The Responsibility to Protect Ten Years Later: Legitimacy and Applicability

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Introduction:

The Responsibility to Protect (R2P) has been called “the most important shift in our conception of sovereignty since the Treaty of Westphalia in 1648.”¹ Following the horrors of the holocaust, the world vowed never again to allow such mass atrocities to take place. A few short decades later, however, the atrocities that unfolded in the 1990s, including the genocide and ethnic cleansing in Rwanda and Bosnia, turned choruses of “never again” into groans of “here we go again”. International failure to intervene in these events renewed sentiments of never again, out of which the Responsibility to Protect principle was born.² It has now been a decade since the R2P doctrine was adopted by the United Nations (UN) through the World Summit Outcomes Document in 2005, and even longer since the R2P doctrine was first outlined by the International Commission on Intervention and State Sovereignty (ICISS).³ Despite advancements, preventing and ending genocide remains a major challenge as the ongoing situations in Sudan, South Sudan, the Central African Republic, Burundi, Myanmar, Iraq, and Syria all demonstrate. While continuing atrocities point to the need for robust response mechanisms, they also, along with implementation challenges, have fueled an ongoing debate as to the applicability and legitimacy of the R2P doctrine. Those that question R2P’s legitimacy and applicability argue that the principle lacks merit and its continued implementation should not be pursued, maintaining that it leads to worse human rights outcomes, places too much emphasis on military intervention, and reinforces double-standards in human rights protection. It will be the purpose of this paper, however, to argue that accusations claiming that R2P leads to worse human rights outcomes and encourages military intervention are flawed. Moreover, while there

is some merit to the contention that R2P is vulnerable to politicization, the normative potential of the R2P doctrine outweighs such criticism. Ultimately, it is simply too soon to wholly reject the R2P principle as it is still undergoing the process of norm internalization.

**Importance of the Debate for Human Rights**

The debate over the legitimacy and applicability of R2P is central to human rights as it reinforces norms of human rights protection and serves as a framework to guide international response to mass atrocities. Given both the continued and pressing nature of human rights abuses throughout the world and the challenges of human rights enforcement, a framework such as R2P is an important tool in addressing these persistent concerns. In assessing the legitimacy of R2P in this capacity, this paper will consciously refrain from engaging heavily with empirical examples. The ongoing debate over the applicability and legitimacy of R2P found in blogs and opinion pieces, while raising some legitimate concerns, tends to distort the few examples of true R2P invocation by failing to grasp the complexity of the theoretical and normative implications of the R2P doctrine. This paper will seek to address these implications and their bearing on the debate at hand.

**Reframing Sovereignty: The Responsibility to Protect Doctrine**

In order to appreciate the criticisms lobbied at the R2P principle, a brief overview of the doctrine and its implications for sovereign states is necessary. As outlined by the 2005 World Summit Outcomes Document, the purpose of the Responsibility to Protect is to prevent and protect populations from four specific gross human rights abuses: genocide, war crimes, ethnic cleansing, and crimes against humanity. In accordance with this objective, the R2P principle stipulates that the primary responsibility for protection of populations from these four abuses

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rests with the state, and states must prevent the occurrence of such crimes and violations. The international community, moreover, has the responsibility to assist states in upholding this responsibility to protect their populations. Should national authorities falter in this duty, however, R2P requires that the international community take action through diplomatic, humanitarian, and otherwise peaceful means, as well as through coercive measures such as sanctions. In the event that peaceful approaches prove inadequate, Security Council-approved collective action in accordance with the UN Charter and, “in a timely and decisive manner,” may be warranted. The document further stipulates that such intervention must be considered on a case-by-case basis and in consultation with regional organizations. The 2009 Secretary-General’s Report on Implementing the Responsibility to Protect, with its introduction of the three-pillar approach, further establishes the various responsibilities that constitute the R2P framework. In this way, the R2P principle takes state sovereignty, an integral concept of international relations that grants the state “independent and unfettered” power within its jurisdiction, and reframes it as a responsibility rather than a right.

**R2P: Better or Worse Human Rights Outcomes?**

While the intended impact of the R2P principle is then clearly to prevent and respond to gross human rights violations, some argue that contrary to the stated objective, the principle leads to worse human rights outcomes in reality. Academics such as Rajan Menon, senior fellow at the Atlantic Council, and Alex de Waal, executive director of the World Peace Foundation at Tufts University’s Fletcher School, have taken to blogs and opinion pages to proclaim the failure

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6 Ibid.
of R2P, with Menon going so far as to claim the principle is “fatally flawed.” Such critics claim that invoking R2P establishes the prospect of foreign intervention and precipitates certain responses from both repressors and rebels, which ultimately result in worse human rights outcomes. For abuse-perpetrating regimes, they argue, the prospect of foreign involvement under R2P eliminates the impetus for compromise, or else encourages the acceleration of abuses before intervention is agreed upon and implemented. Moreover they argue that rebels or opposition forces may be compelled to magnify or escalate violence in an effort to attract international intervention. Citing Kosovo and Libya, Menon claims that once intervention became an inevitability, fighting accelerated and the situation worsened. Drawing from these examples, the argument is made that, despite intentions otherwise, R2P serves to accelerate violence and results in worse human rights outcomes thus making pursuance of the doctrine unwise.

There are a few major flaws with this line of argumentation, however. To begin with, there are issues with establishing the premise that R2P intervention does indeed lead to such an escalation in violence. In drawing from examples such as conflict in Kosovo, which predated UN adoption of the R2P principle, proponents of this argument conflate R2P with humanitarian intervention. These are not, however, the same thing. Humanitarian intervention can be defined as “coercive action by one or more states involving the use of armed force in another state without the consent of its authorities, and with the purpose of preventing widespread suffering or...
death among the inhabitants.”\textsuperscript{15} Humanitarian intervention is not limited to military action, and includes peace enforcement and coercive protection.\textsuperscript{16} Humanitarian intervention certainly shares some aspects in common with R2P, in that it challenges notions of absolute sovereignty and attempts to motivate and organize international response to human rights violations. R2P, however, arose in response to misuse of the right to intervene, which characterizes humanitarian intervention, instead focusing on responsibility to intervene.\textsuperscript{17} Moreover, humanitarian intervention, with the objective of, “preventing widespread suffering or death,” is much more expansive in scope than R2P which is much more precise and limited, focusing on four specific gross human rights abuses: genocide, war crimes, ethnic cleansing, and crimes against humanity. As a result of the vastly more expansive scope of potential humanitarian intervention when compared with potential R2P intervention, conflating the impacts of past humanitarian intervention such as that which was carried out by NATO in Kosovo, with the potential impacts of R2P intervention is not accurate. Moreover, given that R2P is a relatively recent development, there is simply not enough existing empirical evidence to support the broad claim that R2P leads to worse human rights outcomes. The only comprehensive example of R2P intervention to date is that of Libya, where some argue UN-sanctioned intervention left anti-Qaddafi insurgents with no reason to compromise, while also negating any reason for Qaddafi to hold back.\textsuperscript{18} The case of Libya will be addressed in greater detail below, however, even if we accept the contention that this was the case, one single case can hardly be taken to demonstrate a pattern.

Furthermore, uncertainties over the existence of this phenomenon notwithstanding, there are considerable measurement issues with claiming that R2P leads to worse human rights outcomes.

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\textsuperscript{15} Weiss, “Humanitarian Intervention,” 5.
\textsuperscript{16} Ibid, 10.
\textsuperscript{18} Menon, “It’s Fatally Flawed,” http://www.the-american-interest.com/2013/06/12/its-fatally-flawed/.
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outcomes. Definitively establishing that intervention leads to worse outcomes is an extremely difficult task because even if invocation of R2P does to an extent exacerbate violence in a given situation, there is no way to establish that continued violence over the long term would not have resulted in even more deaths and destruction. The effects of intervention can only be discerned retroactively. Moreover, the argument is often made that R2P intervention is selective and dependent on the interests of powerful states. If this is in fact the case, however, this contradicts the logic that opposition forces would ramp up violence in an effort to garner outside attention and assistance in the form of external military intervention. If intervention is selective, then the severity of conflict has little impact on the authorization of intervention and this would appear to be a weak strategy. For these reasons, the argument that R2P should be abandoned because it leads to negative impacts for human rights is not persuasive.

**R2P: Too Militarily Focused?**

Much debate on R2P has revolved around the use of force, with critics attacking the legitimacy and applicability of R2P on the basis that it is overly focused on military intervention. Alex De Waal, for instance, claims that R2P is too focused on military intervention, a focus which he argues results from the incorrect assumption that perpetrators of gross human rights violations are insatiable in their thirst for violence and will pursue “bottomless massacres”. He thus advocates for increased consideration of non-military responses to human rights abuses. Such a militaristic portrayal of the principle is, however, a misinterpretation. The third pillar of R2P concerning intervention by the international community affirms the need for timely and decisive collective action in the event that, “national authorities are manifestly failing to protect

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their populations”. The 2009 Secretary-General’s Report on Implementing the Responsibility to Protect clearly states that the third pillar encompasses a range of non-coercive and non-violent response measures, including diplomacy, fact-finding missions, sanctions, embargos, and monitoring. There is nothing in the language of principle to suggest that military action be pursued over other options, and in fact establishes military intervention as a last resort. Moreover, R2P invocation in Kenya demonstrates the viability of non-military response in addressing human rights abuses. Following a disputed presidential election in Kenya in 2007, ethnic violence and human rights abuses took place, with evidence of Kenyan police force complicity in the targeted killings. The subsequent international response, deemed “a model of diplomatic action under the Responsibility to Protect”, involved the creation of a power-sharing agreement by an African Union Panel as well as the establishment of preventative measures to safeguard against future electoral violence.” As a result of these measures, human rights abuses were addressed and the 2013 Kenyan elections were relatively more peaceful. Intervention in Kenya serves as evidence that R2P can successfully be invoked in cases where a state is failing to protect its citizens from human rights abuses without resorting to military intervention. As such, the argument that R2P is inherently militarily interventionist is flawed.

Others still suggest that R2P makes the potential for non-UN sanctioned intervention more likely and thus should be abandoned. This line of reasoning asserts that the initial version of R2P as outlined in the 2001 ICISS report supported the possibility of intervention without Security Council approval, raising concerns that strongly-worded resolutions that refrain from

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24 Ibid.
26 Ibid.
endorsing military intervention will nonetheless be appropriated as justification for military action. Moreover, such opponents argue that bundling non-military and military response together within the R2P doctrine is undesirable, both because military intervention is rarely a suitable response to human rights violations, and because the threat of military intervention that is then tied to other less aggressive responses will dissuade states from supporting R2P over the controversy of non-UN authorized external intervention. The language of the 2005 World Summit Outcomes document, however, establishes Security Council approval as necessary for intervention to take place, and does not entertain the possibility of non-UN approved intervention. As the form of R2P adopted by the UN, this articulation of the principle holds greater normative power and moreover the departure from the ICISS framing of justified intervention was a conscious action to assuage concerns over unapproved military action. To date, R2P invocation has been within the purview of the Outcomes Document version of the principle. The two existing examples of military intervention under R2P, those of Libya and Cote d’Ivoire, demonstrate intervention only with Security Council approval. Thus, suspicions that the language of the ICISS report will be used to justify intervention without authorization, at least to the extent that they warrant the discarding of the R2P principle, are unfounded.

R2P: Politicization and Uneven Implementation

Finally, opponents argue that the R2P principle is too vulnerable to politicization. As Michael Goodhart explains, choices inherent to human rights protection such as which specific actions to designate human right abuses or when to use state power to intervene and end

29 Ibid.
31 Ibid. 107.
regression are profoundly political decisions.\textsuperscript{33} Likewise, political considerations tend to factor into decisions on the implementation of R2P. Hopgood refers to R2P as one of the narratives of human rights that “gives alibi to a global system whose governance structures sustain persistent unfairness and blatant injustice”.\textsuperscript{34} He points to R2P failure in Syria as exemplary of this.\textsuperscript{35} Opponents of R2P suggest that it reinforces double standards in human rights protection because powerful states only invoke R2P when it is in their interests.\textsuperscript{36} R2P emphasizes feasibility and the chance of success, and thus critics argue weak states are more likely to be targets of R2P invocation, while UNSC approval will enable permanent members to protect friendly states by use of veto power.\textsuperscript{37} There are many ongoing conflicts that would appear to warrant R2P intervention, yet inaction persists. Politicization of R2P impacts not just implementation, but outcomes as well, as epitomized by intervention in Libya. In 2011, the UNSC authorized military intervention in Libya following evidence of mass atrocities and Libyan President Muammar Gaddafi’s complicity in and inability to respond to these. The resulting NATO-imposed no-fly zone and airstrikes successfully ended the conflict.\textsuperscript{38} NATO, however, has been accused of “mission creep” by going beyond their mandate under R2P and aiding rebel forces to defeat Gaddafi’s army and kill Gaddafi, thereby effecting regime change.\textsuperscript{39} The regime change outcome in Libya has lead critics to lose faith in R2P and dismiss the doctrine over its susceptibility to politicization and the uneven application of human rights protection it fosters.

\textbf{R2P: Normative Power and the Process of NormInternalization}

\textsuperscript{35} Ibid, 1.
\textsuperscript{36} Kersten, “R2P Isn’t Dead. It Could Never Have Existed,” http://justiceinconflict.org/2014/07/24/in-palestine-r2p-isnt-dead-it-couldnever-have-existed/.
\textsuperscript{37} Menon, “It’s Fatally Flawed,” http://www.the-american-interest.com/2013/06/12/its-fatally-flawed/.
\textsuperscript{39} Ibid.
Taking into account these valid concerns surrounding the implementation of R2P, it will now be argued that the normative potential of R2P outweighs the current implementation challenges. Politicization is symptomatic of the larger problems of state accountability enforcement within the international system, as they pertain to human rights and otherwise. There is nothing inherent of R2P, however, that allows for its politicization. Politicization, moreover, has been overcome in the past and norms have been shown to have the power to transcend politics and power structures through the norm cascade.\(^\text{40}\) Norms can be defined as, “shared understandings and values that shape the preferences and identities of state and non-state actors, and legitimate behavior, either explicitly or implicitly.”\(^\text{41}\) Social norms, such as R2P go beyond this however, to encompass, “generalized standards of conduct that embody collective expectations about proper behavior”.\(^\text{42}\) Referring to Sikkink and Finnemore’s Norm Cascade model, the normative potential of R2P becomes apparent. The model outlines a three-stage process of norm emergence, broad norm acceptance, and eventually norm internalization.\(^\text{43}\)

During the initial phase of norm emergence, norm entrepreneurs attempt to convince states of the necessity of the norm.\(^\text{44}\) International norm entrepreneurs, according to Sikkink and Finnemore, are actors driven by strong ideas about appropriate behavior within the international community and who possess an organizational platform through which to promote their norms. They are key to this process because they employ strategic language to frame the issue and attract support.\(^\text{45}\) Then UN Secretary General Kofi Annan stated in UN Millennium address in 2000 that, “if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how


\(^\text{42}\) Ibid.

\(^\text{43}\) Ibid.

\(^\text{44}\) Finnemore and Sikkink, "International Norm Dynamics," 895.

\(^\text{45}\) Ibid, 897.
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?" This appeal by a high-profile international actor for a new standard of state behavior served as catalyst for the broader emergence of the norm. In response to this call, the Canadian government commissioned the ICISS to produce a report outlining a framework of response for the international community in the event of large-scale human rights abuses. The commission became a platform through which to further advance the emergence of the norm of sovereign responsibility. Sikkink and Finnemore point to the inclusion of expert advisors as integral to successful international organization platforms. The choice of expert ICISS co-chairs, Mohamed Sahnoun an Algerian diplomat and Gareth Evans a prominent academic and Australian politician, lent weight to the ICISS as an institution through which the norm emerged. This all indicates that the introduction of R2P, encompassing the norm of state responsibility, can be interpreted as having reached the first stage of the norm cascade, characterized by the emergence of the norm and efforts of norm entrepreneurs to persuade international actors to adopt the prescribed behavior.

In order to reach the second stage of the norm cascade, the point at which the norm actually “cascades” and is adopted by numerous states, Sikkink and Finnemore suggest that the norm must be institutionalized in, “specific sets of international rules and organizations” in order to clarify the framework of the norm, as well as consequences triggered by its violation. Following the conceptualization of R2P by the ICISS, the adoption of the R2P by the UN with the 2005 World Summit Outcomes Document constituted norm institutionalization into a

48 Finnemore and Sikkink, "International Norm Dynamics,” 897.
49 Ibid.
50 Ibid, 900.
specific set of rules by outlining the expectation that states are responsible for protecting their citizens from gross human rights abuses and that the international community has a responsibility to become involved should states fail in this duty. The appointment of a UN Special Advisor on R2P within the Office of the Special Advisor on the Prevention of Genocide and the establishment of the Global Centre for the Responsibility to Protect can be seen as further institutionalizing the norm through the creation of relevant organizations. Finally the Secretary-General's 2009 Report on Implementing the Responsibility to Protect outlined the Three-Pillar Approach to R2P and further clarified R2P as a set of rules to guide state conduct, and as a set of consequences for failing to meet these rules.

According to the Norm Cascade model, a tipping point is reached once norm entrepreneurs have convinced a critical mass of states to adopt the nascent norm, with a critical mass usually requiring approval from at least one third of all states as well as buy-in from states whose non-participation would otherwise weaken the norm. The R2P norm has clearly reached this tipping point given its unanimous adoption by UN member states with the 2005 Outcome Document, which included adoption by states with poor human rights records who abstention would have weakened the norm. Both pressure on states to conform, and desire of states to enhance their international legitimacy motivates the second stage. This process of turning norm-breakers into norm-followers is referred to as socialization, and can encompass emulation and praise of acceptable behavior usually through diplomatic avenues, and ridicule of deviation

54 Finnemore and Sikkink, "International Norm Dynamics," 901.
56 Finnemore and Sikkink, "International Norm Dynamics," 895.
often in the form of sanctions.\textsuperscript{57} Since 2005, a few key developments point to R2P being in this second phase of the norm cascade. Despite initial resistance from China and Russia, the UNSC passed resolution 1674 in April 2006 reaffirming the 2005 adoption of R2P.\textsuperscript{58} This support for the norm by a body with legal force such as the UNSC can be viewed as praise within the process of socialization. Furthermore, in August 2006 the UNSC explicitly referenced R2P in UNSC resolution 1706, which sanctioned the deployment of UN peacekeepers to Sudan to address ongoing human rights abuses.\textsuperscript{59} This example of discipline against a norm-breaker furthers the process of socialization. The UNSC has since invoked R2P in over 25 resolutions, and the UN General Assembly holds annual dialogues on R2P.\textsuperscript{60} These developments allow for further socialization of the norm. Finally, Sikkink and Finnemore suggest that state leaders conform to norms in order to avoid the demonstrated consequences triggered by violation.\textsuperscript{61} Following this logic, while implementation may not yet be without challenges, intervention in Libya in 2011 serves as an important example of the consequences of violating the norm.

The final stage of the Norm Cascade as outlined by Sikkink and Finnemore is internalization of the norm, or the point at which the norm becomes so accepted to that it is no longer a source of broad public debate.\textsuperscript{62} Examples of fully internalized norms include the prohibition of slavery, or the right of women to vote.\textsuperscript{63} Evidently given the implementation challenges surrounding R2P, the norm has not yet reached this phase of its entrenchment. The norm will need to continue along the process of socialization before this can be fully realized. Nonetheless, the fact that R2P has arguably reached the second state of this model in little over a

\textsuperscript{57} Finnemore and Sikkink, "International Norm Dynamics," 902.
\textsuperscript{59} Ibid.
\textsuperscript{60} “About R2P” Global Centre for the Responsibility to Protect, http://www.globalr2p.org/about_r2p.
\textsuperscript{61} Finnemore and Sikkink, "International Norm Dynamics," 904.
\textsuperscript{62} Finnemore and Sikkink, "International Norm Dynamics," 895.
\textsuperscript{63} Ibid, 895.
decade is notable and points to strong normative potential. Sikkink and Finnemore’s theory of norm cascade based on a gradual process of internalization suggests that it is not unreasonable for perfect implementation of R2P to be an illusive phenomenon so soon after the emergence of the norm. While R2P has yet to overcome politicization, it has only reached stage two of the norm cascade. Full internalization of the norm, however, has the capacity to overcome current politicization concerns.

Some suggest that the ongoing debate over R2P demonstrates that socialization is failing, however resistance to the norm can be seen as part of its internalization following the framework of Norm Circulation outlined by normative scholar Amitav Acharya. He argues that, “norm circulation occurs when the less powerful actors feel marginalised in the norm creation process or feel betrayed by the abuse of the norm by the more powerful actors in the implementation stage.”64 This would seem to characterize opposition response to intervention in Libya. This aspect of circulation however, does not weaken the norm, but instead can make it stronger and enhance prospects for compliance according to Acharya. States gain normative agency through this process of contesting the abuse of the norm by more powerful actors, and this objection and feedback may lead to modification of the norm overtime.65 Thus the ongoing debate on R2P can be understood accordingly as part of the process of norm internalization.

What’s the Alternative?

While challenges in implementation and entrenchment of the norm exist, it is important to consider the lack of viable alternatives to the R2P principle. Only 10 years after its adoption by the UN, R2P is still relatively new. Dr. Edward Luck, UN Special Adviser on the Responsibility to Protect, has deemed R2P the, “fastest growing international norm in history,”

65 Ibid, 477.
and supporters of R2P call attention to the fact that R2P’s trajectory is not much different than that of the norm of human rights more generally. Following the Universal Declaration of Human Rights in 1948, respect for human rights did not immediately improve and only years later did the, “gradual, but cumulative, normative progress,” become apparent. Importantly, inconsistent application did not, arguably, fatally weaken the key ideas, and despite some enduring application challenges, acceptance of human rights has become more widespread. This suggests that it may just be too soon to discount R2P on account of early implementation challenges.

Moreover, it is critical to the debate over the legitimacy of R2P to consider the alternatives. Gross violations of human rights regrettably continue to take place and clearly must be addressed. In his defense of R2P, Alex Bellamy, Director of the Asia-Pacific Centre for the Responsibility to Protect, outlines four alternatives to R2P: world government, a league of democracies, a new judicial body, or the complete abandonment of R2P. World government would involve a complete overhaul of the existing international system of sovereign states, allowing for legislation of mass atrocity crimes globally and the creation of an international policing body charged with the enforcement of such legislation. Protecting people from gross human rights abuses under such an arrangement would become more a matter of police action rather than external intervention, and judicial organs would govern decisions to take action thus minimizing the potential influence of political will or national interests. Bellamy suggests this idea is most viable as a negotiated and moderate federalist conception, akin to a global European Union (EU), though he highlights the challenges of unity that plague the EU, as well as the

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67 Ibid.
68 Ibid.
70 Ibid.
unknownable nature of the potential overall effects of such a radical system change.\textsuperscript{71} Logistics of such a proposition aside, if R2P has allegedly failed because states have been reluctant to fully commit to the principle and give up their sovereign authority, an idea as radical as the establishment of a world government, which entails complete rejection of sovereign statehood, can hardly be seen as a viable alternative. Moreover, if R2P is charged with being too easily politicized, there is no guarantee that a global EU-style system will be successful in avoiding such pitfalls. After all, no one could reasonably contend that Greece has equal power to Germany within the EU.

A second alternative to R2P as a means of protecting populations from gross human rights abuses is the concept of a league of democracies, a collection of democratic states with good human rights records that is bestowed with the power to authorize intervention when it is otherwise inhibited by the vetoes of non-democratic states on the Security Council.\textsuperscript{72} According to Bellamy, supporters such as Fukuyama and Keohane posit that such an arrangement would increase accountability because the governments making the decisions would be held accountable by their people, while also protecting against unilateral interventions such as that by the US in Iraq in 2003, given that intervention would require approval from the league as a whole.\textsuperscript{73} Moreover, Bellamy maintains that such a league would be subject to Security Council review and penalties.\textsuperscript{74} Again, given the concerns levied at the R2P doctrine, a democratic league does not seem a suitable alternative. It would be arguably be more vulnerable to politicization, unavoidably western-dominated, and not necessarily more accountable given that Security Council members France, the UK and the US could veto any proposed penalty for league

\textsuperscript{71} Bellamy, “A Defense,” 76.
\textsuperscript{72} Ibid, 77.
\textsuperscript{73} Ibid.
\textsuperscript{74} Ibid.
misconduct. It makes military intervention the key response to human rights abuses and allows intervention without Security Council approval. In this way, such a strategy does nothing to address the shortfalls of R2P and is unlikely to gain support from R2P critics as a fitting alternative.

Thirdly, as Bellamy details, some envision the creation of a new judicial body as a means by which to ensure protection of human rights while safeguarding against the influence of national interests and fostering consistency in intervention. This judicial body would be comprised of UN-member elected judges, with equitable representation for different regions that, should the UNSC fail to take action against ongoing regression, would deploy an independent fact-finding mission and outline appropriate responses to the individual conflict. Should military intervention be approved and the Security Council refuse to act, coalitions and states could legitimately intervene on the basis of these judgments. While supporters argue that this arrangement would remove national interests by bestowing decision making power with an independent judicial body, this would not be the case because states would select the judges, the UNSC would still be involved, and governments would decide when to act on judgments. Politicization and uneven application of human rights would be persistent issues and may even worsen, given that this new body would undermine the UN system by allowing the judicial body, with no even less political accountability than the UN and no safeguards, to sanction the use of force if the UNSC has decided against such action. Again, this supposed alternative does little to address issues of politicization and uneven application, while placing undue focus on military intervention. These three alternatives to R2P fail to address the implementation issues currently

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75 Bellamy, “A Defense,” 78.
76 Ibid. 78-9.
77 Ibid.
79 Ibid, 80.
impeding the effectiveness of R2P, while also lacking the normative power of R2P, which I have argued will improve R2P implementation and effectiveness overtime. Moreover, in some ways these alternatives infringe even more significantly on sovereignty than R2P and so the prospect of their realization seems implausible.

R2P may be imperfect, but a more robust and viable option does not appear to exist – given the absolute unacceptability of gross human rights violations, taking some action must be better than standing by as genocide is carried out. Given a lack of alternatives, as well as the normative potential of R2P, it remains an important tool in human rights protection. The clear potential of R2P to effectively protect civilians at risk of mass atrocity crimes must be fostered, and must be allowed time to foster before it is rejected altogether.

The Debate Going Forward

The R2P doctrine, which as stated provides an analysis framework for assessing risk of genocide while also outlining various preventive measures and response mechanisms, is of particular relevance to guiding international response to human rights abuses. As such, taking one side or the other in the ongoing debate over R2P’s legitimacy and applicability has major implications for international action in the event of gross human rights abuses. Rejecting R2P without proper alternatives risks repeating the same international complacency in the face of atrocities that inspired the creation of the R2P doctrine. Ending the debate in favour of R2P’s rejection opens a new debate over how better to address human rights violations, while agreeing that R2P is legitimate shifts the imperative to strengthening and enhancing the doctrine. Resolving the debate, however, is contingent on having the proper debate, and having the proper debate requires a complex appraisal of the theoretical and normative implications of the R2P principle, as well as further empirical examples of R2P invocation. As internalization of R2P
continues, the legitimacy and applicability of the doctrine in protecting human rights will become apparent. Until then, it is too early to completely reject R2P as a means of ending the grave human rights abuses that continue to plague our world.
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