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United Nations Human Rights Committee

Committee Background:

The United Nations Human Rights Council (UNHRC) is a United Nations body responsible for supporting and defending human rights around the world. The council works closely with the Office of the High Commissioner for Human Rights (OHCHR) and has various subsidiary bodies which report regularly, among them being the Universal Periodic Review Working Group, the Advisory Committee, and the Complaint Procedure. UNHRC was created by the adoption of Resolution (A/RES/60/251) in 2006, in order to replace the previous Council for Human Rights.

The UNHRC is composed of 47 nations at any one time, elected by the UN General Assembly by taking account their contribution to furthering the cause of human rights. Each term consists of 3 years. The distribution of seats among regions is as follows: 13 for Africa, 13 for Asia, six for Eastern Europe, eight for Latin America and the Caribbean, and seven for the Western European and Others Group. The General Assembly reserves the right to suspend any council member that it finds has persistently committed violations of human rights during its term using a two-thirds majority vote on the subject.

The UNHRC is responsible for addressing both active conflicts such as the Palestinian conflict, as well as dire human rights situations in countries such as Syria, Egypt, Russia, DRC, CAR, Iraq and Iran. The UNHRC also deals with important thematic issues that are of relevance in the world today, such as freedom of expression, freedom of belief and religion, and women's and LGBT rights.

Topic Area A: Humanitarian Intervention

INTRODUCTION

Humanitarian Intervention and Responsibility to Protect

State sovereignty has long been regarded as the pivotal structural paradigm of international law. Its recognition in Article 2 of the U.N. Charter as a fundamental, albeit qualified, principle of the United Nations is only one of many indicators that it has not forfeited its significance. At the same time, the rising importance of the protection of human rights raises the question of how to reconcile the inherent tension between these two principles. In the modern international legal order, it has become clear that the treatment of human beings within the territorial boundaries of a state does not belong to the *domaine réservé* that excludes interferences from the outside. Yet it is far from clear how the international community--represented through the United Nations, regional organizations, and individual states or groups of states--should act and is allowed to act when a state commits major human rights violations such as genocide, war crimes, ethnic cleansing, or crimes against humanity. When diplomatic efforts and political or economic sanctions fail, military action in the form of a humanitarian intervention is often considered as a last resort.

Following the Cold War and the revitalization of the U.N. system of collective security, the question of the legality and legitimacy of humanitarian intervention gained practical importance. In the 1990s, massive human rights violations led to fierce debate, especially in cases where the U.N. Security Council did not authorize an intervention. In 1994, the international community failed to prevent the genocide in Rwanda due to the lack of political will and determination among the main political actors. The North Atlantic Treaty Organization's (NATO) bombing of Kosovo in 1999 to end ethnic cleansing and other mass atrocities, despite the absence of Security Council authorization, added to the controversy. By the end of the twentieth century, the world was deeply divided into proponents who regarded humanitarian intervention as often the only effective means to address massive human rights violations and critics to whom humanitarian intervention was nothing but a rhetorical and euphemistic pretext under which the great powers pursued their imperialist self-interests through coercive measures.

In the memory of Rwanda, Kosovo and Bosnia – where genocide, massacre and ethnic cleansing have taken place with the international community remaining on the sidelines - we should examine humanitarian intervention in parallel with the Responsibility to Protect. It is, indeed, a world with new challenges that the United Nations must confront. This burdens of course lies on the Security Council and its attributed role as set forth by the Charter of the United Nations. As stated in Article 24, Chapter V of the Charter of the United Nations” In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.” This of course is a fact mirrored in the function of the council and especially attributed to the veto power the permanent member retain. Among the principles or “purposes of the United Nations” are “promoting and encouraging respect for human rights and for fundamental freedoms.” Member states must promote “universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” They must also “pledge themselves to joint and separate action” to achieve these goals.

This theoretical analysis gives an insight in the problematic of a terminology with distinct and direct impact on the international community.

Politically speaking, intervention “amounts to a promise to people in need”. The main factor that generates the dilemma between intervention and non-intervention is the impartiality. Intervention, sometimes, means taking sides in state conflicts and this could lead to a further state fragmentation rather than mitigating human rights abuses.

The essence of humanitarian intervention could be concentrated in the words of the former United Nations Secretary General, Kofi-Annan: “if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that offend every precept of our common humanity? Humanitarian intervention is a sensitive issue, fraught with political difficulty and not susceptible to easy answers.” The former Secretary General recognized the shared responsibility of the international community to act, but rejected a systematic approach to implementing this

responsibility, favoring instead a “case-by-case” approach. The current Secretary General Ban Ki-Moon noted that institution had failed in the past and attributed this tragic failure to the bold lines that the conceptual framework of humanitarian intervention drew, creating what he called a “false choice” between using coercive force or standing by and observing unfolding human tragedies

Another approached definition of humanitarian intervention is “the use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the government of the state within whose territory force is applied”. One definition of anticipatory humanitarian intervention is “the coercive interference by one state or group of states into the affairs of another state for the express purpose of preempting or mitigating human rights atrocities that are about to be committed in the latter state.” It is quite obvious that a widely accepted definition of humanitarian intervention is non-existent. While some try to regulate the term in international frameworks in order to overrule gaps of legality, history has shown that it is a ‘principle’ applied each time differently lacking a certain pattern.

The three cases where the international community failed to meet its responsibilities and was an observer of the ongoing massacre were: Rwanda, Kosovo and Bosnia. Within the changing international environment, the United Nations should respond to the new circumstances and the risks which they bear. The rising of a new era especially after the traumatized last decade bring new data about the dynamics that have emerged through longstanding challenges but at the same time from new unprecedented ones that require immediate answer all in the face of the international community. These new circumstances could be summarized in the following sentences. First and foremost, the emergence of new actors should be taken into serious consideration, bringing onto surface new perspectives and new interests. Furthermore, it is recognized that the end of Cold War resulted in civil wars in the name of democratization, where suppressed people demand more political and civil rights, whilst the need for self-determinations remains a constant request, and therefore the possibility of the proliferation of armed conflict within states remains extremely high. To that point, the evolving role of human rights protection as a central subject and the responsibility of cooperative designated fora in establishing the norm of human security are of

great importance. It is a give fact that all these aspects should be examined in the light of globalization, under a reformed perspective tempting multilateral action, as the end of Cold War brought in light new opportunities and capacities for such practices.

The role of interest in motivating intervention emanates from the nature of the international system itself. In the absence of a central authority to implement norms such as human rights standards, the enforcement of these norms falls to states. But concepts such as humanitarian intervention have brought the United Nations Organization to uncharted water. Theoretical approaches on the legitimacy or even the bare existence of such norm were ongoing in the last decades whilst the term itself remains heavily disputed. Potential abuse constituted a serious objection to the right of humanitarian intervention. Selectivity and objectiveness plagues actions under this certain framework and puts its unrestricted practice to question. Consequent attempts to transcend some ongoing disputed over the legality and desirability of the right to humanitarian intervention has led to a relatively new conceptual framework, the Responsibility to Protect.

The Report of the International Commission on Intervention and State Responsibility sets out the four principal objectives of intervention which are of great informational significance:

- ☐ The establishment of clearer rules, procedures and criteria for determining whether, when and how to intervene;
 - ☐ The establishment of legitimacy of military intervention when necessary and after all other approaches have failed;
 - ☐ Ensuring military intervention, when it occurs, is carried out only for the purposes proposed, is effective, and is undertaken with proper concern to minimize the human costs and institutional damage that will result; and
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- ☐ Elimination, where possible, the causes of conflict while enhancing the prospects for durable and sustainable peace.

United Nations Charter and Humanitarian Intervention

Humanitarian Intervention, according to the supporters of the concept, find sufficient justification within the lines of the Charter of the United Nations. Observing the Charter of the United Nations which governs the use of force in the international community, we will see that the opponents of humanitarian intervention point to Article 2 and Article 25 where the principle of non-intervention is enshrined. The principle of non-intervention still constitutes for many scholars the foundation of all global equilibrium. The disagreement over this narrow interpretation of these provisions focuses on two arguments that aim to reconcile humanitarian intervention with the United Nations' jus ad bellum regime. Firstly, the Article 2(4) forbids only the threat or use of force directed against the territorial integrity or political independence of any State. Thus, this is an argument for the supporters of humanitarian interventions, it does not forbid humanitarian intervention which does not in any way result in territorial conquest or political subjugation. Secondly, the legality of humanitarian intervention could be based according to some academics on an expansive interpretation of Article 39 of the Charter. This Article provides the authorization of the use of force in response to "any threat to the peace, breach of the peace or act of aggression". The use of word "peace" instead of the word "international

peace” implies the permission to intervene in order to end human rights atrocities that lack transboundary effect. This fragmented analysis can neither support the bare existence of the norm nor give undisputed evidence that it is forged under a collective opinion iuris of the international community. There are longstanding and pervasive criticisms of this conceptual theory. The use of force to maintain or establish peace appears a contradiction on its face in both end state and nature of action. Because of the cost in resources, finances, and logistics, it can be argued that the entire concept is a ruse to allow powerful countries to control and subjugate weaker countries during a time of increased vulnerability and reliance. If humanitarian intervention actually implies an obligation to act under the prism of the latest wider term, responsibility to protect, there is also a withering lack of law governing the concept generally: all countries must be treated equally, which introduces issues of equity and resources. Although the ‘right’ to intervene is by definition discretionary. It is the prerogative of the intervener and has always been exercised as such, thereby creating a hierarchy among those who received protection and those whom the potential intervener could afford to ignore. The invocation of such right has also, not surprisingly, unleashed criticism from the many who question the interveners' purity of intent and who denounced, plausibly or not, the self-serving

agendas that they believed were hidden behind the pretense of humanitarianism. While these concerns may be valid, they are not insurmountable.

Shifting focus in international treaties from State-centered orientation to the well-being of individuals might lead to an increased temptation to invade more readily in contradiction to the rule supporting nonintervention set out by the United Nations Charter. Some argue there is no justification for humanitarian intervention, which is basically another name for invasion. Prohibiting unauthorized intervention, the United Nations Charter does not imply that states are free to treat their own citizens as they wish. Amid a blatantly absent legal framework to base both norms arguments, human rights’ protection remains unwarranted. A large number of states are parties to international conventions that refer to the protection of fundamental rights. Some of them have through long-lasting practice and necessity acquired the status of ius cogens. In specific the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 9 December 1948 and entered into force on 12 January 1951)⁶, which calls

upon states, particularly in Article VIII, to prevent actions of genocide by addressing “the competent organs of the United Nations to take such action as they consider appropriate”. This phrasing of course could be interpreted freely but its opaque meaning does not contain directions on the nature of these actions being appropriate for such incidents. It is indeed widely expected that the international community must respond to mass atrocity crimes. But while the claim that genocide is an unacceptable evil is an almost trivially easy normative statement, the road from there to a workable legal doctrine is cluttered with political landmines. In the instances where there appears to be an agreement on the existence of responsibility to protect, the discussion on what the doctrine allows or requires is more difficult. Having examined the principal arguments backing or criticizing the existence of the so called norm of humanitarian intervention and its legality, the question arising to one’s mind is under which terms we could nominate a humanitarian intervention just. There are problems of identifying a humanitarian intervention’s direct and immediate consequences, as well as determining how these consequences affect human well- being. Concluding, it is indisputable that if States, according to Robert E. Goodin, “are unwilling or unable to protect the lives and liberties of their citizens, then the duty to safeguard these rights reverts to the international community”.

Humanitarian intervention before the adoption of the World Summit Outcome

A. From Croatia to Bosnia and Herzegovina

All the cases of intervention of the international community in the Balkans were founded on humanitarian grounds. The most important difference of these international responses towards the atrocities that took place in the region, is the distinction between humanitarian operation or action, and humanitarian intervention.

Humanitarian operation consists of an impartial delivery of humanitarian aid to civilians which should not in any case contribute to the military forces of any party of the conflict. On the other hand, humanitarian intervention as cited above is described as a coercive –military- interference in internal affairs of a state where widespread atrocities take place and the state is unable or unwilling to provide the necessary minimum protection to its civilians.

Starting with the Croatian conflict which begun in June 1991- as a result of the break- up of Yugoslavia, the international community soon identified the possible escalation of the ongoing situation. This possibility disturbed the United Nations Security Council which adopted the Resolution 713 on 25th September (1991)⁷. In this Resolution the United Nations Security Council acting under Chapter VII requested the implementation of “a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia”. After the request of the Government of Yugoslavia for the establishment of a Peacekeeping operation, the United Nations Security Council adopted Resolution 721 on 27th November (1991)⁸ which made the deployment of potential Peacekeeping operations conditional on the “full compliance by all parties with the agreement signed in Geneva on 23 November 1991” which aimed at a ceasefire.

The initial objective of the United Nations Security Council was to deploy a Peacekeeping operation which would create the necessary conditions in order to reach a peaceful political settlement of the dispute. The lack of cooperation among the parties was eminent and it was threatening the ceasefire. A further delay would definitely lead to the breakdown of that agreement. In Security Council’s Resolution 743 on 21st February (1992)⁹ as a response to the recommendation of the United Nations Secretary General Boutros Boutros-Ghali, the United Nations Protection Force (UNPROFOR) was established. UNPROFOR, according to the aforementioned Resolution, was an “interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis”.

The Government of Yugoslavia asked for the assistance of United Nations High Commissioner for Refugees in order to respond to the increasing problem of the forced displacement. Taking into account the continuing hostilities that took place in Croatia, the United Nations Security Council aiming at an “effective and unhindered delivery of humanitarian assistance” adopted Resolution 752 on 15th May (1992)¹⁰ which –for the first time- called for a halt “any attempts to change the ethnic composition of the population”. The international community started considering the feasibility of protecting international humanitarian relief programmes by any necessary means. This is the point where it could be advocated that “UNPROFOR was established for Croatia and not conceived either as part of a humanitarian intervention or with a role in the humanitarian assistance operation”¹¹.

In response to the conflict in Bosnia, the international community expressed its embarrassment for the absence of readiness in addressing the atrocities and of human rights violations, with the adoption of the Resolutions 757 and 758 which further condemned all illegal actions in the region, while expanded the sanctions against the Federal Yugoslav Republic, under the Chapter VII of the Charter. The main weakness that would cost the efficiency of UNPROFOR was the political prominence which this humanitarian assistance had. Soon, the United Nations Security Council enhanced the political dimension of UNPROFOR with the adoption of Resolution 770 and 771 in 1992¹². More specifically, in Resolution 770 the Security Council granted authorization for military intervention in order to ensure the delivery of the humanitarian assistance provided by previous Resolutions, by calling upon States to take “all measures necessary”. The Council veiled the humanitarian intervention under the military intervention authorized by the Security Council which would support the humanitarian assistance in the region. What is more it “did not specify that this should be within the framework of the United Nations Peacekeeping Operation”¹³. This vagueness covered up by expanding the mandate of UNPROFOR as provided by the Resolution 776 on 14 September (1992)¹⁴ which would use the military personnel to facilitate the delivery of the humanitarian assistance. According to the report of the United Nations Secretary General the military personnel should use force only in cases of self-defense (peacekeeping rules of engagement) and to ensure the unobstructed carrying out of UNPROFOR’s mandate.

A number of peace plans, negotiations and ultimata failed to bring an end to this war and the international community was aware of this situation. All delegations of the United Nations Security Council started considering the use of force and the attention was given to NATO. The Security Council adopted Resolutions 781 and 816¹⁵ which created a “no-fly zone” and the responsibility of authorizing all flights in Bosnian airspace was granted to UNPROFOR. The most important provision of the Resolution 816 which transformed the humanitarian operation into a humanitarian intervention, was the authorization of the use of force from Member States, acting nationally or through regional organizations or arrangements, in order to “ensure compliance with the ban on flights”. Finally, the cornerstone of the Bosnian war was the Resolution 836 on 4 June (1993)¹⁶ which expanded UNPROFOR’s mandate and it gave the authorization to use force “in reply to bombardments against the safe

areas” designated in the region.

B. Rwanda

Rwanda played a pivotal role in the evolution of the theory and practice of humanitarian intervention and peacekeeping. The population of Rwanda was composed by three ethnic groups: Hutu (85%), Tutsi (14%) and Twa(1%)¹⁸. During colonialism, the ruling Belgians favored Tutsis over the Hutus. The result of this discriminatory treatment was to intensify the rivalry between Hutus and Tutsis who had a history of conflict over the control of the State. In 1960 following a victorious revolution of the Hutus, Tutsis were forced to flee the country along with the Tutsi monarch. In 1962 Belgium granted independence to Rwanda. The years of independence found Rwanda sliding into an ethnically motivated violence. In 1973, a moderate Hutu, Major General Juvenal Habyarimana, took the power and through political maneuvers remained at the position.

In 1990, the Rwandese Patriotic Front invaded Rwanda and the hostilities between Hutus and Tutsis were reiterated. After a ceasefire was achieved Habyarimana signed the Arush Agreement in 1993 which provided the creation of a transitional government that would include Rwandese Patriotic Front. This evolution exacerbated the hatred that Hutu extremists had towards Tutsis. In 1994, after the death of Habyarimana, Hutu extremists alongside with some member of the Rwandan Armed Forces commenced and expanded massacre against Tutsis and moderate Hutus which resulted to 800,000 perished lives. On 21 April 1994, the United Nations Security Council adopted the Resolution 91219 which reduced the strength and mandate of the United Nations Assistance Mission in Rwanda (UNAMIR) that was established by the

(1993) Security Council’s Resolution 872 on 5 October (1993)²⁰. After the end of the Genocide the Rwandese Patriotic Front established a coalition government.

During the Rwandan Genocide, the international community denied its responsibility to interfere and protect the people suffering from the ethnically motivated violence under the fear of casualties. This alleged fear deepened the gap of political will which prevented states of taking any action other than observing the grave developments. This was a remnant of political reluctance in the dawn of the Post-Cold War era. Furthermore, another factor that contributed to the inability of the international community to react was the

inexperience of the Department of Peacekeeping Operations alongside with the coeval crisis in Bosnia. During Security Council consultations Permanent Members trying to shove the responsibility refrained from using the term “genocide” concerned about the instant linkage with principles and norms of the international law that would invoke an intervention.

C. Kosovo

Kosovo as a region and its Albanian inhabitants enjoyed until 1989 a high degree of autonomy within the Federal Republic of Yugoslavia. President Milosevic wanted to change the political status of the province and to put it under the direct control of the Federal Republic.

In 1998, in response to the separatist movement of the Kosovo Liberation Army the Serb forces launched a series of actions against Kosovo-Albanians who supported this movement. The Federal Republic of Yugoslavia justified its actions on the grounds of a reaction to Kosovo Liberation Army’s terrorism. After the consultations and a report of the United Nations High Commissioner for Refugees it was clear that the province was sliding into a serious conflict, as a humanitarian operation seemed more needed than ever. Kosovo-Albanian population faced the violations of human rights by the actions of the Serb security forces as well as those of Yugoslav paramilitary forces, and a large-scale internal forced displacement. On 31 March 1998, the United Nations Security Council adopted Resolution 1160²¹ which condemned the use of excessive force from the Serb Security forces and all terrorist attacks. Furthermore, it established an arms embargo both to the Federal Republic of Yugoslavia and Kosovo.

Echoing the experience gained by the Bosnian conflict NATO started interfering and demanded from President Milosevic to halt the escalating abuse of human rights. The rivalry between the United Nations High Commissioner for Refugees and President Milosevic started intensifying as the latter advocated that the United Nations Security Council exploited UNHCR’s reports in order to authorize a use of force from NATO. The Security Council adopted the Resolution 1199 on 23 September (1998)²² which only provided a “threat” to the Federal Republic of Yugoslavia. More specifically, within the aforementioned Resolution it is stated that if the measures demanded by Resolutions 1160 and 1199 were not implemented, the Security Council would “consider further action and additional measures to maintain or restore peace and stability in the region”. In October 1998, the Organizations for the Security and Cooperation in Europe (OSCE) sent a

verification mission (Kosovo Verification Mission-KVM) in order to observe the implementation of the measures and the ceasefire provided by the Resolution 1199. By the end of 1998, the situation was deteriorating and Milosevic was unwilling to stop all atrocities against the Kosovar Albanians. On 23 March 1999, NATO commenced air strikes which lasted seventy-seven days. The objectives as provided by the Statement issued at the Extraordinary Meeting of the North Atlantic Council were: “a verifiable stop to all military action and the immediate ending of violence and repression; the withdrawal from Kosovo of the military, police and paramilitary forces; the stationing in Kosovo of an international military presence; the unconditional and safe return of all refugees and displaced persons and unhindered access to them by humanitarian aid organizations; the establishment of a political framework agreement for Kosovo on the basis of the Rambouillet Accords, in conformity with international law and the Charter of the United Nations”²³. After this unauthorized intervention of NATO in the Federal Republic of Yugoslavia, the United Nations Security Council adopted the Resolution 1244 on 10 June (1999) which materialized the objectives as set by the North Atlantic Council.

The NATO bombing of Serbia during the Kosovo crisis was conducted without Security Council authorization and again raised the controversy over “unilateral” or “unauthorized” humanitarian intervention. There was a heated debate over whether NATO essentially got away with an international law violation even when the action was partially legitimized after-the-fact by the Security Council's subsequent authorization of a NATO-led peace keeping force. Scholars suggested from these events that there may be an emerging norm allowing for unilateral intervention under narrow circumstances in cases of humanitarian crisis, humanitarian intervention, which included the actions of the Organization of African Unity (now the African Union) in Liberia and the actions of the United States and United Kingdom to protect Kurds in northern Iraq and Shiites in the south. Whilst other argued this position by insisting that “offensive self-help by threats or use of armed force without a basis in Chapter VII has been outlawed by the jus cogens of the [U.N.] Charter.” NATO did not have Security Council authorization to bomb Serbia, and thus under Chapter VII, could not legally intervene. NATO's legal position was particularly tenuous in that it was executing an enforcement action against a nonmember that did not attack a NATO member--making an Article 51 collective self-defense claim impossible.

After the NATO air war against Serbia, the membership of the Non-Aligned Movement (NAM) issued a statement at Cartagena, Colombia, that “reject[ed] the so- called ‘right’ of humanitarian intervention, which has no legal basis in the UN Charter or in the general principles of international law” and included the “firm condemnation of all unilateral military actions including those made without proper authorization from the United Nations Security Council.” Similar language would later be deployed against responsibility to protect. We can clearly see here that even in the most globally renown ‘humanitarian intervention’ there is little or no concurrence of thoughts on the legitimacy and appliance of the formula.

D. Iraq

Iraq is another interesting case in the use of violence to protect civilian lives. Iraq was accused of using chemical weapons on its own citizens and under that pretext, the United States and its allies invaded Iraq through a “surprise and awe” attack, without declaring war. This invasion had no prior authorisation from the Security Council and thus can be labelled as illegal and an act of aggression. Bush and his administration based its rationale for war principally on the assertion that Iraq possessed weapons of mass destruction. Iraq War of 2004 resulted in the destruction of Iraq and the loss of civilian lives.

Saddam Hussain’s government that had been there for over two years was toppled as a result of this invasion. As a result of the war, Iraq held [multi-party elections](#) in 2005. [Nouri al-Maliki](#) became Prime Minister in 2006 and remained in office until 2014. The Maliki government enacted policies that were widely seen as having the effect of alienating the country's Sunni minority, worsening sectarian tensions. In the summer of 2014, the [Islamic State of Iraq and the Levant](#) (ISIL) launched a military offensive in Northern Iraq and declared a worldwide Islamic caliphate, eliciting another military response from the United States and its allies.

World Summit and Responsibility to Protect

Working from the recommendations presented within the text of In Larger Freedom a report by the Secretary General, at the time, Kofi-Annan, the

General Assembly debated responsibility to protect alongside a wide range of other issues, and the doctrine was written into the 2005 World Summit Outcome document in two paragraphs, 138 and 139. Given the failure to address many of the high priority issues during the Summit, the incorporation of responsibility to protect was arguably the Summit's most important achievement. Paragraph 138 states that “[e]ach individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. . . . The international community should, as appropriate, encourage and help States exercise this responsibility.” Paragraph 139 states “[t]he international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” This reflects previous iterations of the concept, in particular the first two parts of the three-part responsibility articulated in the ICISS Report--the responsibility to prevent and the responsibility to react. The Summit Outcome language of “helping States build capacity to protect their populations . . . and . . . assisting those which are under stress before crises and conflicts break out” has some overlap with the ICISS responsibility to prevent, although with less emphasis on coercive diplomatic and economic measures. The responsibility to react or “take collective action” will be “in a timely and decisive manner,” but only when “peaceful means are inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity.” This commitment is qualified by a “case-by-case” determination, which seems to explicitly reject the prescriptive proposals of the ICISS Report. The Summit Outcome, however, does not address ICISS's “responsibility to rebuild.”

Paragraphs 138 and 139, chart R2P which provides a mandate for a wide range of institutional reforms aimed at preventing and protecting people from genocide and mass atrocities. This responsibility rests primarily with the state concerned. Particularly, R2P is “a linking concept that bridges the divide between the international community and the sovereign state”. Sovereignty is in many times states’ best line of defense. In no circumstances sovereignty must only be interpreted as an inherent right without any responsibilities. As stated in the report of International Commission on Intervention and State Sovereignty (ICISS)

“sovereignty is more than just a functional principle of international relations...it is also a recognition of states’ and peoples’ equal worth and dignity, a protection of their unique identities and their national freedom, and an affirmation of their right to shape and determine their own destiny”.

Sovereignty implies that states must respect the sovereignty of other states (external responsibility) and the fundamental rights, as well as the dignity of the people within the state (internal responsibility). We could defend that R2P depicts the relationship between sovereignty and intervention, human rights and international security, and, finally, national security and human security. The theoretical breakthrough of the Summit was the fact that for the first time a concrete restriction was instituted as a basic criteria to the use of the ‘responsibility to protect’. This critical compromise that made the Summit Outcome language palatable was that, unlike any of the supporting documents that led up to it, paragraphs 138 and 139 explicitly predicated the responsibility to protect on strictly four enumerated crimes: genocide, war crimes, ethnic cleansing, and crimes against humanity.

However, in many ways the Summit Outcome is a compromise document without a decisive interpretation. Perhaps the 2005 Summit Outcome strayed too far from the important and positive elements, unlikely the ICISS Report, by abandoning many of the prescriptive elements that would have placed greater pressure on the Security Council to act while allowing too much vagueness in the permissive aspect of responsibility to protect that may open the door for abuse of the doctrine to justify interventions based on self-interest, rather than concern for local populations. Additionally, the Security Council has failed to act in the past due to a lack of political will, and the Summit Outcome has been extensively criticized for not providing a mechanism to escape the core political problems that plague collective interventions.

Responsibility to protect was debated twice in the General Assembly. The first debate occurred during the plenary sessions leading up to the World Summit which produced the 2005 World Summit Outcome. The 2005 World Summit was held to coincide with the Sixtieth Session of the General Assembly, and it culminated in the largest gathering of world leaders in history. In the plenary meetings leading up to the Summit, the General Assembly was grappling with a broad range of issues put forward by Secretary-General Kofi Annan in the In Larger Freedom document, as part of what was the most ambitious attempt at U.N. reform in its history. The controversiality of the agenda items caused much affection and a heated

debate within the General Assembly Hall. The presence of many heads of state and government, whose presence lent greater symbolic weight to the Summit Outcome, but brought many conflicts on the floor. Of the twenty-eight states that addressed responsibility to protect in 2005, seven addressed the issue in neutral terms, twelve in favorable terms, and seven in negative terms. The strongest support came from the European Union, which endorsed responsibility to protect. Negative reactions often touched on this very concern that powerful states such as the United States would act without Security Council approval, using responsibility to protect as a pretext. Nine states namely: Algeria, Cuba, Egypt, Indonesia, Iran, Pakistan, Syria, Venezuela, and Viet Nam voiced opposition to responsibility to protect. Before the adoption of this Resolution by the United Nations General Assembly, this principle faced a lot of questions concerning vital issues of the role of the United Nations Security Council and the limits of intervention. Firstly, it was disputed whether the United Nations Security Council had exclusive or only primary responsibility to authorize armed intervention. Secondly, there was a lot of disagreement over the criteria of intervention proposed, and thirdly, a group of states viewed R2P as “an intervener’s charter”³² which focuses its provisions on how to weaken states’ sovereignty.

It is of great importance to set out the three pillars of Responsibility to Protect that the World Summit committed to:

1. The responsibility of the state to protect its own population from genocide, war crimes, ethnic cleansing and crimes against humanity, and from their incitement.
2. The commitment of the international community to assist states in meeting these obligations.
3. The responsibility of United Nations Member States to respond in a timely and decisive manner, using Chapters VI (Pacific Settlement of Disputes), VII (Action with Respect to Threats to the Peace) and VIII (Regional Arrangements) of the United Nations Charter as appropriate, when a state is manifestly to provide such protection³³.

The Summit Outcome, however, does not address ICISS's “responsibility to rebuild”.

Humanitarian Intervention in the light of Responsibility to Protect

The Five-Day War

Back in 1992, the South Ossetia War resulted to a de facto government in a great part of South Ossetia, which was internationally unrecognized and backed by Russia. The same situation existed in the region of Abkhazia. The end of this conflict was sealed with the Sochi Agreement in 1992 which provided the establishment of a Joint Control Commission in order to ensure the sustainability of the peace in the region. In this particular area Joint Peacekeeping Forces were deployed consisting of Georgian, Ossetian and Russian military units, which were monitored by the Organization for Security and Cooperation in Europe (OSCE). Georgia in the time of the conflict in 2008 was still a Party to the Sochi Agreement besides all the resolutions adopted by the Parliament for a withdrawal. The Georgian Government until 2006 was accusing Russia for providing arms to the separatists in order to “facilitate a legal unilateral withdrawal from the bilateral treaty” by proving that the alleged actions of Russia constituted a material breach in the light of the Vienna Convention on the Law of Treaties (signed on 23 May 1969 and entered into force on 27 January 1980)³⁴. In 2006 Georgia denounced the results of the referendum held in South Ossetia which called for independence with 99% in favor. On 7 August 2008, Georgia launched a large-scale military offensive against South Ossetia but it was uncertain whether or not Georgia was the initial aggressor as the latter advocated that a Russian regiment crossed into South Ossetia.

The Georgia-Russia War in 2008 was interpreted by Western Powers as “an act of unwarranted aggression”³⁵ as it constituted an intervention without a prior authorization from the United Nations Security Council. The Russian Federation made use of the “norm” Responsibility to protect in order to justify the interference in the internal affairs of Georgia. This action of Russia aimed at preventing a genocide in South Ossetia and Abkhazia, as a great part of the population there consisted of Russian Citizens. This argument based on

the grounds of preventing genocide is the consequence of the broad definition of the term genocide as provided by the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (adopted on 9 December 1948 and entered into force on 12 January 1951) in Article II. According to Russia, Georgia was the initial aggressor as provided by Articles 1 and 3 of the United Nations General Assembly Resolution 3314 on the Definition of Aggression (1974)³⁶. On 11 August 2008, after a strong criticism by the other Permanent Members of the Security Council and one day before signing a ceasefire agreement with Georgia, the Russian Ambassador sent a letter to the

President of the United Nations Security Council which provided the justification of Russia's intervention in Georgia. According to this letter the Russian Federation acted in self-defense, under Article 51 of the Charter of the United Nations as Georgia violated the existing ceasefire agreements and attacked Russian peacekeepers. The Ambassador made reference to the responsibility of Russian Federation to guarantee the welfare of Russian citizens in those regions and all actions taken were proportionate and appropriate for those ends. Russia's invocation of RtoP was, according to the arguments brought by the extensive criticism that the case received, misapplied because Russia has a responsibility to protect its populations within its own borders. In cases of mass atrocities outside its borders, the responsibility to protect falls upon the international community, strictly as a collective response through the United Nations. It is unclear whether the degree of threat to Russians in Georgia represented actual or imminent mass atrocities to the scale pertinent to the R2P norm and also whether military force was the appropriate response. Was it Russia's responsibility to protect its citizens in the territory of a third country or was it "a triumph of Realpolitik over legality"?

Responsibility to Protect After Libya

The North Atlantic Treaty Organization's (NATO) 2011 intervention in Libya is widely regarded as a successful example of the international community fulfilling its responsibility to protect civilians against abuses perpetrated by their own state. The responsibility to protect addresses certain shortcomings in the concept of humanitarian intervention, the use of military force to

address humanitarian crises. The use of force to address grave violations of human rights may often be too little, too late. By contrast, the responsibility to protect is a continuum of actions (including, but not limited to, the use of force), which is intended to address crises earlier and through a variety of different tools. The NATO intervention, authorized by the United Nations (UN) Security Council, responded to the Libyan government's attacks against civilian rebels inspired to revolt by the events of the Arab Spring. Yet in other instances in which governments responded brutally to protestors notably Syria, the role of the international community has been significantly less visible than in Libya. The case of Libya was a challenge for the R2P doctrine as it was the first case in which the operational dimension of the aforementioned doctrine would be materialized. The United Nations Security Council's Resolution S/RES/1970(2011)

recalled Libya's "responsibility to protect its populations"³⁹ where the R2P doctrine in combination with a plethora of statements of Regional Organizations⁴⁰ condemning the violence in the territory of Libya signaled the start towards an intervention. Resolution 1970 called for an immediate termination of all state-supported human rights atrocities, the respect for international humanitarian law, the safety of foreign national and the ensuring of safe passage of humanitarian and medical supplies. Furthermore, it imposed an arms embargo, travel ban on key figures in the Libyan Administration and froze their assets overseas. The groundbreaking Resolution 1973⁴¹ strengthened and extended the imposed measures provided by Resolution 1970. Most importantly, it authorized the use of force by a group of States under the command of North Atlantic Treaty Organization. This would be realized in two ways: firstly, all the necessary measures to protect civilians and populated areas under threat of attack would not include any type or form of foreign occupation on any part of Libyan territory; secondly, the imposition of a non-fly zone would be under the authority of NATO. These measures were aiming to force the Libyan regime to stop human rights abuses and to comply with international humanitarian law and all the Security Council's Resolutions.

The important aspect of this intervention was that it was the first humanitarian intervention with authorization of the United Nations Security Council and not a unilateral intervention like Kosovo. Moreover, the Libyan case did constitute a challenge for the viability of R2P doctrine, because a possible failure would put this doctrine under serious doubt. Furthermore,

previous delays for reaction from the United Nations Security Council did not occur on the Libyan case. In addition, success over the Libyan case came without the deployment of foreign forces on Libyan soil, as provided by the Resolution 1973.

The criticism on the Libyan case was grounded on the following arguments: at the outset, no relevant United Nations Security Council Resolution could extend intervention “beyond the protection of civilians and towards the objective of regime change”⁴², while it was still debated whether “the nature of the military campaign could have taken a different form and still been as effective”⁴³.

Syria:

The ongoing civil war in Syria leaves populations facing mass atrocity crimes committed by state security forces and affiliated militias. Some armed opposition groups are also committing war crimes and crimes against humanity.

BACKGROUND: After more than four years of conflict in Syria over 230,000 people have been killed. The UN High Commissioner for Refugees (UNHCR) reported on 9 July that there were over 4 million Syrian refugees in neighboring countries, with at least 7.6 million internally displaced persons (IDPs) – the largest number of people displaced by any conflict in the world. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the crisis has left 12.2 million Syrians in urgent need of humanitarian assistance, 4.8 million of whom remain in inaccessible areas.

On 20 February the UN Human Rights Council-mandated Commission of Inquiry (CoI) said the Syrian government has "manifestly failed to protect its citizens from mass atrocities," with war crimes and crimes against humanity being "committed on a massive scale." On 17 March the CoI reiterated the need for the UN Security Council (UNSC) to refer the Syria situation to the

ICC. All parties to the conflict have impeded humanitarian access to vulnerable civilians, with an estimated 422,000 Syrians living under siege.

The government continues to conduct airstrikes in densely populated residential areas, contravening UNSC Resolution 2139 of 22 February 2014. On 30 May a government barrel bomb attack on the town of al-Bab, Aleppo, killed at least 70 civilians. On 8 June government airstrikes in the rebel-held village of al-Janudiya, Idlib, killed at least 49 civilians. The government also continues to obstruct the delivery of cross-border humanitarian aid, directly contravening UNSC Resolutions 2165 and 2191.

On 7 May the Organization for the Prohibition of Chemical Weapons informed the UNSC that its inspectors had found traces of sarin and ricin at three military locations, despite the government's agreement to destroy its chemical weapons stockpile following an August 2013 sarin attack on areas of Ghouta, Damascus, that killed an estimated 1,400 people.

Syrian government forces and allied militias have committed large-scale massacres and perpetrated war crimes and gross violations of international humanitarian law (IHL) as a matter of state policy. The CoI has reported that pro-government forces have conducted "widespread attacks on the civilian population, committing murder, torture, rape and enforced disappearances as crimes against humanity."

Several armed opposition groups have also committed mass atrocity crimes, violated IHL and targeted religious minorities for attack. On 28 May a coalition of rebel groups seized Ariha, the last city in Idlib still held by the government. The Syrian Observatory for Human Rights (SOHR) reported that on 10 June, in Idlib's Qalb Loze village, fighters from Jabat al-Nusra killed at least 20 Druze, a religious minority group. On 16 June a rebel bombardment of Aleppo killed 34 people, including 12 children, according to the SOHR. OCHA also reported that indiscriminate attacks on government-controlled areas of Aleppo killed at least 116 people during April and May, nearly half of whom were women and children.

The "Islamic State of Iraq and the Levant" (ISIL), an extremist armed group operating on both sides of the Syria-Iraq border, poses a direct threat to civilians as its fighters have carried out mass executions and sexual

enslavement in areas under their control. The CoI has reported that ISIL has committed crimes against humanity. According to the SOHR, ISIL killed at least 1,362 civilians in Syria between June 2014 and April 2015 and has recruited approximately 400 children since January 2015.

On 20 May ISIL began an assault on the historic city of Palmyra, overrunning government forces and causing an estimated 11,000 people to flee. By 25 May ISIL had reportedly summarily executed more than 217 soldiers and residents in Palmyra.

Since 23 September Bahrain, Jordan, Morocco, Qatar, Saudi Arabia, United Arab Emirates and United States have conducted airstrikes against ISIL in Syria. On 24 March Canada joined this military coalition. The SOHR reported on 23 April that at least 1,920 ISIL fighters and 66 civilians had been killed during the coalition's military operations.

International actors continue to vie for influence in shaping the outcome of the conflict. Saudi Arabia and Qatar are providing arms to some rebel groups. Meanwhile, Russia and Iran continue to provide crucial economic, military and political support to the Syrian government. Hezbollah has directly engaged in fighting against Syrian rebels on both sides of the Syria-Lebanon border and is now essential to the government's military survival. Lebanon, which hosts nearly 1.2 million Syrian refugees, has also seen sporadic clashes between supporters and opponents of the Syrian government.

On 5 May the UN Special Envoy to Syria, Staffan de Mistura, began bilateral meetings in Geneva with the Syrian government, several opposition groups and regional powers to assess whether there is potential for a new round of diplomatic negotiations. The "Geneva II" peace conference, aimed at ending the conflict in Syria, finished in February 2014 without any tangible progress. On 30 June, three years after the adoption of the original Geneva Communiqué, UN Secretary-General Ban Ki-moon said that the international community "cannot afford to waste any further time in ending the cycle of violence."

Iraq current situation:

The extremist armed group the Islamic State of Iraq and the Levant is committing mass atrocities in Iraq. As the Iraqi Security Forces, Shia militias

and Kurdish fighters confront ISIL, civilians remain at risk of further mass atrocity crimes.

The security situation in Iraq remains dire as a result of ongoing attacks by IS, which operates on both sides of the Iraq-Syria border and has declared a caliphate spanning both countries. Widespread fighting between the Iraqi Security Forces (ISF) and IS, as well as several other armed groups, has led to sectarian violence and gross human rights abuses.

IS continues to systematically attack ethnic and religious minority communities, including Christians, Shabak, Yazidis and Turkmen, causing the mass displacement of vulnerable civilian populations. ISIL is suspected of perpetrating a series of car bombings targeting mainly Shia neighborhoods of Baghdad that killed at least 35 people on 12 July. According to a 23 February report by the UN Assistance Mission for Iraq (UNAMI) and the Office of the High Commissioner for Human Rights (OHCHR), ISIL's violations, which include targeted killings, forced conversions, slavery and sexual abuse, "may amount to war crimes, crimes against humanity and possibly genocide."

UNAMI reported that 2014 was the deadliest year in Iraq since 2008, with at least 12,280 civilians killed. Nearly 4,000 civilians have been killed during the first six months of 2015. The UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, Stephen O'Brien, reported on 9 June that since January 2014 more than 3 million Iraqis have been displaced and over 8 million people are in need of assistance.

Following several months of fighting, on 15 May ISIL declared that it had captured the strategic city of Ramadi, Anbar Province. By 18 May almost 25,000 people had fled Ramadi, according to the UN Humanitarian Coordinator in Iraq. Prime Minister Haider al-Abadi deployed Shia militias to assist the ISF in a counter-offensive, heightening concern for the civilian population. After ISIL seized Ramadi the United States announced it would send an additional 500 troops to join the approximately 3,000 trainers, advisers and other personnel supporting Iraqi forces against ISIL.

Following an Iraqi government request, prompted by ISIL seizing the northern town of Sinjar, on 8 August 2014 the United States began airstrikes against ISIL forces "to prevent a potential act of genocide" against the minority Yazidi community, according to President Barack Obama. ISIL killed at least 500 Yazidis and abducted 1,500 women and girls. Australia,

Belgium, Canada, Denmark, France, Morocco, Netherlands and United Kingdom have all joined military operations against ISIL. On 19 December Kurdish forces, backed by allied airstrikes, broke ISIL's siege of the Sinjar region.

On 2 April the Iraqi government retook Tikrit from ISIL after a month-long battle during which the ISF and Shia militias were supported by coalition airstrikes. When ISIL seized Tikrit during June 2014 its forces executed at least 1,700 captured Shia members of the army. On 7 April the Iraqi government began exhuming 12 suspected mass graves presumed to contain the bodies of these murdered captives.

Responding to sectarian terrorist attacks and the rise of ISIL, Shia militias have carried out violent reprisals against Sunni civilians. On 28 January the government said it would investigate an attack by Shia militias and some ISF members that killed at least 70 unarmed Sunni civilians in Barwanah, Diyala province. On 10 June Amnesty International reported that a Yazidi militia killed 21 Sunni civilians and abducted another 40 in Jiri and Sibaya villages, Sinjar.

The ISF has also been accused of extrajudicial killings, illegal detention, torture and other violations of IHL and human rights law. After expelling ISIL from Tikrit on 2 April, it was reported that the ISF and allied Shia militias summarily executed captured ISIL fighters and looted Sunni-owned property.

ANALYSIS: ISIL poses an existential threat to ethnic and religious minorities, who face the risk of further mass atrocities. ISIL also poses a direct threat to members of the majority Shia community. Despite a November 2010 power-sharing agreement between political parties representing Shias, Sunnis and Kurds, many Sunnis felt marginalized under former President Nouri al-Maliki. The government's violent response to a Sunni protest movement that started in December 2012 further aggravated these divisions. ISIL exploited widespread disaffection in the minority Sunni community to build alliances with Sunni tribes and seize large swathes of territory and resources. Cultural identities and transnational loyalties continue to be manipulated by various political forces in Iraq.

There are grave fears for the fate of civilians who continue to be trapped by fighting between ISIL and the ISF and allied Shia militias. Human rights violations are routinely perpetrated by the ISF, who often commit abuses in the name of counterterrorism. Some Shia militias, mobilized by the government to fight ISIL, also pose a direct threat to Sunni civilians. Meanwhile ISIL has consistently failed to protect civilians in areas under its control and is committed to the eradication of all religious communities and minority cultures that do not conform to its strict interpretation of Islam.

The Iraqi government is unable to uphold its Responsibility to Protect and needs ongoing international assistance.

Is it still a matter of discretion and political will for the international community to rise up to the occasion and act?

Yemen

Civilians in Yemen are at risk of mass atrocity crimes as a regional military coalition fights against Houthi rebels, who have taken control of most of the country.

BACKGROUND: During 2014, amid a UN-facilitated political transition process, the Houthis, a Shia militia from northeast Yemen, and allied militias loyal to former President Ali Abdullah Saleh, took control of the governorates of Saada, Hodeida, Dhamar, Omran and Sana'a. Growing

violence and renewed political pressure from the Houthis resulted in President Abed Rabbo Mansour Hadi fleeing to the southern city of Aden on 21 February 2015 and denouncing the Houthi takeover as a coup. With the Houthis advancing towards Aden and President Hadi relocating to Riyadh, on 26 March Saudi Arabia and a coalition of nine other countries responded to a government request for regional military intervention. Houthis and pro-Saleh forces now control most of Yemen, including the capital, Sana'a.

Ongoing violence between Houthis and various pro-Hadi forces, as well as months of sustained coalition airstrikes, have resulted in more than 3,000 people killed, half of whom are civilians. More than 1 million people have been displaced. An estimated 21 million people, more than 85 percent of Yemen's population, are now in urgent need of humanitarian assistance as the ongoing armed conflict has halted the delivery of desperately needed aid.

In addition to military targets, the airstrikes have caused extensive damage to civilian infrastructure. Saudi-led airstrikes have also reportedly included banned cluster munitions. The Houthis, meanwhile, have been accused of indiscriminately shelling civilian areas. During June Houthis fired several Scud-missiles into Saudi Arabia. Houthi and Hadi-allied forces have both targeted civilian infrastructure and international humanitarian workers, reportedly attacking more than 50 health facilities.

The UN, Gulf Cooperation Council (GCC) and United States have attempted to broker talks between the parties since mid-May. Despite a five-day "humanitarian pause" that started on 12 May, airstrikes and armed conflict resumed. UN-sponsored consultations were held in Geneva between 15 and 19 June, though the parties were unable to reach agreement on a ceasefire. A new humanitarian pause commenced on 10 July, but more than 45 people were killed in continuing violence and airstrikes on 12 and 13 July.

Other armed groups are taking advantage of the current instability to perpetrate violence against civilians. Since 17 June ISIL has perpetrated a series of terrorist attacks on Shia mosques and detonated car bombs throughout Sana'a.

ANALYSIS: The collapse of government control and escalation of armed conflict leaves civilians in Yemen at ongoing risk of mass atrocity crimes.

Indiscriminate attacks on vulnerable populations and targeting civilian infrastructure violates IHL and international human rights law. As the security situation deteriorates civilians are at serious risk of war crimes and crimes against humanity.

The country also risks becoming another proxy battlefield between Saudi Arabia and Iran. While Saudi Arabia remains the main force behind the regional military coalition, Iran has been widely accused of providing military assistance to the Houthis. In addition, the role of Sudan and Egypt in the regional military coalition is disturbing given their past history of committing possible war crimes and/or crimes against humanity in their own countries.

Fighting between Shia Houthi rebels and mainly Sunni forces loyal to the government of President Hadi threatens to further fracture Yemeni society along tribal and sectarian lines. Growing tensions between Shia and Sunni populations and the collapse of government has also enabled terrorist groups such as Al-Qaida in the Arabian Peninsula and ISIL to increase their presence.

Ongoing fighting and attempts to subvert the political transition are in violation of UNSC resolutions and the UN-brokered peace process. The Yemeni government is unable to uphold its Responsibility to Protect and requires international support.

Burma/Myanmar

Ethnic and religious minorities in Burma/Myanmar, especially stateless Rohingya, continue to face the threat of mass atrocity crimes.

BACKGROUND: Sporadic inter-communal violence in Burma/Myanmar, combined with discriminatory state policies, continues to put the Rohingya, a Muslim ethnic minority group, at risk of mass atrocity crimes. Rohingyas continue to be denied citizenship and other fundamental human rights by the government. On 29 September 2014 at the UN General Assembly, the government announced the "Rakhine Action Plan," which would require Rohingyas to accept ethnic reclassification as "Bengali" in order to obtain citizenship or be forced into detention camps. On 31 March 2015 the government invalidated the identification cards held by many Rohingyas, forcing them to apply for citizenship as "Bengalis." This follows the government denying Rohingyas the ability to self-identify on the national census of March 2014, the first since 1983.

The former UN Special Rapporteur on the human rights situation in Myanmar, Tomás Ojea Quintana, has said that previous violence against the Rohingya could amount to crimes against humanity and warned on 30 May 2014 that the government's failure to address the human rights situation in Arakan/Rakhine state "will ultimately mean the extermination of the Rohingyas."

Ongoing persecution has led tens of thousands of Rohingyas to flee to neighboring countries, where they are often subject to further abuse, human trafficking and refoulement. During May the governments of Thailand, Malaysia and Indonesia denied entry to thousands of Rohingyas, pushing their boats back to sea after Burma/Myanmar refused to take responsibility for them. Meanwhile, throughout May, mass graves containing the bodies of Rohingyas were discovered at human trafficking camps in Thailand and Malaysia.

Inter-communal violence and attacks against the minority Muslim community have recurred since June and October 2012, when clashes broke out in Arakan/Rakhine state, killing nearly 200 people. An estimated 139,000 people, mostly Rohingyas, remain segregated in IDP camps due to this violence. The government continues to block their access to healthcare and other vital humanitarian assistance.

The country's military forces (Tatmadaw), which have previously perpetrated atrocities against several ethnic minority groups, also pose an ongoing threat to civilians.

ANALYSIS: The government's refusal to grant the Rohingya access to citizenship or lift discriminatory state policies, as well as its failure to restrict hate speech, encourages ongoing violations of their fundamental human rights and reinforces the dangerous perception of the Rohingya as ethnic outsiders.

The country's constitution exempts the Tatmadaw from prosecution for any act carried out "in the execution of their respective duties." With a pervasive culture of impunity, the military has not been held accountable for previous mass atrocity crimes. On 25 June the military-dominated parliament voted against a bill that would abolish the military's veto power on constitutional amendments.

The government of Burma/Myanmar is failing to uphold its primary Responsibility to Protect with regard to the Rohingya and other vulnerable minorities.

INTERNATIONAL RESPONSE: Following decades of military dictatorship, democratic reforms have contributed to rapprochement between Burma/Myanmar and the international community, including the lifting of sanctions by a number of countries. [For responses prior to March 2015, see GCR2P's Timeline of International Response to the Situation of the Rohingya and Anti-Muslim Violence in Burma/Myanmar.]

On 22 April the Association of Southeast Asian Nations (ASEAN) Parliamentarians for Human Rights warned of the "growing risk of atrocity crimes in Myanmar" and urged ASEAN leaders to respond to the "escalating crisis situation" for Rohingyas and other vulnerable minorities.

Speaking to his Partnership Group on Myanmar on 24 April, the UN Secretary-General said the government must comprehensively address the issue of status and citizenship for the Rohingya.

On 19 May UNHCR, the UN High Commissioner for Human Rights, International Organization for Migration and Special Representative of the UN Secretary-General for International Migration and Development released a joint statement calling upon regional governments to protect and assist Rohingya asylum seekers stranded at sea. The following day Indonesia and Malaysia agreed to accommodate 7,000 asylum seekers until they can be resettled.

On 29 May Thailand hosted a "Regional Summit on Irregular Migration" to address the recent crisis. Burma/Myanmar refused to attend until it was assured that the term "Rohingya" would not be used during the meeting. On 2 July ASEAN held a ministerial meeting concerning the trafficking of asylum seekers in Southeast Asia, resolving to establish a fund aimed at supporting "humanitarian and relief efforts."

The UN Human Rights Council adopted a resolution on 1 July, condemning the systematic gross violations of human rights and abuses committed against Rohingyas and urging the government of Burma/Myanmar to grant the Rohingya citizenship and address the spread of discrimination and prejudice against Muslims.

Other potential countries where the R2P can apply and should be researched on: Burundi, Central African States, Democratic Republic of the Congo, Nigeria, Pakistan, Sudan, South Sudan

Questions to consider discussing during moderated caucuses in the conference:

Do countries even have a responsibility to protect other nations? (the need and use of R2P)

What all constitutes of humanitarian intervention?

Is military intervention the right track?

Whether or not a humanitarian relief should be delivered by force as examined in the cases in the Balkan region.

Could the Responsibility to Protect doctrine be invoked in order to protect the citizens of another country.

☐ **Whether or not, criteria over intervention - such as right intention, necessity, proportionality, last resort and reasonable prospects of success - should be put in order to ensure transparency and to enhance legitimacy of this action.**

☐ **The evaluation of the so called “successful” intervention in Libya.**

☐ **Further examination of the Responsibility to Protect taking into consideration the role of Regional Organizations and the authority of United Nations**

Security Council.

☐ **Sovereignty as a responsibility when states are unwilling or unable to protect and safeguard the human rights of their citizens.**

Should only diplomatic channels be used in the R2P, force or both diplomatic and the use of force?

When should humanitarian intervention be used i.e the R2P applied?

What is to trigger humanitarian intervention?

Discussion on the framework of type of interventions to be used

Who all is going to fund these interventions?

Who is going to provide support for these interventions?

How are human rights going to be protected in such interventions?

What type of human rights violations should trigger the use of the R2P?

Who is going to be responsible for the protection of human rights?

The question of Syria and Iraq and whether humanitarian intervention and the application of R2P is mandatory?

The question of Burma and whether humanitarian intervention and the application of R2P is mandatory?

The question of Yemen and whether humanitarian intervention and the application of R2P is mandatory?

Delegate should remember that this is the Human Rights Council and not the Security Council. UNHRC can suggest matter related to the Security Council to it but cannot take decisions on behalf of it. Thus the discussion on Humanitarian Intervention should be kept under the mandate of UNHRC.

TOPIC AREA B

“Protecting Human Rights in Conflict Zones”

Background:

There are currently over 50 conflicts of various intensities being fought across the world. When conflict occurs, it is inevitable that people will suffer, regardless of their role or beliefs. War disrupts normal civilian life and creates immense hardship for local populations. Furthermore, many communities flee and become refugees, thus putting strain on neighboring regions or states that may have otherwise remained unaffected by the issue at hand. In many modern cases, the combatants too are not given their due rights as laid down in the Hague Conventions of 1907 and the Geneva Convention treaties of 1949. Such widespread upheaval makes the development of a framework to safeguard human rights of all parties in times of conflict of the utmost importance.

Issues to discuss:

A combatant is any person who takes a direct part in hostilities during a conflict. Combatants are further divided into two categories based on their adherence to the laws of war.

Civilians under the laws of war are persons who are not members of their country's armed forces or militias or who are not taking a direct part in hostilities in an armed conflict. They are considered non-combatants and have some legal protection from the effects of war.

1) Prisoners of war:

Article 4 of the Third Geneva Convention (1949) lays down the criteria for distinguishing between lawful and unlawful combatants and the rights they have while captured.

i) Privileged combatants:

Privileged combatants include: members of the armed forces of a party to the conflict; members of militias which are commanded by a person responsible for their conduct, use distinctive and recognizable signs and emblems, carry arms openly and respect the laws of war; and members of resistance forces

who take up arms against an invader without having time to organize themselves, provided they still carry arms openly and respect the laws of war.

In theory, only lawful combatants are eligible for prisoner of war (POW) status. POWs are entitled to the following:

Humane treatment with respect for their dignity as human beings.

Allowed to communicate with relatives, inform them of their capture and receive packages; however, the detaining authorities have the right to censor all mail. Given access to satisfactory food, clothing, lodging and medical attention.

Not to be used as forced labour without adequate remuneration and the taking of factors such as age and sex into account; all dangerous work to be purely voluntary Prompt repatriation upon the end of the conflict.

Protection from torture; should not be forced to reveal information beyond name, rank, service number and age.

Protection from retribution for lawful acts of war, such as killing enemy combatants. Allowed to communicate with the International Committee of the Red Cross. Accountability for those who breach the above rights.[1]

ii)

However, adherence to these laws has varied greatly throughout history, even in modern times. Communist forces captured many United States service members as prisoners of war in the Vietnam War, who were maltreated for the duration of the war. Communist Vietnamese held in custody by South Vietnamese and American forces were also tortured and mistreated.[2]

Likewise in the Yugoslav Wars Serbian paramilitary soldiers killed prisoners at Vukovar and Škabrnja; Bosnian Serbs were also responsible for killing POWs at the infamous Srebrenica Massacre in 1995.

Unprivileged combatants:

Unprivileged combatants are those combatants who have breached the laws of war in some manner. These include combatants who used treachery, for instance executing enemy soldiers who surrender. Spies, mercenaries, child soldiers, and civilians who take up arms without any extenuating circumstances are also classified as unlawful combatants.

As unlawful combatants may be punished for acts of war that are otherwise lawful, their status must be proven by a trial. Prisoners who do not meet the criteria for privileged combatant status and are suspected to be unlawful

combatants are to be considered civilians or non-combatants and receive all the associated protections until such time that a fair, impartial trial to determine their status is convened. The same trial may also hand down appropriate sentences if they are proven to be unlawful combatants. Even if proven to be unlawful combatants, they are to be protected from abuse and are entitled to their basic human rights.[3]

In many modern conflicts, the belligerents often include non-state actors such as militias and insurgent groups. Such groups often conduct guerilla warfare and do not use distinct symbols, nor carry arms openly. This makes them legally ineligible for POW status; however, many of the state actors in such scenarios do treat militants as prisoners of war. On the other hand in other countries, insurgents who surrender are viewed as traitors and criminals, and are tortured and executed summarily instead of receiving the treatment that they are due.

2) Extra-judicial killings and torture:

An extrajudicial killing is the killing of a person by governmental authorities without the sanction of any judicial proceeding or legal process. Extrajudicial punishments are by their nature unlawful, since they bypass the due process of the legal jurisdiction in which they occur. Extrajudicial killings often target leading political, trade union, dissident, religious, and social figures and may be carried out by the state government or other state authorities like the armed forces and police.

In low-level conflicts such as insurgencies, state forces often torture or summarily execute captured insurgents because they consider them to be traitors or terrorists. Weak legal systems are another cause of extrajudicial killings; lack of accountability for both captured militants and arbitrary executioners gives an incentive to state officials to carry out summary executions of insurgents lest they escape or are acquitted.

Extrajudicial killings are not restricted to unlawful combatants. Belligerents occupying hostile territory may routinely detain, torture and kill civilians who are suspected to be aiding resistance efforts, for instance by being informants for the enemy or providing shelter and support to insurgents. Another case of terror being used as a weapon by occupying powers is that of ethnic or religious cleansing, where members of a group are targeted and killed or driven out of their homes to make the demographics of a region more

homogenous. Human rights activists and dissidents who oppose such actions may also find themselves under threat. However, state powers do not hold a monopoly on violence against civilians and many non-state actors and terrorist groups have targeted civilians and non-combatants in the past. Examples of terror being perpetrated against civilians on both sides include the Kashmir conflict, the Syrian Civil War and the Russian insurgencies in Chechnya and the North Caucasus.

3) Socioeconomic Effects:

The most visible effect of war is the devastation wrought upon the environment and infrastructure of a combat zone. While the physical destruction is devastating on its own, the socioeconomic fallout as a result may be even worse and may take decades to repair.

During wartime, public places such as schools, hospitals, markets and places of worship are often targeted for maximum effect. Even in cases where the combatants generally respect the sanctity of civilian life, the prevailing instability causes the general population to stay as far from a potential target as possible. This leads to a breakdown of society which has devastating consequences for affected populations.

School and hospitals cannot function when access to them is cut off.

Education is the primary means of defeating poverty and uplifting communities; when it is disrupted over the long-term, efforts to defeat intolerance, ignorance and poverty are compromised. The destruction or closure of transportation routes such as railways and roads disrupt the economy of regions caught up in fighting, which drives these areas further into poverty. More importantly, closed routes prevent affected regions from receiving necessities such as food and fuel; many instances exist where people trapped in combat zones died of hunger and the climate rather than due to belligerent action.

An increasing number of conflicts worldwide are driven by religious or ethnic factors; when such wars occur, communities which previously lived together in harmony turn on each other as part of the slaughter, as happened in Syria and Rwanda. This devastates the social order and because of the prevailing intolerance, reconciliation and the recovery process may take much longer to give time for a sense of trust to develop again amongst different groups. The use of rape as a psychological weapon is a hallmark of such conflicts; combatants may seek

to humiliate and demoralize members of other communities by assaulting them sexually. The Rwandan Civil War also established a precedent where rape can be considered an act of genocide if proven to be systematically perpetrated against members of a particular community.[4] Although the vast majority of victims of war rape are women, men have also been assaulted; 80% of concentration camp inmates in Sarajevo during the Yugoslavian Civil War reported being raped by their captors.

4) Refugees:

Refugees are persons who have left their homes because they have suffered or may potentially suffer persecution on the basis of race, religion, nationality, political opinion or social category, or because they are fleeing a war. Such persons may be referred to as ‘asylum seekers’ until recognized by the state where they make their request for refuge. [5]

i) Lack of physical and social necessities:

Refugee camps are often formed in an ad-hoc, unplanned manner and this factor results in a multitude of difficulties. Since the host countries are often underdeveloped themselves, ensuring a steady supply of food and providing facilities for clean water are challenges. Sanitation is a major issue and often, camps are a hotbed of diseases like cholera, typhoid and dysentery.

Although camps may require more than adequate healthcare facilities, they are frequently unavailable due to either the remoteness of the camp or the lack of an adequate healthcare system in the host country as well. Although many refugees are able to cater to themselves economically, others are unable to and spiral further into poverty. Education, a prime tool to help fight poverty, is also mostly non-existent.

ii) Right of return:

Article 13 of The Universal Declaration of Human Rights gives humans the right to return to and reenter their country of origin. Although no international treaty has codified the right of return, it remains an important right of particular significance to refugees who have fled to other nations. [6] However, many refugees are often denied this right. This tends to happen mostly in the case of an ethnic or religious conflict and in the context of ethnic cleansing, when victims who fled demand the right to return to their territory whereas the perpetrators or new occupants claim that returning populations may pose a security threat to themselves. An example of such a

case is the Israel-Palestine conflict; Israel refuses to allow displaced Palestinians the right to return to their lands due to the fear of communal strife between the returning Palestinians and the Jewish settlers who now occupy those territories.

iii) Dynamics of host country:

Although refugees often flee their land of origin out of fear of war or persecution, in many circumstances they could be caught up in the same situation in their host countries as well. For instance, Palestinian refugees were slaughtered right in refugee camps by Maronite militias in the Sabra and Chatilla massacres during the Lebanese Civil War. Furthermore, refugees became victims of the fighting in 2012 between government forces and rebels in the Yarmouk refugee camp near Damascus until both sides agreed to demilitarize the area.

On occasion, the refugees may themselves be the cause of their plight. In the aftermath of the 1948 Arab-Israeli, Jordan annexed the West Bank which led to a majority of Jordanians being of Palestinian descent. This led to the authority of the Jordanian central government being undermined in Palestinian enclaves and the border. The

Palestinian Liberation Organization (PLO) also started functioning like a state within a state, searching vehicles, operating crime rackets and some even calling for the overthrow of the monarchy. This came to a head in September 1970, when the Jordanian Army began an offensive against the PLO, one that resulted in nearly 5000 Palestinian deaths and led to the expulsion of many from the country, becoming refugees for a second time.

5) Targeting practices:

During wartime, combatants are legally allowed to attack enemy targets or targets that may aid the enemy's war effort. Modern conflicts however, have blurred the line between soldier and civilian. As such, there is now great controversy over which targets can be lawfully attacked and which cannot.

i) Civilian targets:

Civilians and non-combatants are legally protected from attack during wartime under the Geneva Conventions and the 1998 Rome Statute, which makes it a war crime to intentionally target civilians.[7] However, most

current conflicts involve guerilla warfare or terrorism where combatants may seek to blend in with the civilian populace. Many militant groups often take civilians hostage as human shields to protect against attack; the laws of armed conflict state that in case of an attack in such a situation, the belligerent who took the civilians hostage will be held responsible for the deaths and damage that occur.

Although belligerents are obligated to avoid hitting civilian targets to the greatest extent possible, they are allowed to hit targets in the pursuance of legitimate military goals. In the modern era, this translates into military attacks on targets such as transportation infrastructure and power grids that hold military significance, but may also be essential to civilian life. An example of such an instance is the First Gulf War in 1991; Coalition air forces launched an intensive air campaign against not just Iraqi military targets, but civilian infrastructure like bridges, power stations and roads to make the execution of the land campaign simpler.

ii) Relief efforts:

The Geneva Conventions describe and protect the rights of humanitarian aid workers. UNSC Resolution 1502 goes further and proclaims the act of attacking aid workers a war crime.[8] Aid workers may come under attack for both economic and political reasons. Kidnapping for ransom, suspending of aid to combat zones, and punishment for criticism have all been found to be motives for such incidents. These attacks may be carried out by both armed forces and militia groups.

Although belligerents are expected to refrain from attacking humanitarian workers, they are not obliged to allow them access into combat zones, or to provide them security. As a result, certain organizations such as Medecins Sans Frontieres operate on the basis of ignoring official bans or dangerous situations with respect to security.

Humanitarian aid is often the last and most critical means of support that war-affected populations can rely on. When such operations are attacked or suspended, a critical humanitarian situation may get even worse. This plays into the hands of combatants, who may use starvation and disease as a weapon to force enemy populations to surrender.

iii) Persons in distress:

According to Protocol I of the Geneva Convention, it is unlawful to attack persons parachuting from a plane in distress; even when they reach ground, they are to be given

the opportunity to surrender before opening fire. This protection does not apply to airborne troops, special forces or intelligence agents who may be attacked even while they are in the air.[9]

Case Studies:

1) Iran-Iraq War:

The Iran-Iraq War was a conflict ignited by the invasion of Iran in 1980 by Saddam Hussain on the pretext of reclaiming land along the Shatt-al-Arab waterway that he claimed historically to be a part of Iraq. Hussain was further motivated by the fear of a revolution on the Iranian model by Iraq's own oppressed Shia minority, a concern shared by many of the Gulf States that supported Iraq in the conflict.

The war began when Iraq invaded the Iranian province of Khuzestan in September 1980. The Iranian military was badly affected by the Islamic Revolution in 1979 and was in poor shape without trained officers, a lack of spare parts and desertion rates approaching 60%. On the other hand Iraq had a modern military armed with the most advanced Soviet bloc weaponry; as a result, Hussain was confident of an easy and quick victory. However, the invasion rallied Iranians around the Khomeini regime and led to the expulsion of Iraqi forces from Iran by 1982, after which the Iranian military invaded Iraq to topple Saddam Hussain. This offensive was also repelled and the war continued in this fashion till 1988, when Resolution 598, a UN ceasefire was accepted by both sides. This conflict also involved non-state actors, with the Iranian Mujahideen-e-Khalq fighting alongside Iraq and the Iraqi Kurds represented by the Kurdish Democratic Party and the Patriotic Union of Kurdistan backed by Iran revolting against Saddam Hussain.

The conflict cost up to a million lives, with countless more left wounded, prisoners or homeless. Both belligerents were responsible for grave human rights violations. Shelling cities near frontlines was a common tactic and was responsible for thousands of casualties on either side. Iraq was also responsible for the use of chemical weapons against Iranian soldiers and civilians, as well as its own Kurdish population in violation of the Chemical Weapons Convention. Iraq also carried out mass executions and evictions of its minorities in the north such as Turkmen, Yazidis and Kurds; some legal experts believe Saddam could have been tried for genocide. Furthermore, POWs on both sides were mistreated and the repatriation process did not begin till 1990, a full two years after hostilities ended; some were even imprisoned till 1998. More than 144,000 Iranian children were orphaned by

the war and the destruction caused ensured that their education and social welfare could not be adequately catered to. Destruction of healthcare facilities also ensured that people afflicted by the wounds of war as well as complications from chemical attacks could not receive the required care.[10]

2) War against ISIL in Iraq and Syria:

The Islamic State of Iraq and the Levant (ISIL) is a Sunni jihadist organization that rose to prominence during the Syrian Civil War as one of the groups opposing the forces of Bashar al Assad. Originally formed as the Islamic State of Iraq (ISI), the organization started funneling fighters to Syria under the name of Jabhat al Nusra when the rebellion began in 2011. Jabhat al Nusra became known as the most effective anti-regime force on the ground and was the official al Qaeda affiliate in Syria. In 2013, the leader of ISI, Abu Bakr al Baghdadi announced a merger between JN and ISI, calling it ISIL; the merger was rejected both by JN and the al Qaeda leadership, which gave its blessing to JN. Clashes between ISIL and other Islamist militias in January 2014 led to the latter withdrawing from many fronts but consolidating its hold over its headquarters in Raqqa and in Deir-ez-Zor.

In June 2014, ISIL and allied fighters crossed into Iraq, ostensibly to aid Sunni tribes fighting the Shia-dominated Maliki government. The battle-hardened jihadists quickly routed the few Iraqi Army units resisting and established control over large portions of Sunni territory, including the crucial cities of Mosul and Tikrit. ISIL also made advances into Kurdish territory, nearly taking the Kurdish capital of Erbil before being halted by US airstrikes. The Yazidi town of Sinjar was also taken, prompting tens of thousands of them to flee and remain exposed and surrounded on Mount Sinjar without provisions until US airpower and Kurdish ground forces broke the siege. Counterattacks by the Iraqi Army and Kurdish Peshmerga have been successful in retaking some ground, though the conflict is ongoing. Numerous human rights abuses have occurred during this conflict, with the majority attributed to ISIL. ISIL members have used terror as a weapon, killing enemies who surrender and beheading them as a warning to others. Although non-Sunnis are ISIL's main target, the organization has not shied from killing Sunni opponents as well; in late October and early November, over 300 members of the Sunni Albu Nimr tribe opposing ISIL were abducted and executed. The jihadists have also been accused of mass sexual violence and forced conversions in captured territories. Between five and seven thousand Yazidi women have been held in detention, from where they

are sold into sexual slavery. Since the jihadist offensive began, over 7000 Yazidis have also been forced to convert to Islam; the Christians

of Mosul were also forced to flee after being threatened by the insurgents. ISIL's enemies are also guilty of violating human rights. Shiite militias fighting ISIL alongside the Iraqi Army have been abducting and killing Sunni civilians as reprisals for ISIL's atrocities since June 2014, when ISIL launched its offensive. A report by Human Rights Watch also found police and Iraqi Army complicity in at least one of the attacks on a Sunni mosque in Diyala that killed 34 people. [11][12][13]

3) Insurgency in Kashmir:

The conflict over Jammu and Kashmir is nearly as old as the United Nations itself. Being the only Muslim-majority state in contemporary India, the controversy over whether the state belongs to Pakistan because of its Muslim population, or India because of the Dogra ruler's accession to the latter has caused four wars between India and Pakistan and continues to be a primary reason for the animosity between the two.

The conflict took on a new dimension after the 1987 elections in the state which were allegedly, now proven to be, rigged in favour of the pro-government candidate Farooq Abdullah. This sparked a continuing series of protests by the cheated Muslim United Front (MUF) and other groups till 1990, when Indian soldiers opened fire on unarmed protestors. From this point onwards, a popular insurgency started with Kashmiri militants backed by Pakistan attacking government and army personnel; protests by Kashmiri people were continuously attacked by the Indian military, further fuelling the insurgency. The bloodshed continued till 2000, when some militant groups laid down their arms, and 2004, when Pakistan decided to end support to the insurgents.

The insurgency has so far cost over 47000 civilian lives. Both sides have been accused of massive human rights violations. The Muslim Kashmiri militants have been repeatedly accused of launching a campaign of ethnic cleansing against the Hindu Pandit community which caused them to flee in large numbers, a charge that the former denies. On the other hand, the Indian military has been held responsible for the deaths of thousands of Kashmiris, militants or otherwise, who were killed by firing on protests, killed in an extrajudicial manner, or disappeared and likely died in detention as a result of torture. Indian soldiers have also been accused of raping Kashmiri women as a form of reprisal. One infamous

incident took place in the village of Kunan Poshpora. Indian soldiers of the 4th Rajputana Rifles are accused of raping upto 80 women from the ages of 13-70. The Indian Army has dismissed the accusation as a hoax, though human rights organizations such as Human Rights Watch have asked for the case to be reopened. [14][15][16]

Past Actions:

1) International efforts:

i) Geneva Conventions:

The Geneva Conventions are a set of four treaties and three additional protocols that establish the standards of international law for the humanitarian prosecution of war. The Geneva Conventions extensively defined the basic, wartime rights of POWs and established protections for wounded combatants and civilians. They comprise of:

The Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, replaced by the First Geneva Convention of 1949.

The Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, replaced by the Second Geneva Convention.

The Geneva Convention relative to the Treatment of Prisoners of War was adopted in 1929, replaced by the Third Geneva Convention.

The Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, added and adopted in 1949.

There are also three additional protocols:

Protocol I relating to the Protection of Victims of International Armed Conflicts.

Protocol II relating to the Protection of Victims of Non-International Armed Conflicts.

Protocol III relating to the Adoption of an Additional Distinctive Emblem.

The Conventions have been signed and ratified by over 196 countries.

Although enforcement power lies by the UNSC, it is rarely involved in the upholding of the

Conventions and most such matters are dealt with by national or regional laws and treaties. [17]

ii) International Covenant on Civil and Political Rights;

The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976. It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. As of April 2014, the Covenant has 74 signatories and 168 parties.

Although primarily a general human rights treaty, its provisions, especially Part 3, are especially relevant to wartime situations. The treaty guarantees the physical liberty and security of persons and protects their right to a fair, impartial trial. Its provisions guard against arbitrary arrest and torture.

iii) UN Convention on Torture:

The United Nations Convention against Torture is an international human rights treaty that aims to prevent torture and cruel, inhuman degrading treatment or punishment around the world. The text of the Convention was adopted by the United Nations General Assembly on 10 December 1984 and came into force on 26 June 1987. As of September 2014, the Convention has 156 state parties.

The Convention requires party states to take measures to prevent torture within their

borders, and forbids states to transport people to any country where there is reason to believe they will be tortured. Specifically, it defines torture, establishes torture as a criminal offence, sets jurisdictions for the trial of torture cases, provides recompense to torture victims and forbids member states from deporting or extraditing persons to a country where it is likely they will be tortured. [18]

2) NGOs:

i) Medecins Sans Frontier:

MSF delivers emergency medical aid to people affected by conflict, epidemics, disasters or exclusion from health care. In 2012, MSF treated approximately nearly 350,000 severely and moderately malnourished children in a host of countries in Africa and Asia. MSF tries to bridge the gap in services and call on governments to make sure that refugees, internally displaced people, migrants, minorities, the unemployed, prisoners, people with HIV/AIDS or tuberculosis, drug users, sex workers, street children and others for whom they bear responsibility, can get the treatments they need.

MSF only accepts donations from private individuals as a means of proving its independence from institutions to all sides in potential conflict zones. [19]

ii) International Relief and Development, Inc.

□ □ □ □

International Relief and Development, Inc. is a nonprofit, nongovernmental organization responsible for implementing relief and development programs worldwide. Their efforts are targeted towards world's most vulnerable groups, often including those affected by conflict. IRD oversees seven types of relief programs:

- Acquisitions and logistics
- Community stabilization
- Democracy, governance, and community development
- Health
- Infrastructure
- Relief and humanitarian assistance
- Sustainable food and agriculture systems

Although IRD has a large network of donors and partner organizations, over 80% of its budget is funded by USAID, a branch of the US government, casting doubts on its independence. [20]

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Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977

4) Convention related to status of Refugees. Adopted on 28th July 1951 by United Nations conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950

5)

<http://www.geneva-academy.ch/RULAC/pdf/Human-Rights-Law-in-Armed-Conflict.pdf>

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6) <https://www.un.org/en/documents/udhr/>

7) <http://legal.un.org/icc/statute/romefra.htm>

8) https://www.un.org/docs/sc/unsc_resolutions03.html

9) <https://www.icrc.org/ihl/INTRO/470>

10) <http://www.crimesofwar.org/a-z-guide/547/>

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