the right to self-government, no longer as a 'right' but as a 'responsibility'. In this way the Commission seeks to downplay its judgement that 'sovereignty is not absolute but contingent' and can be 'temporarily suspended'.<sup>29</sup> Rather than the traditional view that sovereignty implies non-interference, the redefined concept of 'sovereignty as responsibility' implies the right of interference if 'the community of responsible states' decides this to be in the interests of protection. The background report spells out that 'sovereignty then means accountability to two separate constituencies: internally, to one's own population; and internationally, to the community of responsible states'.<sup>30</sup>

This shift in 'accountability' clearly has major implications for sovereignty because a power which is 'accountable' to another, external, body clearly lacks sovereign authority.<sup>31</sup> As the Commission co-chairs note, this shift changes 'the essence of sovereignty, from control to responsibility'.<sup>32</sup> The Commission attempts to avoid discussion of this fundamental

downgrading of the importance of sovereignty through ‘shifting the terms of the debate’.

### *Non-military Focus?*

International consultations demonstrated that the kind of intervention favoured by non-Western states was not military but economic. Many states wanted more attention paid to preventive assistance in terms of foreign aid and development assistance, and some argued that if Western powers were so concerned with people’s rights to protection that they were willing to go to war, why then could they not show the same concern when it came to providing assistance to address the social and economic problems which were perceived to be at the heart of most Third World conflict?<sup>33</sup> The deep suspicion over the military focus of the liberal peace thesis is taken up by the Commission in the belief that shifting the focus ‘should help make the concept of [military] reaction itself more palatable’.<sup>34</sup>

The concerns of non-Western states for non-military forms of assistance are understandable, but their conception of the relationship involved seems rather different from the Commission’s intentions. Rather than providing much-needed assistance to enable states to tackle problems themselves it would appear that the Commission would see non-military assistance as part of the internationally-mandated responsibilities involved in securing the liberal peace. Arguing the support of the UN Charter, the Report asserts that Article 55 ‘explicitly recognises that solutions to international economic, social, health and related problems; international, cultural and educational cooperation; and universal respect for human rights are all essential for “the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations”’. In which case, according to the Commission, none of these questions can be seen as purely domestic, rather than international, concerns. ‘The Charter thus provides the foundation for a comprehensive and long-term approach to conflict prevention based on an expanded concept of peace and security.’<sup>35</sup>

This broader ‘responsibility’ is seen to provide ‘conceptual, normative and operational linkages between assistance, intervention and reconstruction’.<sup>36</sup> In fact, the Commission argues that it is ‘the fundamental thesis of this report that any coercive intervention for human protection purposes is but one element in a continuum of intervention’.<sup>37</sup> The concept of a ‘continuum of intervention’ inevitably blurs the line between the domestic and the international spheres. In arguing that the international community not only has ‘a responsibility to react’ but also has a ‘responsibility to prevent’ and a ‘responsibility to rebuild’,



the Commission makes external intervention more legitimate and extends the rights of a 'continuum' of mechanisms of less and more coercive international interference from imposed human rights monitoring and aid conditionality to the use of sanctions, arms embargoes, war crimes tribunals, preventive deployment of peacekeeping forces and the threat of force.<sup>38</sup>

The Commission advocates a focus on 'root cause prevention' as a guide to the additional 'responsibilities' of preventive and post-conflict intervention. This form of preventive intervention would institute comprehensive Western regulation under the threat of military intervention if non-Western states were 'unwilling or unable to cooperate'. The Commission highlights four areas where preventive intervention would be legitimate: in the political, economic, legal and military spheres.

In the political field, the Report states that the needs and deficiencies that the international community would be responsible for addressing 'might involve democratic institution and capacity building, constitutional power-sharing, power-alternating and redistribution arrangements; confidence building measures...; support for press freedom and the rule of law; the promotion of civil society; and other types of similar initiatives'.<sup>39</sup> In the economic field, 'root cause prevention may also mean tackling economic deprivation and the lack of economic opportunities' through development assistance and cooperation or encouraging economic and structural reform.<sup>40</sup> In the legal sphere, this might mean international assistance in legal reform, law enforcement, or enhancing protections for vulnerable groups. In the military sphere, international assistance might be necessary for example to train military forces, promote disarmament, or prohibit land mines.

The Commission recognizes that some states may be unwilling to accept internationally-endorsed preventive measures 'even of the softest and most supportive kind' because of a fear that any 'internationalisation' of the problem will 'start down the slippery slope to intervention'.<sup>41</sup> Their response is an illuminating one. First, they suggest that international policy makers demonstrate 'sensitivity' and 'acknowledge frankly' the 'inherently coercive and intrusive' character of many preventive measures, and second, they warn that states which 'resist external efforts to help may well, in so doing, increase the risk of inducing increased external involvement, the application of more coercive measures, and in extreme cases, external military intervention'.<sup>42</sup>

There is a clear contradiction between the Commission's focus on a broad 'responsibility to protect' derived from the expanded concept of peace and security of the UN Charter and their assertion that their 'objective overall is not to change constitutional arrangements or undermine

sovereignty, but to protect them'.<sup>43</sup> While the 'objective' may not be to undermine sovereign status, the broader 'responsibilities' assumed by the international community over a wide range of issues would fundamentally alter the relationship between non-Western states and international institutions. The Report cites one analyst who notes: 'All of this points toward an international change comparable to decolonisation, but operating in reverse gear, a counter-reformation of international trusteeship.'<sup>44</sup>

Shifting the focus away from the 'rights' of states to intervene has also acted to shift the focus away from the 'rights' of states to protect their sovereignty. The Commission casts the 'responsibility to protect' in a way that blurs any clear division between the domestic and the international.<sup>45</sup> Under the guise of shifting attention to the 'requirements of those who need help or seek assistance' the Commission's Report fundamentally challenges the rights of sovereignty while shoring up Western claims of a new 'right' or 'responsibility' to intervene.

### **Compatible with the United Nations**

In its consultations, the Commission found an 'overwhelming consensus' that the UN Security Council was the most appropriate body to deal with questions of military intervention. The Report states:

If international consensus is ever to be reached about when, where, how and by whom military intervention should happen, it is very clear that the central role of the Security Council will have to be at the heart of the consensus. The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work much better than it has.<sup>46</sup>

The majority opinion of the world's states is that if there is to be any exception to Security Council authorization there would have to be 'unequivocal and agreed criteria and safeguards'.<sup>47</sup> The Report states that it is its task to meet these testing requirements: 'Our purpose is not to license aggression with fine words, or to provide strong states with new rationales for doubtful strategic designs, but to strengthen the order of states by providing clear guidelines to guide concerted international action'.<sup>48</sup> The Commission argues that 'the task is to define, with as much precision as possible, what these exceptional circumstances are, so as to maximise the chances of consensus being reached in any given case'.<sup>49</sup>

The Commission does not start from the UN Charter rules on whether intervention is permissible but theorizes the legitimacy of intervention

from the starting point of the 'protection' of the potential victim. This enables the Commission to come up with a set of moral criteria for military intervention which are held to exist independently of international law or any particular political decision or consensus in the Security Council. The political reality that there is no possibility of international consensus on an acceptable amendment of the UN Charter to justify or legalize 'humanitarian intervention' has meant that the search for independent justification through the development of 'consistent, creditable and enforceable standards' has inevitably been a fruitless one. The Report's discussion of the possible criteria reveals that rather than clarifying the question, the end product can only be vague and ambiguous 'ethical checklists' which, rather than clearly defining, and limiting, 'exceptional cases', can easily be used to further erode the need for UN authorization.<sup>50</sup>

The Commission argues that six criteria must be satisfied for military intervention to be justified on the grounds of a 'responsibility to protect': just cause, right intention, right authority, last resort, proportional means and reasonable prospects.<sup>51</sup> While most governments might agree that intervention without UN Security Council authorization can only be permissible if these criteria are met, there is little consensus on how these might be interpreted. The last three clearly rely on highly subjective judgements, particularly in the case of pre-emptive or preventive interventions. Below, the central concepts of just cause, right intention and legitimate authority are discussed.

### *Just Cause?*

The Commission states that 'large scale loss of life, actual or apprehended' and 'large scale ethnic cleansing, actual or apprehended' constitute the two broad sets of circumstances which can justify military intervention for human protection purposes. However, the Commission recognizes that even here there is no clarity and no consensus. Where there is clarity it is to stretch any definition rather than restrict it, they state that there is no minimum limit and thereby the Commission 'make no attempt to quantify "large scale"' although: 'What we do make clear, however, is that military action can be legitimate as an anticipatory measure in response to clear evidence of likely large scale killing.'<sup>52</sup>

The support for anticipatory military intervention places a high, some would say impossible, premium on reliable evidence. The Commission argues that ideally this would be provided by 'a universally respected and impartial non-government source'. However, there is none to be found. The International Committee of the Red Cross is seen as an 'obvious candidate' but the Commission found that it was 'absolutely

unwilling to take on any such role'.<sup>53</sup> The Commission concludes that 'it is difficult to conceive of any institutional solution to the problem of evidence, of a kind that would put the satisfaction of the "just cause" criterion absolutely beyond doubt'.<sup>54</sup>

### *Right Intention?*

The Commission states that the primary purpose must be 'to halt or avert human suffering'. Any use of military force 'that aims from the outset' to alter borders, to advance a particular combatant group's claims, to overthrow a regime or to occupy territory would therefore be seen to lack the right intention; also doubts would be raised over any actions undertaken by individual states without international support. However, there are major caveats. Although not a 'primary purpose' the Commission argues that 'effective intervention may require a change of political regime' and the occupation of territory under new protectorates, temporary international administrations and trusteeships. Under the rubric of 'averting human suffering' it would appear that few actions can be excluded.

Furthermore, the Commission argues that *Realpolitik* dictates that any prohibition on self-interests must be heavily restricted. Rather than being a negative factor which counts against the legitimacy of any intervention, the Report suggests that self-interest could be seen as positive: 'if risks and costs of intervention are high and interests are not involved, it is unlikely that states will enter the fray or stay the course. Those who advocate action to protect human rights must inevitably come to grips with the nature of political self-interest to achieve good ends.'<sup>55</sup> Similarly, the Report argues that if an intervention is 'ethically sound' then 'it is hard to see why it would not remain so if conducted by a single state' even if this was a hegemonic power, 'especially as these are among the few countries with the power to project military force beyond their borders'.<sup>56</sup>

### *Right Authority?*

The Commission uses the criticism of many non-Western states to argue that the Security Council is in need of reform and is undemocratic and unrepresentative.<sup>57</sup> However, while the Commission found 'significant support' among non-Western states in favour of making the UN system more representative of world opinion when it comes to the controversial question of military intervention, the Report takes a different approach.<sup>58</sup> The Commission explicitly argues against making the final authority more democratic:

An inhibiting consideration always is the fear that the tiger of intervention, once let loose, may turn on the rider: today's intervener

could become the object of tomorrow's intervention. The numerical majority of any collective organisation, almost by definition, will be the smaller, less powerful states, suspicious of the motives of the most powerful in their midst, and reluctant to sanction interference by the powerful against fellow-weaklings.<sup>59</sup>

These concerns were fully brought out in the consultation sessions in Africa, India, the Middle East, China and Russia.<sup>60</sup> However, despite the Commission's professed concern to listen to non-Western voices and opinions, the Report rejects the view that where there is no consensus in the Security Council the General Assembly under the 'Uniting for Peace' provisions should have the authority.<sup>61</sup> The Commission argues: 'the practical difficulty in all this is to contemplate the unlikelihood, in any but [a] very exceptional case, of a two-thirds majority, as required under the Uniting for Peace procedure'.<sup>62</sup> Instead, the Commission favours granting legitimacy to interventions by ad hoc coalitions or individual states acting without Security Council or General Assembly approval. Although its brief was to attempt to forge a consensus on this question, the Commission is forced to admit that such interventions 'do not – it would be an understatement to say – find wide favour'.<sup>63</sup> The Commission ostensibly abandons its brief when confronted with the crucial question of authorization, recognizing that it is impossible to establish a consensus around a position which is only held by a minority of states:

As a matter of political reality, it would be impossible to find consensus, in the Commission's view, around any set of proposals for military intervention which acknowledged the validity of any intervention not authorised by the Security Council or General Assembly.<sup>64</sup>

The Commission argues that this 'political reality' cannot be allowed to undermine international idealism. The Report asserts that although the UN must make some concessions to political realism 'the organisation is also the repository of international idealism, and that sense is fundamental to its identity'.<sup>65</sup> This ideal, which gives the UN its moral legitimacy, must not be restricted by the selfish interests of the majority of states if 'unbridled nationalism and the raw interplay of power' are to 'be mediated and moderated in an international framework... dedicated dedicated to protecting peace and promoting welfare – of achieving a better life in a safer world, for all'.<sup>66</sup>

The Report affirms that: 'It is a real question in these circumstances where lies the most harm: in the damage to international order if the Security Council is bypassed or in the damage to that order if human beings are slaughtered while the Security Council stands by'.<sup>67</sup> The lack

of consensus on intervention should not prevent action being taken on moral grounds, even if this means undermining the institution of the UN. The supplementary volume clarifies the ‘moral consequences of too rigid an attachment to the non-intervention rule without Security Council imprimatur’ and asserts that ‘opposition by one or more of the permanent members’, or, by implication, that of over a third of the General Assembly, should not prevent intervention as this would ‘fly in the face of the moral impulses behind the sovereignty-as-responsibility doctrine’.<sup>68</sup>

The Report highlights two trends which make the UN central to the international legitimacy of intervention. First, the fact that the Security Council has steadily expanded the mandate of legitimate intervention by means of the redefinition of ‘threats to international peace and security’. Second, the increasingly apparent lack of authority of the UN to enforce its mandate independently of the will of major powers.<sup>69</sup> This has led to ambiguous resolutions which have, in effect, given a free reign to the states which acted to enforce them:

A series of ambiguous resolutions and conflicting interpretations have arisen over the extent and duration of the authority conferred by the Security Council. These were most notable in the operations against Iraq throughout the 1990s and in the Kosovo War in 1999. The weakening of the formal requirements may have undermined the substantive provisions of the Charter’s collective security system and contributed to facilitating actions in advance of Council authorisation, or indeed without it.<sup>70</sup>

In this context, it appears that the shift towards intervention under the ‘responsibility to protect’ is as much a pragmatic response to changes in *Realpolitik* as it is a response based on concern for the world’s victims. If the UN Security Council does not reach a consensus on intervention the Secretary-General has warned that ‘there is a grave danger’ that the Security Council will be bypassed, as over Kosovo. The Commission argues that if the UN Security Council ‘fails to discharge its responsibility’ then it is ‘unrealistic to expect that concerned states will rule out other means’: ‘If collective organisations will not authorise collective intervention against regimes that flout the most elementary norms of legitimate governmental behaviour, then the pressures for intervention by ad hoc coalitions or individual states will surely intensify.’<sup>71</sup> The Commission essentially recognizes that there is little to stop the US and its allies from ignoring the UN Security Council and taking action against the sovereignty of non-Western states. In this context the Security Council ‘veto’ is not a veto at all and its use or threatened use merely exposes the fact that military intervention is dictated by ‘might’ rather than ‘right’.

In arguing against the Security Council veto, the Commission focuses on the dangers of the UN being sidelined by the major powers, but it has not thought to consider the problems this leads to in terms of turning the UN into a rubber stamp for legitimizing unilateral action by the US and its allies. As Richard Falk and David Krieger argue:

There are two main ways to ruin the UN: to ignore its relevance in war/peace situations, or to turn it into a rubber stamp for geopolitical operations of dubious status under international law or the UN Charter. Before September 11, Bush pursued the former approach; since then – by calling on the UN to provide the world's remaining superpower with its blessings for an unwarranted war – the latter.<sup>72</sup>

It would appear that in seeking to ensure that the UN remains central to legitimizing intervention by giving UN legitimacy to any such intervention independently of the UN's political role in building an international consensus, the Commission's proposals, if acted upon, may well undermine the UN, rather than ensuring that it works 'better'.

### Post-September 11

The Commission is keen to assert that the 'war against terrorism' bears no relation to the discussion over the 'responsibility to protect' because there is explicit authority for military intervention in this case under the UN Charter. However, it is increasingly apparent that the arguments developed by the Commission in support of the liberal peace thesis appear to have been fully appropriated by the Conservative 'hawks' in the Washington establishment who are often seen to be guided by the principles of *Realpolitik* and US power rather than any genuine desire to 'refocus the discussion on the victims'. Despite trying to distance the discussion around 'responsibility to protect' from the 'war against terrorism' the underlying concern with Great Power international regulation around pre-emption and prevention is clear. As the Report notes: 'Preventive strategies are appealing both from the point of view of a liberal humanitarian ethos and that of a *Realpolitik*, national-security logic.'<sup>73</sup>

It would appear that the advocates of the liberal peace do not have a monopoly on the morality of putting the needs of victims first. George W. Bush argues that moral universalism should be the guide to state action in very similar words to those used in the Report:

Some worry that it is somehow undiplomatic or impolite to speak the language of right and wrong. I disagree. Different circumstances require different methods, but not different moralities. Moral truth

is the same in every culture, in every time, and in every place. Targeting innocent civilians for murder is always and everywhere wrong. Brutality against women is always and everywhere wrong. There can be no neutrality between justice and cruelty, between the innocent and the guilty. We are in a conflict between good and evil, and America will call evil by its name. By confronting evil and lawless regimes, we do not create a problem, we reveal a problem. And we will lead the world in opposing it.<sup>74</sup>

The concept which has most directly linked the 'war against terrorism' and the 'responsibility to protect' has been that of the danger posed by 'failed states'. For example, the British Foreign Secretary, Jack Straw, has argued that non-Western states could be assessed on a 'continuum of failure' based on preventive concerns similar to those expressed in the Commission's Report – relating to their capacity to provide security, effective governance and the rule of law and respect for human rights and economic growth, education and welfare. He argues that preventive intervention will often be necessary: 'Rather than waiting for states to fail, we should aim to avoid state failure wherever possible. Returning to my medical analogy, prevention is better than cure. It is easier, cheaper and less painful for all concerned.'<sup>75</sup>

The central theme of 'prevention', and the rejection of Cold War policies of containment for more interventionist policies, was also emphasized in the new US national security strategy, launched in September 2002, highlighting the new consensus around one of the central claims of the Commission's Report, the legitimacy of anticipatory strikes.<sup>76</sup> The shared theme of pre-emptive intervention demonstrates how easily the moral justification for intervention stands independently of, and inevitably undermines, the consensual framework of international law.<sup>77</sup>

The lengthy public preparations for war against Iraq, although posed in the context of the 'war against terrorism', were also clearly shaped by the ongoing discussion around the imposition of the liberal peace.

First, the legitimacy of the UN Security Council was consistently raised, with US threats to go it alone. George W. Bush consistently used the 'new perspective' and language of the Commission in demanding that the United Nations met its 'responsibilities' regarding Iraq. In his September 2002 address to the General Assembly, Bush threatened that failure to support US action against Iraq, over the 'repression of its own people, including the systematic repression of minorities', in breach of Security Council resolutions, would make the United Nations 'irrelevant'.<sup>78</sup>

Second, the military intervention was clearly posed in the terminology of the 'responsibility to protect' rather than traditional warfighting, as



Bush stated to the world's press and in his 2003 New Year message at Fort Hood, in Texas, the largest military base in the US: 'Should we be forced to act... [US troops] will be fighting not to conquer anybody, but to liberate people.'<sup>79</sup> The US action to 'liberate' the people of Iraq inevitably raised questions about the accountability of the new post-imperial 'duty of care' implicit in the 'responsibility to protect'.<sup>80</sup> John Reid, the Labour Party chairman, similarly emphasized that the UK government's fifth war in as many years was a product of the belief in international responsibilities as well as rights: 'We not only have rights to defend in the world, but we also have responsibilities to discharge; we are in a sense our brother's keeper globally.'<sup>81</sup>

### Conclusion

Today, in purely pragmatic terms, for Western powers, it is far easier to intervene abroad without risking a larger conflagration, whatever the mix of motivational reasons.<sup>82</sup> It would appear that the UN Charter restrictions on the use of force depended not only on the moral legitimacy of international law but also the balance of power during the Cold War.<sup>83</sup> However, while there is little barrier to the assertion of US power around the world, there is, as yet, no framework which can legitimize and give moral authority to new, more direct forms of Western regulation. The crisis of a legitimate framework would appear to be the dynamic driving the convergence of morality and *Realpolitik*, whether expressed in the 'responsibility to protect' or the 'war against terrorism'. This crisis has provided the context in which the morally-based ideas of the 'liberal peace' could move from being a marginal concern into the mainstream.

The less certainty there is regarding the international legal and political framework the more morality and ethics have come into play in an attempt to provide the lacking framework of legitimacy. It is no coincidence that the first modern moral war 'fought not for territory but for values', as UK Prime Minister Tony Blair described the war over Kosovo, was also fought without UN Security Council authorization.<sup>84</sup> Rather than being condemned for its illegality, the Kosovo crisis was held by many leading Western government officials to have illustrated the growing importance of morality and ethics in international relations.<sup>85</sup>

A clear example of the importance of moral or ethical legitimacy where the legal and political framework of the UN is disputed was provided by the 2003 Iraq conflict. Tony Blair, faced with difficulty in winning the legal arguments, domestically and at the UN, increasingly emphasized the moral argument against leaving Saddam Hussein in

power and the strength and honesty of his personal moral conviction.<sup>86</sup> The gap between what is considered to be ‘morally legitimate’ and what is permissible under international law would appear also to illustrate the gap between the international balance of power in 2003 and that of 1945 when the UN Charter regime was established.

The close relationship between *Realpolitik* and morality is not a contradictory one. *The Responsibility to Protect* demonstrates that while morality can work in the service of power the opposite relationship cannot apply. ‘A settled principle of ethical reasoning is that “ought implies can”.’<sup>87</sup> However, the Commission recognizes that when it comes to international relations ‘it would be foolish to ignore the reality’.<sup>88</sup> For example, even if all the Commission’s criteria for intervention were met, military intervention against any of the five permanent members of the Security Council or other major powers would not be justifiable.<sup>89</sup> Nevertheless, ‘the reality that interventions may not be mounted in every case where there is justification for doing so, is no reason for them not to be mounted in any case’.<sup>90</sup> It may appear that this adaptation to the reality of power politics by the Commission is not an insurmountable problem for the moral grounding of the liberal peace thesis. It is clear that waging war against major powers for human protection purposes could easily result in triggering a larger conflict and even greater loss of life.

However, the Commission seeks both to have its cake and to eat it. If states can only be guaranteed to act morally through their ‘accountability’ to international society and the threat of intervention, there can be no guarantee that major powers, immune to ‘accountability’ through such coercion, will not abuse their powers.<sup>91</sup> If there can be no guarantee of the ‘morality’ of the actions of major powers it makes little sense to dismantle the UN Charter restrictions on the use of force on the basis of moral necessity. The assumption that major powers, tasked with intervening as ‘good international citizens’, will act with higher moral legitimacy than powers which lack military and economic resources, relies on morality directly correlating with power, that is, ‘right equalling might’. The Commission’s assumption that ‘right equals might’ is little different from the *Realpolitik* doctrine that ‘might equals right’. As the Commission itself notes, ‘changing the language of the debate... does not of course change the substantive issues’.<sup>92</sup>

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## NOTES

1. Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned*, Oxford: Oxford University Press, 2000,
2. The liberal peace thesis's emphasis on shared international moral norms is often traced back to the Enlightenment and Immanuel Kant's 1795 essay *Perpetual Peace: A Philosophical Sketch*, accessed at [www.mtholyoke.edu/acad/intrel/kant/kant1.htm](http://www.mtholyoke.edu/acad/intrel/kant/kant1.htm), Kant argues that as democratic consciousness develops liberal states will emerge and band together to form a 'league of peace' to protect their own security but also to encourage the spread of liberal ideas and promote individual rights internationally. See further, Kenneth Waltz, 'Kant, Liberalism and War', *American Political Science Review*, Vol.56, 1962, pp.331–40; Michael Doyle, 'Kant, Liberal Legacies and Foreign Policy', *Philosophy and Public Affairs*, Part I in Vol.12, 1983, pp.205–35; Part II in Vol.12, 1983, pp.323–53; Chris Brown, Terry Nardin and Nicholas Rengger (eds.), *International Relations in Political Thought: Texts from the Ancient Greeks to the First World War*, Cambridge: Cambridge University Press, 2002, pp.428–55.
3. For an overview see International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Research, Bibliography, Background*, Ottawa: International Development Research Centre, 2001, pp.129–38.
4. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect*, Ottawa: International Development Research Centre, 2001, p.vii.
5. *Ibid.*; see also *The Responsibility to Protect: Research, Bibliography, Background*, p.341. The Commission was launched on 14 September 2002. The Canadian Government invited the Honourable Gareth Evans, AO QC, President of the International Crisis Group and former Australian Foreign Minister, and His Excellency Mohamed Sahnoun of Algeria, Special Advisor to the UN Secretary-General and formerly his Special Representative, SRSG, for Somalia and the Great Lakes Region of Africa to jointly head the ICISS. In consultation with the Co-Chairs, ten other distinguished Commissioners were appointed: Gisèle Côté-Harper; Lee Hamilton; Michael Ignatieff; Vladimir Lukin; Klaus Naumann; Cyril Ramaphosa; Fidel Ramos; Cornelio Somaruga; Eduardo Stein; and Ramesh Thakur. Canada's Minister for Foreign Affairs, the Honourable John Manley, also appointed an international Advisory Board of serving and former foreign ministers from Canada, Chile, the Palestinian National Authority, the UK, Poland, Mexico, the US, Egypt, Greece, Thailand, South Africa and Argentina, as well as other eminent individuals, to help ground the report in current political realities and to assist in building up political momentum and public engagement to follow up its recommendations. As well as meetings with the Advisory Board the Commissioners held five full meetings, and 11 regional roundtables and national consultations were held around the world at Ottawa, Geneva, London, Maputo, Washington, Santiago, Cairo, Paris, New Delhi, Beijing and St. Petersburg. At these meetings a variety of national and regional officials, representatives of civil society, academic institutions and think tanks, joined some of the Commissioners and one, but usually both, of the Co-Chairs in deliberations. The Commission also met with interested governments, representatives of Permanent Missions, heads or senior representatives of major international organizations and UN agencies and with the Secretary-General Kofi Annan and key members of the UN Secretariat. Alongside this process, an extensive research programme was organized in support of ICISS's work and an international research team created, led jointly by Thomas G. Weiss, Presidential Professor at The CUNY Graduate Centre and Stanlake J.T.M. Samkange, a lawyer and former speechwriter to UN Secretary-General Boutros Boutros-Ghali.
6. *The Responsibility to Protect*, p.2.

7. International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Research, Bibliography, Background*, Ottawa: International Development Research Centre, 2001,
8. *The Responsibility to Protect*, p.viii.
9. Ibid. p.9.
10. Ibid.
11. *Research, Bibliography, Background*, p.129.
12. Ibid. pp.134–5.
13. Ibid. p.136.
14. The Report notes: 'There is little reason to invest much hope that global civil society can systematically ensure human security.' NGOs can play important roles in standard-setting and monitoring but states remain the only actors with the resources and power to ensure human protection measures are enforced. See *Research, Bibliography, Background*, p.136.
15. Ibid.
16. *The Responsibility to Protect*, p.57.
17. *Research, Bibliography, Background*, p.21.
18. *The Responsibility to Protect*, p.61.
19. *Research, Bibliography, Background*, p.213.
20. Ibid., p.191.
21. *The Responsibility to Protect*, p.11.
22. Ibid. p.16.
23. Ibid. p.11.
24. Ibid. p.17.
25. Ibid.
26. *Research, Bibliography, Background*, p.127.
27. Ibid. p.136.
28. *The Responsibility to Protect*, p.17.
29. *Research, Bibliography, Background*, p.11.
30. Ibid. p.11.
31. As Robert Jackson states, sovereignty is a legal concept which is absolute: 'Absolute in that sovereignty is either present or absent. When a country is sovereign it is independent categorically: there is no intermediate condition', either a state has legal sovereignty, i.e. 'is not subordinate to another sovereign but is necessarily equal to it in international law' or it does not have sovereignty; it is legally impossible to have some 'half-way house' and therefore, 'no question of relative sovereignty'. Robert Jackson, *Quasi-states: Sovereignty, International Relations and the Third World*, Cambridge: Cambridge University Press, 1990, p.32.
32. Gareth Evans and Mohamed Sahnoun, 'The Responsibility to Protect', *Foreign Affairs*, Vol.81, No.6, Nov.–Dec. 2002, pp.99–110, p.101.
33. Participants at the Maputo regional roundtable, for example, believed that Africa had been marginalized by the Security Council, comparing the billions of dollars expended on the Balkans with the case of Liberia where UN members failed to meet pledges of \$150 million in support of subregional efforts. The discussion stressed the 'strong nexus between poverty and conflict' and complained that in relation to poverty international responses have ranged from inadequate to entirely absent. Of particular concern was the increasing deterioration in the terms of trade and the sharp reduction in the disbursement of bilateral aid. *Research, Bibliography, Background*, p.363.
34. Gareth Evans and Mohamed Sahnoun (see n.32), p.101.
35. *The Responsibility to Protect*, p.22.
36. Ibid. p.17.
37. Ibid. p.67.
38. *Research, Bibliography, Background*, p.28.
39. *The Responsibility to Protect*, p.23.
40. Ibid.

41. Ibid., p.25.
42. Ibid.
43. Ibid.
44. *Research, Bibliography, Background*, p.199.
45. As stated above, the Report considers that: 'the "responsibility to protect" is more of a linking concept that bridges the divide between intervention and sovereignty; [while] the language of the "right or duty to intervene" is intrinsically more confrontational', *The Responsibility to Protect*, p.17, Whereas the language of the 'right of intervention' highlights the challenge to established rights of sovereign equality, the language of the 'responsibility to protect' attempts to minimize the importance of this proposed shift in legal perspective.
46. Ibid. p.49.
47. See for example, *Research, Bibliography, Background*, p.377.
48. *The Responsibility to Protect*, p.35.
49. Ibid. p.31.
50. Ibid. p.11; *Research, Bibliography, Background*, p.360.
51. *The Responsibility to Protect*, p.32.
52. Ibid. p.33.
53. Ibid. pp.34–5.
54. Ibid. p.35.
55. *Research, Bibliography, Background*, p.140.
56. Ibid. p.141; see also p.186.
57. *The Responsibility to Protect*, p.51. For example, the majority of participants at the Cairo regional roundtable felt that the Security Council lacked legitimacy with Arab public opinion following its perceived double-standard approach in dealing with the region and was 'unrepresentative and undemocratic'; *Research, Bibliography, Background*, pp.376–7. Many participants at the New Delhi regional roundtable called for a review of the structure and composition of the Security Council to make it more representative and increase its legitimacy; *Research, Bibliography, Background*, p.389.
58. *The Responsibility to Protect*, p.53; see also *Research, Bibliography, Background*, p.377.
59. *The Responsibility to Protect*, p.54.
60. Participants at the Maputo regional roundtable were concerned that intervention would reflect the needs of powerful states intervening and wished to avoid the Western view of Africa 'as a problem to be solved', *Research, Bibliography, Background*, pp.362–4, The New Delhi regional roundtable raised similar concerns that 'the morality and claimed legitimacy of interventions have in reality only been those of dominant nations or groups of nations'. These fears were held to be as relevant today as in the past as 'international society still lacks...an authoritative, objective decision maker to adjudicate the applicability of intervention'; *Research, Bibliography, Background*, p.388, The majority of the participants at the Cairo regional roundtable agreed that the use of force should be strictly in conformity with the UN Charter. Nabil Elarby from the Egyptian Council of Foreign Affairs, the Chair of the meeting, concluded the session with a ringing endorsement of the UN Charter's prohibition of the use of force 'as the greatest achievement of the contemporary international legal order in the 20th century'; *Research, Bibliography, Background*, pp.376–8. In Beijing, Chinese participants at the regional roundtable strongly emphasized that the interventionist liberal peace thesis was flawed on the basis of law, theory and practice, concluding that 'using force for moral or conceptual reasons is questionable and dangerous'; *Research, Bibliography, Background*, p.392. A similar response greeted the Commissioners at the St Petersburg regional roundtable, which raised concerns over Western unilateralism and double standards, highlighting that the ICISS thesis 'risks undermining the whole international system'; *Research, Bibliography, Background*, pp.394–8.

61. For example, participants at the Cairo roundtable rejected the ICISS Commissioner's suggestion that an international board of eminent persons make recommendations to the Secretary-General or president of the Security Council as to when intervention may be required: 'They noted that for the majority of the Third World, the General Assembly, while flawed, is still the most democratic of the existing international bodies, and it is, at the very least, a better reflection of world public opinion'; *Research, Bibliography, Background*, p.377.
62. Ibid. p.53.
63. Ibid. p.54.
64. Ibid. pp.54–5.
65. Ibid. p.52.
66. Ibid.
67. Ibid. p.55.
68. *Research, Bibliography, Background*, p.137.
69. In the Cold War era the UN Security Council, hamstrung by the veto of one or other of the Great Powers, played a minor role in the authorization of military intervention. It is in the context of UN Security Council activism over the past decade that the question of the enforcement of UN mandates has become increasingly problematic. This was apparent in the case of Iraq after the 1991 Gulf War when there was no consensus on whether UN Security Council Resolution 688 authorized the air-exclusion zones restricting Iraqi sovereignty in North and South Iraq. There was similarly little agreement over whether UN Security Council Resolution 1441 authorized the use of military force in the run-up to the second Gulf War in 2003.
70. Ibid. p.120.
71. *The Responsibility to Protect*, p.55.
72. Richard Falk and David Krieger, 'Subverting the UN', *The Nation*, posted 17 October 2002. Accessed at [www.thenation.com/doc.mhtml?i=20021104&cs=falk](http://www.thenation.com/doc.mhtml?i=20021104&cs=falk).
73. *Research, Bibliography, Background*, p.27.
74. George W. Bush, 'Remarks by the President at 2002 Graduation Exercise of the United States Military Academy West Point, New York', 1 June 2002. Accessed at [www.whitehouse.gov/news/releases/2002/06/20020601-3.html](http://www.whitehouse.gov/news/releases/2002/06/20020601-3.html).
75. Jack Straw, 'Failed and Failing States: A Speech given by Foreign Secretary Jack Straw at the European Research Institute, University of Birmingham', 6 September 2002. Accessed at [www.eri.bham.ac.uk/jstraw.htm](http://www.eri.bham.ac.uk/jstraw.htm).
76. The Report states that 'military action can be legitimate as an anticipatory measure in response to clear evidence of likely large scale killing', *The Responsibility to Protect*, p.33. I am grateful to Michael Byers for highlighting this link at the British International Studies Association annual conference, London School of Economics, 16–18 December 2002. See also *The National Security Strategy of the United States of America*. Accessed at [www.whitehouse.gov/nsc/nss5.html](http://www.whitehouse.gov/nsc/nss5.html).
77. See further, David Chandler, *From Kosovo to Kabul: Human Rights and International Intervention*, London, Pluto Press, 2002, pp.185–90.
78. George W. Bush, 'President's Remarks at the United Nations General Assembly', Office of the Press Secretary, 12 September 2002. Accessed at [www.whitehouse.gov/news/releases/2002/09/20020912-1.html](http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html).
79. Cited in Julian Borger, 'Bush Rallies Troops for War', *Guardian*, 4 Jan. 2003.
80. *Research, Bibliography, Background*, p.361.
81. John Kampfner, 'Interview with John Reid', *New Statesman*, 3 March 2003.
82. As Chris Brown notes, today all but a few 'hyper-realist' international relations theorists would agree that normative principles are intimately bound up with definitions and understandings of the national interest, 'Ethics, Interests and Foreign Policy', in Karen E. Smith and Margot Light (eds.), *Ethics and Foreign Policy*, Cambridge: Cambridge University Press, 2001, pp.15–32, p.24.
83. See, for example, Jon Holbrook, 'Humanitarian Intervention and the Recasting of International Law' in David Chandler (ed.), *Rethinking Human Rights: Critical*

- Approaches to International Politics*, Basingstoke: Palgrave-Macmillan, 2002, pp.136–54, at p.142. Hedley Bull confidently asserted that international law and the system of the reciprocal rights of state sovereignty 'assume a situation in which no one power is preponderant in strength'; otherwise international law and sovereign rights could be disregarded with impunity, *The Anarchical Society: A Study of Order in World Politics*, 2nd edn., Basingstoke: Palgrave-Macmillan, 1977/1995, p.112,
84. Tony Blair, 'A New Generation Draws the Line', *Newsweek*, 19 April 1999.
  85. For example, the UK House of Commons Foreign Affairs Committee concluded that although the war was of 'dubious legality' it was, however, 'justified on moral grounds', *Fourth Report*, Session 1999–2000, paragraph 138. The UN's Independent International Commission on Kosovo concluded that 'the intervention was legitimate, but not legal', Independent International Commission on Kosovo *The Kosovo Report: Conflict, International Response, Lessons Learned* (Oxford: Oxford University Press, 2000), p.289.
  86. See, for example, Tony Blair's statements in the face of the largest anti-war political demonstrations ever seen in Britain, on 15 February 2003. While he did not openly reject the legal standing of the UN, the justification for conflict and explicitly for 'regime change', for which there is no basis in international law, is made in moral terms: 'The moral case against war has a moral answer: it is the moral case for removing Saddam. It is not the reason we act. . . But it is the reason, frankly, why if we do have to act, we should do so with a clear conscience.' Tony Blair, 'The Price of My Conviction', *Observer*, 16 Feb. 2003.
  87. *Research, Bibliography, Background*, p.150.
  88. *Ibid.*
  89. *Ibid.*, p.143.
  90. *The Responsibility to Protect*, p.37.
  91. *Research, Bibliography, Background*, p.136.
  92. *Ibid.* p.12.