NEW SECURITY CHALLENGES
Series Editor: Stuart Croft

Genocide and its Threat to Contemporary International Order

Adrian Gallagher

New Security Challenges Series

General Editor: **Stuart Croft**, Professor of International Security in the Department of Politics and International Studies at the University of Warwick, UK, and Director of the ESRC's New Security Challenges Programme.

The last decade demonstrated that threats to security vary greatly in their causes and manifestations, and that they invite interest and demand responses from the social sciences, civil society and a very broad policy community. In the past, the avoidance of war was the primary objective, but with the end of the Cold War the retention of military defence as the centrepiece of international security agenda became untenable. There has been, therefore, a significant shift in emphasis away from traditional approaches to security to a new agenda that talks of the softer side of security, in terms of human security, economic security and environmental security. The topical *New Security Challenges series* reflects this pressing political and research agenda.

Titles include:

Abdul Haqq Baker
EXTREMISTS IN OUR MIDST
Confronting Terror

Jon Coaffee, David Murakami Wood and Peter Rogers
THE EVERYDAY RESILIENCE OF THE CITY
How Cities Respond to Terrorism and Disaster

Tom Dyson
NEOCLASSICAL REALISM AND DEFENCE REFORM IN POST-COLD WAR EUROPE

Håkan Edström, Janne Haaland Matlary and Magnus Petersson (*editors*)
NATO: THE POWER OF PARTNERSHIPS

Hakan Edström and Dennis Gyllensporre (*editors*)
PURSUING STRATEGY
NATO Operations from the Gulf War to Gaddafi

Christopher Farrington (*editor*)
GLOBAL CHANGE, CIVIL SOCIETY AND THE NORTHERN IRELAND PEACE PROCESS
Implementing the Political Settlement

Adrian Gallagher
GENOCIDE AND ITS THREAT TO CONTEMPORARY INTERNATIONAL ORDER

Kevin Gillan, Jenny Pickerill and Frank Webster
ANTI-WAR ACTIVISM
New Media and Protest in the Information Age

Andrew Hill
RE-IMAGINING THE WAR ON TERROR
Seeing, Waiting, Travelling

Andrew Hoskins and Ben O'Loughlin
TELEVISION AND TERROR
Conflicting Times and the Crisis of News Discourse

Paul Jackson and Peter Albrecht
RECONSTRUCTING SECURITY AFTER CONFLICT
Security Sector Reform in Sierra Leone

Bryan Mabee
THE GLOBALIZATION OF SECURITY
State Power, Security Provision and Legitimacy

Janne Haaland Matlary
EUROPEAN UNION SECURITY DYNAMICS
In the New National Interest

Michael Pugh, Neil Cooper and Mandy Turner (*editors*)
WHOSE PEACE? CRITICAL PERSPECTIVES ON THE POLITICAL ECONOMY OF PEACEBUILDING

Brian Rappert and Chandré Gould (*editors*)
BIOSECURITY
Origins, Transformations and Practices

Brian Rappert
BIOTECHNOLOGY, SECURITY AND THE SEARCH FOR LIMITS
An Inquiry into Research and Methods

Brian Rappert (*editor*)
TECHNOLOGY AND SECURITY
Governing Threats in the New Millenium

Ali Tekin and Paul Andrew Williams
GEO-POLITICS OF THE EURO-ASIA ENERGY NEXUS
The European Union, Russia and Turkey

Lisa Watanabe
SECURING EUROPE

Mark Webber, James Sperling and Martin A. Smith
NATO's POST-COLD WAR TRAJECTORY
Decline or Regeneration

New Security Challenges Series
Series Standing Order ISBN 978 0–230–00216–6 (hardback) and ISBN 978–0–230–00217–3 (paperback)

You can receive future titles in this series as they are published by placing a standing order. Please contact your bookseller or, in case of difficulty, write to us at the address below with your name and address, the title of the series and the ISBN quoted above.

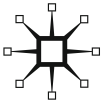
Customer Services Department, Macmillan Distribution Ltd, Houndmills, Basingstoke, Hampshire RG21 6XS, England

---

Genocide and its Threat to Contemporary International Order

Adrian Gallagher

palgrave
macmillan



Softcover reprint of the hardcover 1st edition 2013 978-1-137-28025-1

First published 2013 by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

Palgrave Macmillan is the global academic imprint of the above companies and has companies and representatives throughout the world.

ISBN 978-1-349-44759-6 ISBN 978-1-137-28026-8 (eBook)
DOI 10.1057/9781137280268

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
22 21 20 19 18 17 16 15 14 13

For Catherine Gallagher

This page intentionally left blank

Contents

Acknowledgements

I would like to take this opportunity to thank former supervisors, colleagues, scholars, family, and friends for helping make this book possible. The book stems from an ESRC-funded PhD which I completed in October 2010, in the Department of Politics at the University of Sheffield. I am eternally grateful for the supervisory guidance of Garret W. Brown and Rhiannon Vickers who provided me with a constant source of support and detailed feedback on an endless number of draft chapters. In addition to this, I am grateful to Andrew Vincent whose helpful discussions over the years helped me develop my thinking on this subject matter. As part of the doctoral process, I was privileged to obtain advice and feedback from Brian White and Ian Clark who acted as my internal and external examiners. For this I owe special thanks. On that note, I would also like to thank the 'powers that be' for providing me with the funding lifeline without which the project would not have been possible.

Between 2007 and 2010 I was an active member of the Sheffield Centre for the Study of Genocide and Mass Violence. The centre hosted an ongoing Genocide Lecture Series in which leading genocide scholars from around the world presented their studies. The centre provided me with the opportunity to present my research to experts in the field and as a result provided me with an invaluable resource. With this in mind, I would like to thank Juergen Zimmerer, David Patrick, Ugur Üngör, Henning Piper, Mark Levene, Linda Melvern, and Paul Behrans who helped create a vibrant research centre. Furthermore, many of them took the time to offer me thoughtful comments which helped me understand the interdisciplinary complexities involved in this project.

Finally, I would like to thank my family and friends for putting up with all things genocide-related over the last few years and for providing me with a much-needed 'genocide-free zone'. For this, and much more, I am truly thankful. Special thanks go to my parents, Catherine and Patrick, and to my brothers Kieran and Damien.

1
Introduction

Genocide refers to the destruction of a group. However, if I am not a member of that group, why should I care about its destruction? Traditionally, in answering this controversial question, scholars have tended to espouse universal moral principles when advocating compassion and humanitarian intervention. Genocide, it is claimed, constitutes a crime against humanity. The problem is that such understanding tends to be built on the assumption that humanity exists. For those that refute the idea, the claim that genocide is a crime against humanity is flawed as humanity is nothing more than a word. As Alexander Herzen bluntly stated, 'The word "humanity" is repugnant; it expresses nothing definite and only adds to the confusion of all remaining concepts a sort of piebald demi-god. What sort of unit is understood by the word "humanity?"'[1] Although this view may seem uncompassionate, the dominance of realism in twentieth-century political discourse has often seen such understanding upheld at the international level. Since realists reject the idea that states have a moral obligation to anyone other than their own citizens, they have tended to oppose genocide prevention as a humanitarian concern that is of little real concern to a state's national interest. From this perspective genocide prevention remains just another policy option, one that should only be opted for when there are national interests at stake.

This is put into context in Alex Alvarez's work, *Governments, Citizens and Genocide* in which the author explains that diplomats 'are often held hostage to *Realpolitik* strategies that place a higher value on protecting national security than protecting an oppressed group'.[2] For instance, in 1975 prior to the Indonesian oppression in East Timor, the Australian ambassador to Indonesia wrote that Australia should assume a 'pragmatic rather than a principled stand', because 'that is what

national interest and foreign policy is all about'.[3] Such rhetoric was also evident as James Wood, a US Deputy Assistant Secretary of Defence, placed Rwanda-Burundi on a list of potential trouble spots only to be informed by a superior: 'Take it off the list … US national interest is not involved … we can't put all these silly humanitarian issues on lists like important problems in the Middle East and North Korea and so on.'[4] Similarly, as Slobodan Milosevic engineered a process of destruction and dispossession in the former Yugoslavia, George Bush's secretary of state, James Baker, repeatedly stated: 'We don't have a dog in this fight.'[5] The sentiment expressed in these statements underlines the central point that genocide prevention is not considered to be in a state's national interest. Because of this, policymakers seem to view genocide prevention as somewhat altruistic and part of an *un*realistic foreign policy agenda. As Nicholas J. Wheeler's seminal study succinctly concludes: 'state leaders will accept anything other than minimal casualties only if they believe national interests are at stake'.[6]

The point to consider is that genocide is considered to be the 'crime of crimes' in international law, yet carries much less political weight than 'lesser crimes'.[7] For instance, long-term *collective security* strategies are adopted when attempting to prevent crimes such as international terrorism, drug trafficking, and piracy at the international level.[8] This is not to say that such crimes do not have profound implications for international society but to highlight that at present, there is no such long-term collective security strategy when it comes to genocide prevention.[9] Essentially, it would seem that crimes such as drug trafficking are considered to pose an *international threat*, by which I mean that, such crimes outstrip the individual security capacity of states who then work collectively to address this security deficit. Accordingly, policymakers perceive that the collective interest furthers the national interest within such specific contexts. The failure of any long-term collective security strategy towards genocide implies that policymakers do not perceive that it poses an international threat in the same way that the aforementioned crimes do. Although policymakers will undoubtedly recognise the horror of genocide and accept that genocide may cause mass migration, which causes regional instability,[10] it is clear that mass migration is not exclusive to genocide which remains a low-priority issue. Such understanding only goes to restate the point that when it comes to genocide prevention, policymakers do not perceive that they have a 'dog in the fight' and as a result do not treat the prevention of genocide as a matter of national interest.

This point is fleshed out further in Andrew Hurrell's analysis *War, Violence and Collective Security*:[11]

> Although the collective security element in security management has increased, we remain as far away as ever from anything approaching a functioning system of collective security. Peace is not indivisible, and states and their citizens remain unwilling to bear the costs of collective security action in complex and dangerous conflicts in which their national interests are only weakly engaged. It may well be that the horrors of the Rwandan genocide prompted increased normative momentum in areas of human security and the responsibility to protect. But the continued failure of outside states to undertake a collective action in Darfur highlights the continuity of the problem.[12]

The statement underlines the fact that collective security is still in its infancy and that a functioning collective security system remains a long way off. However, the statement also underlines a stark point that despite the post-Cold War normative momentum that underpinned the 2005 UN endorsement of the *Responsibility to Protect* (R2P): *we do not even expect states to collectively confront the crime of genocide because the common perception is that the direct interests of states are not served by engaging in such 'complex and dangerous conflicts'*. Yet while this is true, it is also quite clear that states are willing to engage in such complex and dangerous foreign policy agendas when they perceive that their national interests are at stake. Hurrell therefore also rightly points out that the lack of political will surrounding genocide prevention often stems from the perception held by state elites, that there is no valid link between genocide prevention and the national interest. Thus, as it stands, genocide prevention can be considered a norm in the English School/Constructivist sense of what ought to be done but it cannot be considered a norm in the realist sense of a re-occurring pattern of behaviour as quite simply, it is genocide rather than genocide prevention that remains the norm at the international level. This reality juxtaposes with Hurrell's understanding and raises a critical question: *how do we think about, conceptualise, and understand genocide in International Relations*?

The IR dimension

The primary focus of this book is on understanding genocide, from an IR perspective, in order to shed light on how genocide should be conceptualised at the international level. In so doing, it lays the groundwork to

answer a series of important interrelated questions: what is the impact of genocide on the current world order? Does genocide pose an international threat to states? How realistic is the realist perspective when it comes to genocide prevention? What is the relationship between genocide prevention and national interest?

At present, the discipline of IR has done little to answer such questioning which reveals the fact that genocide remains a peripheral issue in the discipline of IR. For instance, in his 2001 publication *Genocide and the Global Village*, Kenneth J. Campbell stated that between 1945 and 1995 neither of the leading IR journals *Foreign Affairs* or *International Affairs* published a single article on genocide while *International Studies Quarterly* published just one within this time period.[13] While it is difficult to judge this claim without knowing the operational parameters that Campbell upheld when assessing what constituted an article on genocide, when one juxtaposes the frequency of genocide within this time period with the lack of IR interest in it, this omission is startling.[14] In addition to this, Martin Shaw raised the fact that in 1999, *Review of International Studies* published a special edition journal on the post-Cold War decade which failed to provide any analysis on the Rwandan genocide.[15] Providing some form of context, Tim Dunne and Daniela Kroslak's aptly titled, 'Genocide: Knowing What It Is That We Want to Remember, or Forget, or Forgive' sees the authors claim, 'The discipline of International Relations needs to forget its habit of selectively describing and explain the past. Instead of taking "family snaps" of human history, we must not forget the blood and immorality.'[16] While there have been a number of articles published by IR scholars on genocide in the last decade, it appears that the habit of selectivity remains prominent. For example, in Karen E. Smith's 2010 publication *Genocide and The Europeans*, the author notes: '[v]ery little has been written about the attitudes of European governments towards either the 1948 Genocide Convention or genocide in general. In fact, I could only find *one article* on the views of one European government'.[17] When one considers that this work was published over 60 years after the Genocide Convention, 16 years after the Rwandan genocide, and five years after the genocide in Darfur, one is quite simply lost for words.

Against this backdrop one is left wondering: why is there no body of IR literature on genocide? Two points of contention need to be addressed prior to answering this question. The first is that genocide does not fall within the parameters of what constitutes IR, yet this is difficult to accept when one considers the intrinsic relationship between genocide and the central tenets of IR: war, power, sovereignty, and the state.[18] For

instance, in the aptly titled *Death by Government*, the political scientist R. J. Rummel claimed 169,198,000 people were murdered by governments (1900–87) in acts of what the author labels as 'democide'.[19] The point here is that the 'output' of genocide could not have occurred without the 'input' of war, power, the state, and sovereignty (as the latter implies immunity). Indeed, a number of genocide scholars have gone further to claim that genocide is caused by the underlying structure that underpins international society itself. From this perspective, genocide does not represent a fault *in* the international system but should be understood as a fault *of* the international system. Yet despite the challenging nature of such thinking, which calls the very nature of what we, as IR scholars, study into question, the discipline has seemingly responded with silence as IR scholars have failed to make any significant contribution despite the efforts of their political science counterparts.[20] In sum, the relationship between genocide and the central tenants of IR allow us to refute the claim that the study of genocide falls outside the parameters of the discipline.

This brings us to the second point of contention as critics may claim the discipline of IR has in fact 'covered genocide' through its work on human rights and humanitarian intervention. While one can understand such thinking, two problems arise. First, the debates over human rights and humanitarian intervention have engaged with genocide implicitly rather than explicitly.[21] This has created a discourse that has failed to engage with a wide range of genocide-related issues such as causes, definition, and transitional justice to name just a few. In other words, the discipline has hardly even scratched the surface of the complexities that surround the phenomenon of genocide in international relations. Second, the debate over humanitarian intervention has suffered from a terrible tendency to group different types of conflicts together. For example, IR scholars often raise the post-Cold War humanitarian crises that occurred in Somalia and Rwanda. As a result, they critically fail to differentiate between the fact that Somalia represented a failed state plagued by chaos and anarchy whereas Rwanda represented a genocidal state implementing a process of systematic destruction. Such conflation is explicit in one of the leading texts in the field as Mary Kaldor's seminal work *New and Old Wars* places genocide, failed states, terrorism, civil war, and many other types of conflict within the melting pot of 'new wars'.[22] The example illustrates the growing tendency within IR to establish a 'one size fits all remedy' despite the fact that the causes of such conflicts and crises will undoubtedly differ. Problematically, if IR scholars simply place all human rights violations

within a single melting pot they cannot hope to learn the relevant lessons involved in each.

Having established that genocide does indeed fall within the remit of what constitutes IR, and having highlighted IR's tendency not to explicitly engage with the study of genocide, the question of why the discipline of IR has failed to study genocide remains unanswered. Attempting to provide an explanation, Campbell's aforementioned work stipulates:

> For far too long, specialists in international law, human rights, humanitarian assistance, international security, peace and conflict resolution, ethnic conflict studies, and regional studies (for example, the Balkans and the Great Lakes region of Central Africa) have blithely assumed that we did not need the genocide scholars to tell us what genocide is. Most of the time we have been wrong! In virtually every case where a think tank, national government, or IGO put together a panel of 'experts' to investigate the international community's failure to stop contemporary genocide, the genocide scholars have been strangely absent.[23]

The statement provides a straightforward explanation as it claims that IR scholars have simply assumed that they have a thorough or at least sufficient understanding of genocide and therefore have not sought to engage with genocide scholars, which according to Campbell, has meant that even within the context of interdisciplinary research the discipline of Genocide Studies has found itself marginalised. For Campbell this reflects an 'intellectual ignorance (and arrogance)' amongst IR scholars towards genocide.[24] The problem with this rationale is that it suggests that IR scholars think that they know what genocide is and therefore go about their everyday business of analysing international relations without listening to genocide scholars, yet to return to Campbell's aforementioned point regarding the omission of genocide from IR, the fact that IR scholars may hold certain assumptions about genocide does not explain why IR scholars fail to engage with the study of genocide in the first place.

To gauge this, it is important to pause and consider the underlying logic that underpins the discipline of IR itself. As Steve Smith explained in his presidential address to the International Studies Association in 2003:

> International Relations tends to ignore conflicts within states, unless they threaten the survival of the discipline's referent object, the state.

> Similarly, that referent object is reified at the expense of other possible referent points, most notably the individual and the ethnic group.[25]

The statement encapsulates a worrying trend. Simply speaking, it would seem that violent attacks *against the state* have been studied extensively within IR yet violent attacks made *by the state* have not received anywhere near the same amount of academic interest. Ultimately, this only goes to give further fuel to Smith's claim that the state-centric nature of IR has seen it privilege the state to the point that 'It is the security of the state that matters in International Relations; it is the unit of analysis, and crucially, it is the moral unit, the moral referent point.'[26] This is all too evident when one compares the research that has been conducted on terrorism and genocide. First of all, it is important to note that these two crimes perhaps stand as the paradigm examples of an attack against the state (terrorism) and an attack by the state (genocide). Thus while Campbell raises some insightful points, it is Smith's understanding that ultimately provides the groundwork which enables us to make some sense out of fact that the discipline of IR has studied the threat of terrorism extensively yet grossly overlooked the threat posed by genocide.

The point here is not to get into a disciplinary blame game or to overlook the valid contributions that some IR scholars have made to the study of genocide. To mention just a few, Adam Jones, Henry Shue, Karen E. Smith, Kenneth J. Campbell, Martin Shaw, Michael Ignatieff, Michael Mann, Nicholas J. Wheeler, Paul Keal, Richard Falk, Tim Dunne, and Daniela Kroslak have all made notable contributions. Despite these however, the fact remains that it is not easy to answer the questions set out above because so little research has been conducted into the broader implications of genocide in international relations. Moreover, precisely because genocide is intrinsically related to central IR concepts such as war, power, sovereignty, security, and the state it is evident that IR theorists can offer new and important insights into understanding and explaining genocide as well as offer reasons and strategies for its prevention. To some extent this has been evident in the recent discourse on the Responsibility to Protect as scholars such as Alex Bellamy, Aidan Hehir, Louise Arbour, and Luke Glanville have begun to explicitly address the issue of genocide within the R2P framework. At the same time however, the R2P literature has a tendency to conflate the four crimes of genocide, war crimes, crimes against humanity, and ethnic cleansing under the label 'mass atrocity crimes'. Although one can understand this logic, this author's fear is that this conceptual shift falls into the 'new wars' trap outlined above as different crimes often stem

from different causes and the search for a 'one size fits all remedy' may not only be futile but counterproductive. This is discussed in Chapter 6 which focuses on the Responsibility to Protect; for now, the aim is to point out that through a more explicit engagement with the phenomenon of genocide, IR scholars will realise that they have significant things to say on this profoundly important subject matter.

Genocide and its threat to contemporary international order: An overview

At the outset it is important to note two caveats prior to outlining the content of each individual chapter. First, the book uses an English School (ES) approach in order to theorise the relationship between genocide, order, and legitimacy at the international level.[27] The ES's focus on the relationship between order and justice in international relations provides a fruitful framework for analysing the impact of genocide on the ordering structure of international society.[28] Moreover, this author believes that the ES concept of an *international society* – as opposed to the realist focus on an *international system* or the cosmopolitan focus on an *international community* – most accurately captures the reality of international relations.[29] This is fleshed out in more detail in Chapter 3, the point for now is that since this book seeks to analyse the impact of genocide on international order, it uses an ES approach because this author upholds the view that international relations have progressed beyond that of an international system but have not become so interconnected that one can speak of an international community. International society exists and is evident in the institutions, norms, rules, and values states construct in an attempt to help create order within the anarchical realm, thereby creating what Hedley Bull famously described as an *Anarchical Society*.[30] Through exploring the relationship between genocide and these institutions, norms, rules, and values, the book sets out to provide a more informed understanding of how genocide impacts on the ordering structure of international society itself. That said, this book *does not* engage with debates surrounding the causes of genocide, its relationship with modernity, prevention strategies, or transitional justice, nor does it put forward case study research. Quite simply, such aspects have been addressed extensively in the discipline of Genocide Studies and the focus here is on understanding the threat that genocide poses to contemporary international order.

The second caveat regards the relationship between the ES and Security Studies as it is important to note that the former upholds more

of an implicit rather than explicit engagement with the latter. This is something that is very rarely discussed or even acknowledged. As Barry Buzan explains, few scholars in the field of Security Studies would actually recognise the relevance of the ES which goes hand in hand with the fact that 'Few within the ES have explicitly addressed the International Security Studies Agenda'.[31] Broadly speaking, this stems from the view that security scholars see the ES's focus on legitimacy and order as part of a liberal agenda that has little to do with Security Studies, yet as Buzan explains, the ES's approach is more complex than this as it incorporates history, political theory, and law to theorise the relationship between international system (realism), international society (the English School), and international community (cosmopolitanism).[32] In theory, this could enable the ES to play a significant role in 'widening and deepening' International Security Studies however; this relies on ES scholars actively pursuing this research agenda. With this in mind, it is again important to state what this book will not do as it does not seek to widen and deepen Security Studies but instead further strengthen the groundwork that will enable ES/Security Studies research to be carried out in the future. To explain, Chapter 3 highlights how the ES tri-partite framework of realism, rationalism, and revolutionism relates to Security Studies while Chapters 4, 5, 6, and 7 get to grips with the relationship between genocide and international legitimacy in order to illustrate how genocide impacts on the primary and secondary institutions of international society. In so doing, it upholds the view that a more constructive dialogue needs to be forged between IR and the sub-discipline of Security Studies.[33]

With the two caveats explained, the book is structured as follows. Chapter 1's claim that IR scholars are not well versed in the definitional debates that surround genocide leads naturally to Chapter 2 which highlights that IR scholars should not rely on the legal definition expressed in Article II of the Genocide Convention. The chapter is structured in a five-fold manner with the first section offering an overview of the legal definition prior to a more-in-depth analysis of four key terminology debates: (i) intent; (ii) destroy; (iii) in whole or in part and (iv) group identity. In so doing, the analysis demonstrates that the legal definition is both morally deficient and conceptually impoverished. From this perspective, questioning the legal definition is not only a right but also a duty of IR scholars. The chapter concludes by putting forward a new definition of genocide which draws on the debates discussed throughout the chapter. The intention is that the chapter will primarily highlight the need to critically analyse the Genocide Convention while the

new definition seeks to provide scholars with a fruitful starting point from which to theorise legal and non-legal genocide in international relations.

Having established an understanding of genocide, Chapter 3 utilises Andrew Linklater's use of Martin Wight's three traditions: realism, rationalism, and revolutionism to put forward a realist (international system), rationalist (international society), and revolutionist (international community) perspective on genocide. The value of this approach is that it enables a three-way dialogue which helps illustrate that one's world view shapes one's understanding of issues within it. The chapter should therefore be seen as the first of two conversation chapters as Chapters 3 and 7 engage with realism and cosmopolitanism. The reason for this is that the ES has always claimed that international relations should be understood as a never ending conversation between competing theoretical approaches.[34] Accordingly, Chapters 3 and 7 put this somewhat lofty ideal into practice as they draw on the insight that realists and cosmopolitan theorists offer into understanding international relations. Within the context of Chapter 3, the three traditions framework helps illustrate that one's understanding of IR will shape one's perception of genocide. This is a profoundly important point that needs to be considered carefully by both IR and genocide scholars. Furthermore, the chapter sets out the IR framework which Chapters 4, 5, and 6 build on prior to the re-engagement with the three traditions in Chapter 7.

Chapters 4 and 5 go hand in hand as they put forward the understanding that genocide poses a threat to international order. To substantiate this claim, Chapter 4 provides the theoretical groundwork as it explores the relationship between genocide and international legitimacy. To do this, it utilises the work of Ian Clark to first of all set out an understanding of international legitimacy which then forms the basis for the analysis between genocide and international legitimacy. It will be claimed that genocide holds a special relationship with international legitimacy because it is internationally regarded as the 'crime of crimes' from both a legal and moral perspective. Yet at the same time, it also highlights that from a political perspective genocide is not viewed in the same light. Despite the fact there is an international expectation that genocide should be prevented, policymaking remains entrenched in the understanding that states should not engage in such complex and dangerous foreign policy initiatives unless national interests are at stake. Hence, this substantiates Chapter 1's claim that policymakers do not see a link between the prevention of genocide and the national interest.

It is this latter aspect that naturally leads us into Chapter 5's focus on the impact of genocide on international order. Utilising the relationship between genocide and the first-order institution of international legitimacy, the chapter shifts its focus to exploring how genocide impacts on the secondary institution of the United Nations (UN). It is proposed that genocide poses a threat to international order as it erodes the authority of the UN (which acts as the primary facilitator of international legitimacy) and the UN Security Council (UNSC) (which acts as the stabilising function in international relations) more than any other crime. Such understanding helps shed light on how genocide impacts on the legitimacy process that underpins international relations. From this perspective one can see how the Rwandan genocide played an integral role in the post-Cold War legitimacy crisis that arose over Kosovo. This novel approach, therefore, helps us understand just why genocide should be viewed as a trans-sovereign threat. From this perspective, the prevention of genocide should be considered within the national interest of all states, if, that is, they value international order.

Chapter 6 simply picks up where Chapter 5 left off. Essentially, the endorsement of the Responsibility to Protect in 2005 saw international society come together to try and resolve the legitimacy crisis. Although the R2P has helped address certain problems to be found within the post-Cold War legitimacy debate, in failing to acknowledge the role that genocide played in creating the legitimacy crisis, international society failed to address certain fundamental questions. As a result, there remains an unresolved tension within the legitimacy process and more worryingly, the R2P has created certain obstacles that may hinder the prevention of genocide in the future. Over five years on from the endorsement of the R2P it seems that the R2P has become somewhat of the 'master concept' (in relation to mass atrocity crimes), yet it is clear that a more informed understanding of the relationship between the R2P, the Genocide Convention, genocide prevention, and the legitimacy crisis is needed.

It seems clear that in a post-R2P world states have a choice whether to embed the normative principles embodied in the R2P or not. It is here that Chapter 7 re-engages with the realist, rationalist, and revolutionist foreign policy perspectives set out in Chapter 3. Utilising the understanding set out in previous chapters, the analysis evaluates the legitimacy of the three alternative perspectives towards the prevention of genocide in a post-R2P world. The crime of genocide is utilised to highlight how difficult it is to see how states can legitimately regress back to the rules that underpin realism and ES pluralism. From this perspective it is

claimed that ES solidarists and cosmopolitans provide a more legitimate framework for creating an ordered society in a post-R2P world.

Chapter 8 offers a brief overview of the book by engaging with the 'East Tennessee Question' which is taken from the work of Ken Booth and, simply speaking, asks why should people in one part of the world care about people in another part of the world? In so doing, the question returns us to the thinking set out at the start of this chapter: genocide refers to the destruction of a group. However, if I am not a member of that group, why should I care about its destruction? Therefore, precisely because the 'East Tennessee Question' takes us back to the very starting point of this analysis, it provides an apt context for re-visiting the central themes explored in this book. It also opens up the potential for considering more critical questions regarding the relationship between genocide and international society which directly challenges the state-centric ES approach upheld in this book. The hope is that further research and dialogue can be created on this issue.

In summary, this interdisciplinary book draws on a wide-range of material from IR, Genocide Studies, International Law, History, and Moral Philosophy to fulfil a two-fold purpose. First, understand genocide within the context of International Relations. Second, understand the impact of genocide on international order from 1944 to 2010. Breaking this down further, the book has three central objectives: (i) highlight the omission of genocide in IR and the implications that this has on policymaking; (ii) identify the obstacles and challenges involved in bringing the study of genocide into IR and (iii) analyse the impact of genocide on the ordering structure of international society. In relation to these three points I argue: (i) IR scholars need to engage in the study of genocide as IR is uniquely placed to help answer certain fundamental questions regarding genocide; (ii) IR scholars need to understand the definitional debates that surround genocide rather than simply assume that they know what it is. *Also*, both IR scholars and genocide scholars have to consider how the assumptions embodied within their view of international relations will shape their understanding of genocide within it, and (iii) genocide poses a threat to international order because it erodes the legitimate authority of the UN (which acts as the primary facilitator of international legitimacy) and the UNSC (which act as the stabilising function in international relations) more than any other crime. Such understanding demonstrates that genocide undermines the very rules, values, and institutions that increase the likelihood of international order. Therefore, it is within the national interest of *all* states to prevent genocide in international relations, that is, if they value international order.

2
Words Matter: Genocide and the Definitional Debate

As raised in Chapter 1, IR scholars are not necessarily well versed in the definitional debates that surround genocide. This is neatly captured in Tim Dunne and Daniela Kroslak's claim, 'The consensus supporting the Genocide Convention masks important disputes around issues of intent, scale, and identity of victim-group.'[1] In other words, IR scholars should not simply rely on the Genocide Convention in order to gain an understanding of what constitutes genocide because the legal definition masks definitional complexities regarding *intent*, *scale* and *group identity* (to name just a few). For example, regarding group identity, since the legal definition only identifies national, ethnic, racial, and religious groups, this means that if a political, economic, or gendered group is destroyed in its entirety then this cannot legally be defined as genocide.[2] At the same time, this example reveals a fourth debate which Dunne and Kroslak fail to mention: what constitutes *destroy*? As shall be discussed, Raphael Lemkin, the man who coined the word genocide and 'the father of the Genocide Convention', did not view destruction as synonymous with mass murder and instead put forward a much broader understanding of how groups can be destroyed.[3] Such examples illustrate that if one digs a little deeper into the question of how genocide should be defined, one is faced with a variety of competing interdisciplinary perspectives. The culmination of which is that 'Few ideas are as important, but in few cases are the meaning and relevance of a key idea less clearly agreed.'[4]

This chapter will therefore set out the legal definition prior to analysing four key terminology debates that surround the issues of (i) intent, (ii) destroy, (iii) scale, and (iv) group identity. While this author upholds the legal definition's focus on intent and its multifaceted understanding of destroy, it rejects the legal definition's understanding of scale

and group identity. In so doing this chapter will make the case that the legal definition of genocide is *conceptually flawed* because it fails to acknowledge the role of the state within the genocidal process and *morally deficient* because it fails to protect groups other than national, ethnic, racial, and religious. In sum, this chapter presents an overview of the terminology debates that surround the definition of genocide to illustrate how words matter. Not only is this important when considering what words to use, for instance; should we define genocide in terms of destruction, extermination, or mass murder? But also when one considers how words can be interpreted in a variety of ways, this is explicit when it comes to the debate over *intent* (which remains the most contested debate in the discourse). Critically, IR scholars need to be aware of the underlying complexities that underpin the legal definition of genocide. Although this author's initial intention was to provide a critical overview of the definitional debates – rather than present my own definition – the conclusion draws on the understanding set out in each of the debates (intent, destroy, scale, and group identity) in order to put forward a new definition of genocide. This, of course, reflects the fact that I do not believe that the legal definition offers an accurate understanding of genocide which raises the question, what is the legal definition?

The legal definition

As shall be discussed in more detail in Chapter 4, Article I sets out the obligation to prevent and punish the crime of genocide, although this remains a contested issue. Article II is the focus of this chapter as it defines the crime of genocide:

> **Article I:** The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.
>
> **Article II**: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
>
> (a) Killing members of the group;
> (b) Causing serious bodily or mental harm to members of the group;
> (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group.[5]

To offer a brief overview of the UN Genocide Convention definition, if one or more of the acts listed (a–e) are carried out with an *intent* to destroy one of the protected groups, either in whole or in part, then this constitutes genocide. The acts (a)–(e) are subordinate to the *intent* to destroy a group. Intent, therefore, stands as the primary element which differentiates the crime of genocide from other crimes. For example, if someone killed members of one of the protected groups then this would constitute murder, or mass murder, but if it could be proven that the murder was carried out within the context of a broader intent to destroy the group in whole or in part, then this would constitute genocide. It is, therefore, at least at first glance quite precise and straightforward. Yet problems arise when one considers how the definition is both broad and narrow. As aforementioned, if a political group is destroyed in whole then this would not constitute genocide from a legal perspective which reflects the fact that the legal definition sets extremely *narrow definitional parameters* regarding *group identity*. At the same time, the list of acts includes forcibly transferring children which implies that genocide can be committed without any killing involved. From this perspective, the definition sets extremely broad definitional parameters regarding how a group can be *destroyed*. As a result, one can begin to see how the inclusion and exclusion of certain words and phrases as well their interpretation can create intense debates over how genocide should be defined.

Despite such problems the majority of genocide scholars use the Genocide Convention either implicitly or explicitly. The focus here is on those that utilise it explicitly, in that they defend its use. Their stance is neatly summed up by Jacques Semelin: 'Their position is fairly coherent, noting that scholars are unable to agree on a common definition of genocide, they feel justified in sticking to its legal definition.'[6] The statement underpins what Semelin labels as the 'UN school'.[7] Advocates of this approach accept that the legal definition has its weaknesses yet continue to use it because it reflects an established international consensus. With no collective agreement on what should replace the 1948 legal definition, the Genocide Convention offers much needed definitional guidance. As Eric Weitz makes clear, 'Through its focus on intentionality, the fate of a defined population group, and physical annihilation, the Genocide Convention, despite its weaknesses,

provides us with a fruitful working definition that can guide the study of past regimes and events.'[8] The statement is relevant for it demonstrates why some social scientists uphold the legal definition as they believe that it embodies the central tenets needed to understand genocide such as intent, group identity, and methods of destruction.

In addition to this, the Genocide Convention has *legal utility* which should not be overlooked. This point is raised in William Schabas' pioneering work titled *Genocide in International Law*: 'Most academic research on the Genocide Convention has been undertaken by historians and philosophers. They have frequently ventured onto judicial terrain, not so much to interpret the instrument and to wrestle with legal intricacies of the definition as to express frustration with its limitations.'[9] Understandably, Schabas highlights that philosophical and historical inquiry into the legal definition often fails to come to terms with the legal utility of the Genocide Convention itself. It is the practical value therefore of the Genocide Convention which drives Schabas to accept that the legal definition is both 'adequate and appropriate'.[10] From a legal perspective, its strength lies in the fact that it provides international lawyers with a matter-of-fact framework that can be implemented to prosecute those suspected of committing genocide.[11] Yet while one should not overlook the legal utility of the Genocide Convention, this in itself is not enough to justify the 'UN school' approach among social scientists for as Frank Chalk correctly observes, 'international lawyers and scholars in the social sciences have their own legitimate set of objectives when laying out the boundaries of the subject'.[12] This statement aptly captures the interdisciplinary complexity involved as scholars have different yet equally legitimate disciplinary needs. For example, lawyers may claim that if a state systematically destroys a group *not* identified in the Genocide Convention then this still constitutes a 'crime against humanity' and can be enacted on accordingly.[13] Nonetheless, as Chapter 1 stated, the idea of a 'crime against humanity' is built on the assumption that humanity exists. It is questionable, therefore, whether social scientists should accept such categories as the basis of non-legal enquiry.

To consider this further let us return to the aforementioned work of Kenneth J. Campbell who actually goes much further than Weitz in his criticism of the legal definition yet ultimately upholds it. Addressing the fact that the Genocide Convention omits political groups within its definition of group identity, Campbell highlights that the Soviet Union representative at the time blocked any attempt to include political groups as they feared that Soviet leaders could become the

target of criminal prosecution for their liquidation of the Kulaks.[14] Intriguingly, this leads Campbell to conclude that 'the legal definition is therefore the product of political compromise, as well as justice and morality'.[15] The important point to consider is that despite Campbell acknowledging that the final draft represents a compromise in justice and morality, he accepts the legal definition because 'International law offers the one authoritative source for legitimate collective action.'[16] The logic embodied within Campbell's approach succinctly illustrates the divide between those that recognise the moral deficiency of the legal definition yet choose to uphold it because of its legal utility and those that reject it precisely because of its moral deficiency. Ultimately, the analysis presented within this chapter concurs with the latter camp as it rejects the idea that the legal utility of the Genocide Convention should be prioritised over all other concerns.

As Chapter 4 will discuss, legitimacy should *not* be seen as synonymous with law. If the case can be made that the legal definition is morally deficient then this opens the door for scholars to question the legitimacy of the legal definition on moral grounds. Moreover, it is important to stress that if scholars reject the legal definition of genocide this does not mean that they reject the Genocide Convention itself but the *definition within it*. By this I mean that scholars can reject Article II (outlined above) which defines genocide in the hope that a more informed definition can be constructed, yet this does not mean that scholars are at the same time rejecting the legal obligation to prevent genocide as set out in Article I. Quite obviously, international society's obligation to prevent and prosecute the crime of genocide stems from its definition *of* genocide, yet at the same time, those that reject the legal definition do not wish to hinder the prevention and punishment of genocide in the meantime. They simply hope that a more informed understanding of genocide can be constructed through academic dialogue which may help to provide a more useful legal framework. With this in mind, this chapter will now shift its focus to a more in-depth analysis of central terminology debates regarding intent, destroy, scale, and group identity.

Intent

The list of crimes (a–e) identified in the legal definition are themselves crimes; however, in order to constitute the crime of genocide it has to be proven that these crimes were conducted with *intent*. While this may appear straightforward, this is perhaps the most debated issue for two reasons (i) genocide scholars remain divided over how intent should be

interpreted and (ii) how can we prove the intentions of individuals?[17] This latter problem was put into explicit context in the debate over whether genocide had occurred in Darfur. After researching the atrocities in Darfur for three months, in January 2005, the Report of the International Commission of Inquiry on Darfur concluded that while the 'crimes against humanity and war crimes that have been committed in Darfur may be no less serious and heinous than genocide', the crimes could not be classed as genocide because it could not be proven that the Government of Sudan (GoS) possessed a 'genocidal intent'.[18] The conclusion illustrated the Genocide Convention's dependency on a term that is extremely difficult to establish. Yet even prior to getting to this stage a complex debate emerges over what intent actually means. Accordingly, this overview will address the term's meaning and go on to advocate a behavioural-based understanding of intent which it is claimed here should be inferred by focusing on state policy.

To gain an understanding of the debate over how intent should be interpreted let us consider Barbara B. Green's analysis of the famine within the Soviet Union in 1932–3.[19] As Green notes, scholars have been divided over whether Stalin's Terror was genocidal and this division revolves around the central question of intent within the context of the 1932–3 famine.[20] Green explains that on one side of the debate there are scholars such as Robert Conquest, James E. Mace, and Marco Carynnyk who argue that the famine was genocide, because the millions who died did so because Stalin had engineered a plan to crush the Ukrainian people.[21] In this explanation, Stalin was specifically *motivated* by the intent to destroy Ukrainians. In sharp contrast, scholars such as Robert Tucker, Adam Ulam, and Martin Malia have focused on the social and cultural motivation of Stalin.[22] Within this explanation Stalin was motivated by reasons other than that of Ukrainian destruction and as a result these scholars claim that the famine does not constitute genocide. Green aligns herself with the latter position as she states: 'Unlike the Holocaust, the Great Famine was not an intentional act of genocide. The purpose was not to exterminate Ukrainians as a people simply because they were Ukrainians. Extermination was not an end in itself.'[23] The example illustrates the debate over intent perfectly as these scholars agree on the same outcome yet they disagree on whether this constitutes genocide. For Conquest, Mace, and Marco, the specific motive was the destruction of the Ukrainian people and therefore the crime was an *end within itself* and thereby constitutes genocide. This is markedly different to Green, Tucker, Ulam, and Malia's understanding of Stalin's motive as they view the famine as a *means to an end* rather

than an *end within itself*, which, therefore, should not be viewed as genocide. To return to the idea that words matter one can see how different interpretations of intent hold fundamental implications when defining genocide.

Intriguingly, a motive-based understanding of intent was evident in the drafting process (1946–8) yet this was omitted by the time the final draft was constructed. As Leo Kuper explains:

> The draft of the Ad Hoc Committee had offered a more complex formulation of intent in its definition of genocide as 'any of the following *deliberate* acts committed with the *intent* to destroy a national, racial, religious or political group, *on the grounds of the national or racial origin, religious belief, or political opinion of its members*'.[24]

Within this formulation there is a clear link between intent and motive as the intent to destroy had to be carried out 'on the grounds of' national or racial origin. Evidently, the legacy of the Nazi genocide looms large here as it was proposed that the intention to destroy a group had to constitute an end in itself rather than a means to an end. If, for example, a group is destroyed for economic reasons, then the crime may have the same outcome as genocide but does not constitute genocide. Thus, scholars such as Green uphold the view that the destruction of the Ukrainians was not genocide because she believes that their destruction was a by-product of economic and cultural reforms – a means to an end – rather than a specifically motivated ethnic destruction – an end in itself. As Kuper explains, this complex formulation started a heated debate which saw the phrase 'on grounds of' substituted within the final Genocide Convention draft for the phrase 'as such'.[25] As a result, the final definition distanced itself from the motive-based understanding of intent to be found within the Ad Hoc Committee draft, yet the phrase 'as such' remains highly ambiguous.[26] Therefore, scholars remain divided over whether to uphold the motive-based understanding of intent put forward by the Ad Hoc Committee draft.

In an attempt to provide clarity on this issue, Helen Fein, who spent many years researching this specific topic, concluded, 'One can demonstrate "intent" by showing a pattern of purposeful action, constructing a plausible prima facie case for genocide in terms of the Convention.'[27] The rationale put forward by Fein seems perfectly logical, in that a pattern of purposeful action would suggest the action committed was intentional rather than accidental or an accumulation of ad hoc acts. This is something that will be returned to below. However, a problem

arises as Fein justifies her understanding of intent by claiming, 'Critics who dwell on the inability to prove "intent" do not understand the difference between "intent" and motive.'[28] Attempting to illustrate this claim Fein cites Reisman and Norchi's discussion of the intent to destroy the Afghan people: 'Intent is demonstrated on the prima facie grounds by deliberate or repeated (criminal) acts – acts violating laws of war or peace – with foreseeable results, leading to the destruction of a significant part of the Afghan people, regardless of the political motives behind intent.'[29] The problem with Fein's rationale is that it is built on the assumption that Reisman and Norchi's understanding of intent is somehow more objective than alternative understandings of intent. As the example of the Ukrainian famine highlighted, scholars do not simply seek to establish motive because they misunderstand intent. On the contrary, many scholars see motive as playing a pivotal role in distinguishing between cases of mass violence and cases of genocide. It seems overly simplistic, therefore, to suggest that a clear line can be drawn between intent and motive and in turn argue that this approach is 'right' and the other 'wrong'. After all, this is not a scientific matter of fact.

Rather than drawing a line between the two, Adam Jones attempts to reformulate the approach by putting forward a *knowledge-based* understanding of intent (as opposed to a motive-based understanding of intent) which he claims represents a 'liberal interpretation' of intent.[30] By which Jones means, 'regardless of the claimed objective of the actions in question, they are intentional if they are perpetrated with the knowledge *or reasonable expectation* that they will destroy a human group in whole or in part'.[31] In essence, it would seem that in utilising this approach, Jones attempts to bridge the gap between destruction as a means to an end and as an end in itself, for as Jones explains, this knowledge-based understanding of intent combines *specific intent* with *constructive intent*.[32] Interestingly, Jones cites the International Criminal Tribunal for Rwanda's (ICTR) Akeyesu judgement to highlight how international law is moving in this direction: 'The offender is culpable because he knew or should have known that the act committed would destroy, in whole or in part, a group.'[33] Yet, while this knowledge-based approach has an appealing nature to it, it is difficult to see how defining genocide in these terms keeps genocide as something qualitatively different from other forms of mass violence such as war crimes. For example, the blanket bombings of German cities in the Second World War were carried out with the *knowledge* that Germans would be killed yet they were not carried out with the intention of destroying the group but with the intention of trying to end the war. Thus, one cannot help but feel that

the appeal to a knowledge-based understanding of intent overlooks rather than resolves the problem of motive.

At this point the reader may be questioning whether the term 'intent' should even be included in the definition of genocide for it is clear its insertion opens the door for confusion regarding how intent can be proven and what intent actually means. This is precisely the point raised by Herbert Hirsch who claims one cannot use the term 'intent' specifically because of the term's ambiguity.[34] Offering a potential solution, he states, 'instead of emphasizing an obscure and impossible-to-define psychological state of intent, the Convention should focus on an easily identifiable action or behaviour and infer from that behaviour'.[35] In essence, Hirsch attempts to overcome the endless debate that has arisen over intent by claiming that we should *infer intent* by focusing on behaviour. It would seem here that Hirsch offers a *behavioural-based* understanding of intent as opposed to the aforementioned motive-based (Ad Hoc Committee) and knowledge-based (Jones) approaches. Intriguingly, this aligns itself with the initial argument outlined by Fein who claimed that 'One can demonstrate intent by showing a pattern of purposeful action.' Such understanding is set out in Hirsch's behavioural-based approach but whereas Fein attempts to distinguish motive from intent in her understanding, Hirsch claims that one should focus on *inferring intent* in general by trying to establish behavioural patterns. In other words, since we can never know the psychological motives of the actors involved it is more practical to infer intent by focusing on state policy.

Notably, this approach also holds weight within the context of international law as recent legal developments have also upheld a behavioural-based understanding of intent. The more traditional focus of international law, as Schabas explains, has been to focus on the 'mental element' or *mens rea* of genocide.[36] This mental element embodies two components, *knowledge* referring to an awareness of the circumstance or consequence and *intent* which refers to the desire to commit the crime.[37] However, in a more recent publication, Schabas brings this traditional legal understanding into question, asking, 'can a State have a "mental element?"'[38] Drawing on the rulings of the International Criminal Tribunal for former Yugoslavia (ICTY) as well as the Darfur Commission, Schabas highlights: 'In practice, what we look for is not a "mental element" but rather a "plan or policy."'[39] Accordingly, Schabas highlights that actors such as the ICTY and/or the Darfur Commission have actually attempted to infer intent by focusing on *state policy*. From this perspective: 'A State would commit genocide if there is evidence of a plan or

policy indicating an intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such.'[40] Such understanding reiterates the sentiment expressed by both Hirsch and Fein yet demonstrates that this is not an abstract appeal to an alternative understanding of intent but reflects the reality of how decision makers have not tried to prove the mental element of individuals but have instead sought to establish a behavioural-based understanding of intent. In other words, actors infer intent by focusing on state policy.

This behavioural-based approach has considerable merit because it also factors in the role of the state, thus killing two birds with one stone for, as aforementioned, the Genocide Convention does not include the role of the state in its definition. This is highly problematic for many genocide scholars because the legal definition's failure to incorporate the role of the state means that it fails to capture the true nature of the crime. Although individuals often hate 'other' groups, they cannot destroy 'other' groups because they do not have the means. It is here that the *power* of the state is central. While concerns over the omission of the state were raised during the drafting process of the Genocide Convention, the final definition fails to mention the state at all.[41] As a result, the legal definition misrepresents genocide as a crime that can be committed by individuals alone thus failing to acknowledge that because genocide is a crime against a group, or a collective of groups, the role of the state has to be factored in to any understanding.[42] This was put into context in Irving L. Horowitz's work titled, *Taking Lives, Genocide and State Power* in which the author defines genocide as 'a structural and systematic destruction of innocent people by a state bureaucratic apparatus'.[43] The title of the book speaks volumes as it underlines the fact that if one is to destroy a group then one needs more than just motive, one needs power. Within contemporary international relations, states hold a monopoly on the use of violence and it is this power-base that has to be included in any understanding. As Mark Levene explains, 'whilst there is no prima facie case why the state has to be the genocidal agent … it is hard to imagine a modern annihilation campaign without state involvement'.[44] Such understanding seems perfectly valid yet at the same time one has to also consider that genocide could occur in a weak and/or failed state in which alternative sources of authority may be able to carry out widespread destruction without the central government being able to stop them. With this in mind, the phrase, a 'collective power' is utilised within the definition put forward at the end of this chapter as it is feasible that in certain contexts, such as a failed state, a *collective power* could commit genocide while not itself being a government.

To summarise, the debate over intent will no doubt continue and from this single debate alone one can see why the concept of genocide is widely regarded as an essentially contested concept. While no approach provides an objective scientific benchmark that scholars can appeal to, the behavioural-based understanding of intent seems to provide a more accomplished understanding of genocide than that of the motive-based and/or knowledge-based alternatives. Since we can never know what is in the minds of perpetrators and no-doubt perpetrators will only get better at destroying paper trails etc, the idea of inferring intent by focusing on state policy holds considerable merit and also factors in the role of the state which helps address a fundamentally important conceptual deficit in the present legal definition.

Destroy

The debate over destroy essentially poses the question: how can a group be destroyed? The reader may be perplexed by the simplicity of the question as the obvious answer, and the answer that is actually upheld by the majority of genocide scholars, is that to destroy a group, one has to kill it. Those that uphold this view claim that just as homicide refers to the killing of an individual, genocide refers to the killing of a group. The mainstream use of destroy therefore, focuses purely on the *physical destruction* of groups. While this is quite simple and straightforward, a problem arises as one considers the fact that neither Raphael Lemkin nor the Genocide Convention views the destruction of a group as synonymous with mass killing.[45] On the contrary, both Lemkin and the Genocide Convention put forward a much broader understanding of how a group can actually be destroyed. This section will provide an overview of the debates involved, before concluding that while mass murder is an integral part of the genocidal process, it should be viewed as one element within a *destruction process* that embodies more than mass killing alone.

Let us first of all turn our attention to the understanding of genocide set out in Lemkin's original work. In a famous passage much cited among conceptual accounts on genocide, Lemkin outlines his broad understanding:

> Genocide does not necessarily mean the immediate destruction of a nation, except when accomplished by mass killings of all members of a nation. It is intended rather to signify a coordinated plan of different actions aiming at the destruction of essential foundations of

> the life of national groups, with the aim of annihilating the groups themselves. … Genocide has two phases: one the destruction of the national pattern of the oppressed group; the other, the imposition of the national pattern of the oppressor.[46]

The statement is critical for the simple fact that the man who invented the word genocide did not see genocide as synonymous with mass killing. In putting forward the idea that genocide should be understood as a 'co-ordinated plan of different actions', Lemkin attempted to convey a multidimensional understanding of genocide that is very different from most contemporary uses. For Lemkin, anything that aimed to 'destroy the essential foundations' of a group had to be factored into any understanding of genocide. A central concern of Lemkin's therefore was the idea that groups do not just exist in the physical sense as their existence is shaped by a whole host of other factors such as tradition, culture, and identity. While genocide is often used in a contemporary context as a short-hand for mass murder, it is imperative that one considers how the essential foundations of groups are constructed and in turn how they can be destroyed.

Addressing the issue of what constitutes a 'co-ordinated plan of different actions', Lemkin provides us with an insight into his multidimensional understanding of destroy within another key passage:

> Genocide is effected through a synchronized attack on different aspects of life of the captive peoples: in the political field (by destroying institutions of self-government and imposing a German pattern of administration, and through colonization by Germans); in the social field (by disrupting the social cohesion of the nation involved and killing or removing elements such as the intelligentsia, which provide spiritual leadership-according to Hitler's statement in *Mein Kampf*, 'the greatest of spirits can be liquidated if its bearer is beaten to death with a rubber truncheon'); in the cultural field (by prohibiting or destroying cultural institutions and cultural activities; by substituting vocational education for education in the liberal arts, in order to prevent humanistic thinking, which the occupant considers dangerous because its promotes national thinking); in the economic field (by shifting the wealth to Germans and by prohibiting the exercise of trades and occupations by people who do not promote Germanism 'without reservation'); in the biological field (by a policy of depopulation and by promoting procreation of Germans in the occupied countries); in the field of physical existence (by introducing

> a starvation rationing system for non Germans and by mass killings, mainly of Jews, Poles, Slovenes, and Russians); in the religious field (by interfering with the activities of the Church, which in many countries provides not only spiritual but also national leadership); in the field of morality (by attempts to create an atmosphere of moral debasement through promoting pornographic publications and motion pictures, and the excessive consumption of alcohol.[47]

The passage details eight ways in which Lemkin believed that the essential foundations of a group could be destroyed. The focus, not just on physical and biological destruction, but also on political, social, cultural, economic, religious, and moral forms of destruction highlights a much broader understanding of destroy than is found in the majority of contemporary works. Quite obviously, the idea that the 'promotion of pornographic publications' may be utilised to destroy the moral foundations of a group may not sit well among most contemporary scholars.[48] However, it does illustrate the multidimensional understanding of destruction that was at the heart of Lemkin's approach, even if it remains somewhat unclear as to whether Lemkin meant that a synchronised attack which involved no physical or biological dimension could still be defined as genocide.[49]

While this broader understanding of destroy may surprise the non-genocide scholar, the fact is that the legal definition upholds such an approach, as it sets out an understanding of genocide that states that genocide can be committed *without* any mass killing involved. As Kuper's analysis reveals, Western powers rejected the idea of including cultural rights in the final definition.[50] However, the legal definition still upholds a much broader understanding of destroy than that of present use. While crimes (a) and (c) of Article II fit within the *physical dimension* of destroy, crimes (d) and (e) broaden the definitional parameters to include a *biological dimension*. While this in itself is broader in scope than the mainstream focus on mass killing, crime (b) defines an act of genocide as 'Causing serious bodily or mental harm to members of the group.' In so doing, the legal definition clearly states that if intent could be established, then imposing mental harm on a protected group constitutes genocide. This suggests that in international law, genocide can be committed *without* any killing involved. To re-raise the question: can genocide be committed without any physical killing? The Genocide Convention does not suffer from the ambiguity found in Lemkin's analysis; the legal definition states that genocide can be committed without any physical or biological destruction being carried out.

For many genocide scholars both Lemkin and the Genocide Convention set the bar too low when it comes to defining how a group can be destroyed. For example, in Barbara Harff and Ted Gurr's seminal empirical study on cases of genocide and 'politicide' between 1946 and 1987, the authors rejected crime (b) in their empirical identification.[51] In attempting to justify their position the authors claimed this would, 'extend the definition to innumerable instances of groups which have lost their cohesion and identity, but not necessarily their lives, as a result of processes of socioeconomic change'.[52] The statement captures the sentiment expressed by most contemporary genocide scholars. As Adam Jones notes, genocide scholars such as Fein, Charny, Horowitz, Katz, and Jones himself, all focus on the physical dimension of destroy which reflects the more mainstream position.[53] Significantly, all of these scholars have actually rejected the legal definition and provided their own definitions which put forward a much narrower understanding of destroy than that to be found in the Genocide Convention. For example, Chalk and Jonassohn claim: '*Genocide* is a form of one-sided mass killing in which a state or other authority intends to destroy a group, as that group and membership in it are defined by the perpetrator.'[54] As the authors go on to explain, 'we hope that the term ethnocide will come into wider use for those cases in which a group disappears without mass killing'.[55] The statement illustrates that Chalk and Jonassohn were sympathetic towards the fact that groups could be destroyed without mass killing taking place yet attempted to overcome this problem by claiming that the word genocide should be used for cases of physical destruction and the term 'ethnocide' (a term which Lemkin rejected[56]) should be used for cases of non-physical destruction. Problematically, the term 'ethnocide' has taken on contradictory meanings since Chalk and Jonassohn's publication.[57] However, this does not detract from the fact that Chalk and Jonassohn felt that an alternative word was needed to capture non-physical group destruction. At the heart of the debate therefore lies the question of whether the destruction of a group's culture should be placed within the same comparative framework as the physical destruction of a group.

It is here that the work of Martin Shaw is important as he vehemently opposes the narrow focus on mass killing to be found within contemporary literature. Shaw's conceptual critique is formulated on two key criticisms of the mainstream position, (i) the focus on mass killing neglects the 'sociological foundations' of the crime, and (ii) such understanding fail to address the relationship between genocide and war.[58] Attempting to resolve this problem, Shaw defines genocide as

'*A form of violent social conflict, or war, between armed power organisations that aim to destroy civilian social groups and those groups and other actors who resist them*'.[59] With regard to Shaw's understanding of destroy, Shaw utilises the phrase 'violent social conflict' and in doing so seemingly brings the crime of 'vandalism' back within the definitional parameters of genocide.[60] In an analysis which sets out to restate the importance of Lemkin's understanding of genocide within a contemporary context, Shaw reiterates Lemkin's belief that killing is just one of many ways in which a group can be destroyed. Killing therefore should not be seen as the 'primary *meaning*' of group destruction.[61] However, as with Lemkin, there remains ambiguity surrounding the question of whether Shaw believes that genocide can be committed *without* mass killing taking place. For example: Shaw states, 'Defining genocide by killing misses the social aims that lie behind it. *Genocide involves mass killing but it is much more than mass killing*'.[62] While the statement underlines Shaw's central view that genocide is not just about mass killing, in stating that genocide involves mass killing a grey area remains over whether genocide *must* involve mass killing? As a result, it does not help overcome the ambiguity to be found in Lemkin's understanding.

Despite this ambiguity, in attempting to restate the social aims that lie behind genocide, Shaw does highlight that genocide should be understood as a *process* rather than an *act*. For example, Auschwitz represented the final step in the destruction of the Jews yet one cannot understand Auschwitz without understanding the road that led to it. The question is: when did the Nazi genocide start? Was it in 1933 as Hitler took power, in 1935 as the Nuremburg Laws were established, in 1939 as the Second World War broke out, or in 1941 with the establishment of the 'Final Solution'? The question provides the basis of a heated debate within both Genocide and Holocaust Studies and while it cannot be answered here it does highlight the problem of deconstructing the genocidal process. This is exactly the point raised within Levene's analysis of Lemkin as he highlights that Lemkin conflates the genocidal process – which may or may not lead to genocide – with genocide itself.[63] As Levene explains, what matters is 'the distinction between the process of genocide which is actually all too common and a consequence which, while all too frequent, is much less so'.[64] Putting this into context Levene explains that this distinction 'puts the 1999 events in Kosovo on one side of a divide and the Holocaust on the other, not because genocidal mechanisms were not at work in both cases or that those in Kosovo could not have led to genocide. But the point is that they did not'.[65] The statement offers a profound insight into understanding

genocide as it highlights that while all genocides involve a genocidal process, not all genocidal processes lead to genocide. This leads Levene to conclude that, 'the study of genocide is nine parts the genocidal process and only one part that of a particular outcome'.[66] This, in turn, helps us gain a more informed understanding of genocide than simply treating it as an act of mass murder, yet highlights the importance of mass murder within the genocidal process.

In sum, the majority of contemporary scholars refer to genocide as the physical destruction of a group, yet this can present genocide as an act, rather than a process. While all genocide scholars would acknowledge that genocide is a process rather than an act, it is questionable whether the specific focus on mass killing conveys this underlying process. Contemporary scholars such as Levene and Shaw have been keen on restating the multidimensional understanding of destruction embodied within genocide; yet as earlier discussed questions still remain as to whether genocide can be committed without mass killing – as stated in the Genocide Convention. To clarify my own position on this issue, I would stipulate that killing does have to take place yet at the same time it is important to remember that the state (which is usually the perpetrator of genocide) has a toolkit of measures that can be used to destroy a group; while mass murder is indeed the deadliest of tools available, it is not the only tool. In an attempt, therefore, to convey an understanding of the genocidal process the conclusion put forward at the end of this chapter uses the phrase the *process of destruction* to convey the multidimensional meaning of the term 'destroy'.

Scale

The legal definition stipulates that genocide refers to the destruction of a group in whole or in part; however, many genocide scholars reject this phrasing on the grounds that the destruction of a group 'in part' may refer to an act of murder (just one person).[67] This reflects the fact that the legal definition embodies extremely broad parameters regarding the scale of the crime. Generally speaking, there are three alternative perspectives which emerge as scholars have put forward the idea that genocide refers to the intent to destroy a group 'in whole or in *substantial* part', or at its most extreme, 'in whole'. Meanwhile, some scholars have rejected these two approaches on the grounds that they are ambiguous and have instead sought to put forward a clear quantifiable measure.[68] Accordingly, this section focuses on these three different approaches prior to concluding that genocide should be defined as

intent to destroy a group 'in whole or in *substantial* part' rather than 'in whole or in part'.

The most controversial understanding of scale is found in the definitions that define genocide as the intent to destroy 'in whole'. For instance, Stephen Katz claims that genocide should only be applied to 'the *actualisation of the intent*, however successfully carried out, to murder *in its totality* any national, ethnic, racial, religious, political, social, gender or economic group, as these groups are defined by the perpetrator, by whatever means'.[69] From this understanding, any intentional destruction of a group in part or in substantial part does not constitute genocide. This actually leads Katz to conclude, after an extensive comparative study, that the Holocaust remains the only example of genocide in history.[70] The narrow parameters outlined by Katz have been criticised for upholding a 'Holocaust-centric' approach to Genocide Studies, in which the Holocaust is presented as the only example of genocide and in doing so sets the benchmark of genocide so high as to exclude all other examples.[71] This understanding is part of a broader debate over whether the Holocaust *is* unique?[72] However, as Levene explains, 'this leaves us in the rather bizarre predicament where genocide exists minus the Holocaust, or alternatively, has to be squarely confronted as the only example of the phenomenon'.[73] Obviously, in claiming that the Holocaust is the only example of genocide, Katz upholds the view that the Holocaust is unique yet to turn to the work of seminal Holocaust scholars such as Omer Bartov it appears that the debate over uniqueness is rather unhelpful.[74] Quite simply, the view here is that one does not have to get bogged down in debates over whether the Holocaust is unique in order to gauge the importance of the Holocaust.

In an attempt to establish a middle-ground between the overtly broad understanding of 'in whole or in part' and the overtly narrow understanding of 'in whole', some scholars have chosen to utilise the phrase: 'in whole or in *substantial part*'. This is put into context within Leo Kuper's analysis as he states that the destruction of a group has to equate to a 'substantial' or 'appreciable number' of victims.[75] Kuper goes on to introduce the term 'genocidal massacre' to refer to smaller-scale destructions, such as the destruction of a village which may still reflect an intent to destroy a group, hence 'genocidal massacre', but should not be placed within the same comparative framework as the systematic destruction of six million Jews.[76] For example, the extermination of an estimated 7000 Bosnian Muslims at Srebrenica was legally classified as genocide, yet one cannot help but think that this should be considered as a 'genocidal massacre' when compared to the extermination

of 800,000 Tutsi and moderate Hutu that took place in Rwanda the previous year. While this approach seems valid, the question that naturally arises here is what constitutes 'appreciable numbers'? In other words, how many have to be murdered before a 'substantial part' has been destroyed?

Addressing the inherent ambiguity embodied in phrases such as 'in whole or in part' or 'in whole or in substantial part', Benjamin Valentino's comparative study sets out a clear and concise quantitative measure: 'at least fifty thousand deaths over the course of five or fewer years'.[77] For Valentino, this benchmark does not only allow one to confidently state that mass killing did indeed occur, but also, that it occurred intentionally.[78] Against the backdrop of ambiguity discussed above, any such appeal to clearly definable numbers has certain initial appeal. Moreover, Valentino's approach clearly draws a distinction between small scale ad hoc cases of murder and the mass violence that takes place in the genocidal process. It should also be noted that Valentino's study is on genocide *and* mass violence and thus does not seek to necessarily draw a distinction between the two. Even if one puts the problem of this blurred boundary to one side, the problem with this definition is, as Valentino explains, that 'such a definition does not adequately capture the threat to human diversity posed by attacks against smaller groups'.[79] For example, if a group of exactly 49,999 people were killed within five years this would not constitute genocide. Or, if a group of 50,000 people were killed in five and a half years, then according to Valentino's definition, this would not constitute genocide. The arbitrary nature therefore of Valentino's quantitative approach is problematic as it does not capture the qualitative implications of smaller groups being destroyed over shorter periods of time or larger groups being destroyed over longer periods of time.

What seems quite clear therefore is that the crime of genocide is simply far too complex to be defined in terms of a quantifiable one size fits all measure. This may be an acceptable approach when attempting to qualify mass murder as one sets out to quantify the idea of mass within mass murder by adding up the number of dead bodies, yet as discussed, genocide is about more than mass murder it is about the destruction of a group through physical and non-physical means. So where does this leave the issue of scale? The phrase 'in whole' is too exclusive, yet the phrase 'in part' is too inclusive, the phrase 'in whole or in substantial part' is rather ambiguous yet any attempt to define the scale of genocide in terms of a clear concise quantifiable measure seems inherently flawed as it fails to capture the complexities involved in group destruction.

Amidst this confusion Adam Jones' use of the phrase 'in whole or in substantial part' is worth considering:

> I prefer to leave "substantial" imprecise; I hope its parameters will expand over time, together with our capacity for empathy. It seems clear, though, that a threshold is passed when victims mount to the tens or hundreds of thousands – although relative group size must always be factored in.[80]

There are two key points here, the first is the 'imprecise' nature of Jones' use of substantial and the second is that of 'relative group size'. Regarding the former, the ambiguity inherent in the phrase 'substantial' is presented as a strength rather than a weakness. Acknowledging that there is no scientific benchmark that scholars can appeal to when measuring scale, the phrase 'in substantial part' provides a starting point for further research which is more appropriate than the present legal definition because it conveys a clear*er* understanding that mass murder rather than just small scale murder has to take place. It also factors in the idea of 'relative group size' which should not be overlooked when attempting to gauge an understanding of scale.

Relative group size raises an extremely problematic area of consideration. On the one hand, Valentino's quantitative approach dictates that if a group smaller than the number proposed (whether that is 50,000 or any other number) is destroyed in its *entirety* then this cannot be classed as genocide. This is despite the fact that genocide refers to the destruction of a group rather than the mass killing of a certain number of people. On the other hand, Jones' 'imprecise' definition leaves the scholar somewhat uneasy due to its dependency on interpretation. For example, can the destruction of a group of 50,000 people or less be compared with the destruction of six million group members? If we were to take this logic even further, if a smaller group, of say 2000 people, were destroyed 'in substantial part', then does this constitute genocide? The answer proposed here is yes, for the simple reason that genocide refers to the destruction of a group – no matter how large or small that group is. To consider this further let us turn to Schabas' analysis in which he states that Raphael Lemkin wrote to the Senate Committee in 1950 'claiming that the destruction in part must be of a substantial nature so as to affect its entirety'.[81] The statement underlines the fact that genocide is not dependent on a specific number of people being killed but on a group in its entirety being affected by the destruction of a number of members within it (whatever that number may be). If then, a group consists of

40,000 people and 20,000 of them are killed, it is difficult to see why this would not constitute genocide, as the extermination of 50 per cent of the group would undoubtedly affect its entirety. The position taken here is that the study of genocide should not be dependent on the scale of the Holocaust. Surely the primary focus of genocide scholars should be on the relative threat posed to a group's very existence.

In sum, the phrase 'in whole or in substantial part' seems to provide what can only be described as a sensible middle ground between the extremity embodied within the phrase 'in whole or in part' at one end of the spectrum and 'in whole' at the other end of the spectrum. Furthermore, it provides a much needed flexibility which is needed when judging whether genocide has occurred on a case-by-case basis. This is something that no quantitative approach can provide as any attempt to present a one size fits all quantifiable definition of scale overlooks the complexities that surround issues such as relative group size. While this analysis accepts the legal definition's focus on intent (though it reinterprets it to include the state) and broader understanding of destroy (though as stated, mass murder should be understood as a prerequisite), it rejects the legal definition's understanding of scale. At this point, the reader may be rightly questioning, well, if one accepts the inclusion of intent and the broader understanding of destroy then is it really worth rejecting the legal definition on the grounds that it uses the phrase 'in whole or in part' rather than 'in whole or in substantial part' and the answer proposed here would be no. In other words, if this was all that was wrong, I would accept the legal definition including its conceptual weakness regarding the omission of the state. However, what I, and the many genocide scholars cannot accept, is the fact that the Genocide Convention only protects 'national, ethnical, racial and religious' groups. This is a moral deficiency within the legal definition that should not be overlooked.

Group identity

The legal definition defines genocide as the intentional destruction of 'national, ethnical, racial and religious' groups. This means that if a political, economic, or gendered group is destroyed 'in whole' then this does not constitute genocide from a legal perspective. Of course, this does not mean that such acts are not crimes, it is just that they are recognised in international law as crimes against humanity rather than genocide.[82] Yet while this may help lawyers overcome technicalities in a courtroom, this does not necessarily help the victims of non-legal genocide find justice.

Simply saying that the perpetrators go to prison regardless of what we call the crime they have been charged with is not good enough. To use a domestic analogy, if someone was raped and was then told that the perpetrator of the crime was going to be charged with assault, the outcome may be that the perpetrator goes to prison either way but one cannot help but think that the victim may see this as a secondary injustice. Quite simply, if someone is a victim of a crime, then lawyers have a duty to represent that crime as accurately as they can. With this in mind, this section sets out to explain why the four groups were prioritised in the first place and then rejects this rationale on the grounds that just as all individuals are equal, all groups are equal, and thus all groups should be protected equally with none prioritised over another.

To understand why 'national, ethnic, racial and religious' groups were prioritised in the first place it is important to go back to the drafting process that preceded the final definition. At the time, as Kuper's work highlights, the Ad Hoc Committee's draft debated extensively whether to include 'political groups' in the final definition.[83] Kuper explains that the Russian representative led a 'vigorous attack' as it was claimed that 'the inclusion of political groups was not in conformity "with the scientific definition of genocide"'.[84] The statement reflects the fact that many of the drafters at the time believed that the identity of a group could be established scientifically. While the inclusion of religious groups within this scientific formula appears troublesome, the Russian representative justified this on the grounds that, 'in all known cases of genocide perpetrated on the grounds of religion, it had always been evident that nationality or race were concomitant reasons'.[85] Although the motives of the Russian representative have been rightly questioned on the grounds that the Russian government was worried that its treatment of political groups may be considered genocide, there is a more profound appeal to the idea that national, ethnic, racial, and religious groups can be identified objectively.

Since 1948, our understanding of how group identities are constructed has come a long way, which helps provide us with a more informed understanding of how groups should be defined in any definition of genocide. It is here that the work of anthropologists in the discipline of Genocide Studies is important as they highlight that the scientific rationale that underpinned group identify in 1948 is anything but scientific. As Alexander Hinton explains:

> From an anthropological perspective, the UN definition is highly problematic because it privileges certain social categories – race,

> ethnicity, religion and nationality – over others. While the making of social difference is a human universal, the categories into which we parse the world are culturally constructed.[86]

The statement challenges the scientific rationale embodied within the Genocide Convention as Hinton utilises the idea that identity is culturally constructed, thus the idea that there is an objective understanding of identity embodied within the legal definition is flawed. Since identities are culturally constructed, to suggest that racial, ethnicity, religious, or national identities are permanent and fixed is inaccurate. While Lemkin envisaged an objective element in his hybrid term, our understanding of group identity has developed since the 1940s. It seems obvious that any contemporary definition of genocide should reflect our contemporary understanding of group identity. This was put into explicit context as the International Criminal Tribunal for Rwanda found it difficult to establish whether the Tutsi and Hutu could fit within the definitional parameters of the Genocide Convention.[87] As Schabas explains, in the end the ICTR concluded that the Tutsi were an ethnic group simply because they had government-issued identity cards stating as much.[88] The legal ruling reveals that lawyers could not appeal to any objective benchmark when assessing the identity of the Hutu and Tutsi. This reinforces the idea that the scientific understanding set out in 1948 is now out of date and the definition of genocide should be altered accordingly.

At the time however, a moral argument raised within the drafting process was that permanent groups should be prioritised over voluntary groups. Rather than suggesting that groups could be identified on scientific grounds, it was suggested that since members of permanent groups cannot 'give up' their identify they are in turn more vulnerable than members of voluntary groups. As the Iranian representative at the time explained:

> If a distinction were recognized, 'between those groups, membership of which was inevitable, such as racial, religious or national groups, whose distinctive features were permanent, and those, membership of which was voluntary, such as political groups, whose distinctive features were not permanent, it must be admitted that the destruction of the first type appeared most heinous in the light of the conscience of humanity, since it was directed against human beings whom chance alone had grouped together.'[89]

The statement is important because it distinguishes between permanent and voluntary groups. In other words, members of a political group can change political party in order to save themselves whereas members of a racial group cannot change their race. Thus the latter should take priority over the former. Problematically however, even if one accepts this logic, the legal definition is internally incoherent as it protects religious groups which one may argue are not permanent, or at least not any more permanent than political groups and certainly not as permanent as gendered groups. Yet despite this one can see a moral logic within the Iranian understanding which asks the question: if we redefine the legal definition's understanding of group identity should any new definition protect permanent groups only?

Although one can again raise the difficulty of defining what constitutes a permanent group, the more worrying concern here is that when the importance of any group is elevated over that of any other group, we appeal to the very same logic that is often manipulated by the perpetrators of the genocide. To consider this let us turn to Chalk and Jonassohn's extensive comparative study on genocide which encompasses historical examples of genocide dating from Carthage right up until East Timor.[90] Significantly, the in-depth case study analysis leads the authors to conclude: 'We have no evidence that a genocide was ever performed on a group of equals. The victims must not only not be equals, but also clearly defined as something less than fully human.'[91] The statement highlights the central role of *dehumanisation* within the genocidal process, for as stated, in all the cases studied: *equals were never the victim*. The point to consider here is that a defining feature of genocide is the elevation of one group over another. To utilise the central ideas put forward by the anthropologist Alexander Hinton: 'Manufacturing Difference' acts as a pre-cursor for 'Annihilating Difference'.[92] Without this it is difficult to see how genocide would take place. The critical problem, therefore, is that in prioritising 'national, ethnic, racial and religious' groups in the legal definition, the Genocide Convention actually embodies the very same logic that perpetrators appeal to as it elevates the importance of four groups over all other groups in international society.[93]

Furthermore, a point that all scholars need to consider is that in failing to challenge the legal definition they in turn fail to challenge the scientific and moral rationale embodied within it. This is explicit as one considers the conceptual proliferation that has occurred, especially in the social sciences. As Martin Shaw's analysis explains, the narrow understanding of group identity embodied within the legal

definition has seen the other '-cides' of genocide studied as alternative concepts: 'ethnocide', 'gendercide', 'politicide', 'classicide', 'urbicide', and 'autogenocide'.[94] Shaw highlights the absurdity of the situation when he explains that the term 'auto-genocide' arose because the Khmer Rouge destroyed people *within* their own ethnic group which is not covered within the legal definition as it was drafted on the assumption that groups would not destroy themselves.[95] Rejecting the conceptual proliferation that has arisen (including the term 'ethnic cleansing'), Shaw claims, '*it is better to use genocide as the master-concept, accepting that its meaning has expanded from the narrower meaning of genos as a nation or ethnic group, to cover the destruction of any type of people or any group*'.[96] In other words, since genocide refers to the destruction of a group, then *all* groups should be protected by the Genocide Convention. Such understanding is upheld here for the simple reason that like individuals – all groups are equal. Thus, when IR scholars rely on the Genocide Convention and simply study the destruction of other groups within alternative frameworks such as 'politicide',[97] they help legitimise the legal definition which is morally flawed.

So with this in mind, the final question remains: which groups should be included in a redefined definition of genocide? Of course, this is not straightforward yet this analysis upholds the seminal understanding of group identity set out by Chalk and Jonassohn as they claim that scholars should focus on the identity of the group *as defined by the perpetrator*.[98] Such understanding has gained considerable currency as seminal scholars within the field have upheld such an approach.[99] As Mark Levene explains, 'The targeted group is the product of the perpetrators assemblage of social reality.'[100] The statement reinforces the idea that the perception of the perpetrator is vital to our understanding of group identity. Of course, this is not to say that this approach does not have it critics. For example, Schabas states that while he finds such an approach appealing, it ultimately acts to protect groups that have no 'real objective existence'.[101] Yet while on can understand Schabas' concern (regarding stretching the parameters of group identity too far), since it is impossible to prove a group's objective existence; is it not more appropriate to try and gauge an understanding of how the perpetrator defines the group? While this is an ongoing debate, this perspective aligns itself well with the aforementioned commitment to a behavioural-based understanding of intent as we could infer intent and group identity by focusing on state policy

In sum, the legal understanding of group identity is rejected on the grounds that no group should be prioritised over another. While the

question of permanent and voluntary membership raises intriguing questions, if one upholds such logic then one walks a dangerous path as the very same logic is utilised by perpetrators. Moreover, group identities are not fixed and in fact change over time. Hence, this analysis proposes that just as every individual is equal, every group is equal. More than any other issue, the legal definition's protection of just four groups raises a series of profound moral criticisms as the idea that groups can be defined scientifically and objectively appears to be fundamentally flawed. Since our understanding of group identity has changed over 60 years of human rights discourse, any legal definition of genocide should be altered accordingly in order to reflect a contemporary understanding.

Conclusion

The definitional debates presented in this chapter demonstrate that IR scholars cannot simply rely on the legal definition of genocide if they are to have an informed understanding of the crime. Article II of the Genocide Convention fails to make any reference to the role of the state which leaves it conceptually weak. At the same time, its failure to protect more than just the 'national, ethnic, racial, and religious' groups dictates that it is also morally deficient. When one juxtaposes its conceptual weakness with its moral deficiency it seems clear that scholars from all disciplines do not just have a right to question the legal definition; they have a duty to.

With this in mind, this chapter concludes by putting forward this author's own definition of genocide:

> When a collective source of power (usually a State) intentionally uses its power base to implement a process of destruction in order to destroy a group (as defined by the perpetrator), in whole or in substantial part, dependent upon relative group size.

To offer an overview, by using the phrase a *collective source of power*, the definition aims to capture the role of the state which tends to hold a monopoly of power in the majority of countries. In so doing, it aligns itself with scholars such as Levene and Horowitz, who highlight that the legal definition is flawed in its omission of the state. However, it differs slightly in that it does not exclusively focus on the state and instead accommodates the potential threat posed by an alternative power base, for example in a failed state. Within the context of the

definitional debate outlined above, the focus on a *collective source of power* and its *utilisation of its power base to implement a process of destruction*, aims to infer intent within a broader understanding of destroy. While further discourse is essential, through focusing on the *process of destruction* it is hoped that scholars can begin to consider how the destruction process arises within the broader context of a genocidal process which may, or may not, culminate in mass killing. Quite simply, states utilise a variety of measures when destroying a group and while I claim that mass murder has to take place for it to be considered genocide, our understanding of genocide should reflect this destruction process as argued by Lemkin, Shaw, and Levene. The final themes of the definition regard the debate over the *scale* of the crime, which is addressed as in whole or in substantial part, dependent on relative group size and *group identity*, which is approached from the viewpoint of the perpetrator. In doing so the definition upholds Lemkin's belief that the destruction should be substantial and Chalk and Jonassohn's seminal claim that the group should be identified from the perpetrator's viewpoint.

While no definition can provide an 'objective' understanding, it is unacceptable, for the reasons discussed above to accept the definition of genocide as set out in Article II of the Genocide Convention. The intention here was to provide an overview of the definitional debate rather than present my own definition. Indeed, this author's initial feeling was that there must be one definition 'out there' that reflects my understanding of the crime. Yet it seems there is not. Perhaps this demonstrates the need for more interdisciplinary analysis. To explain, as an IR scholar, it seems unthinkable to omit the central role of the state. This, in turn, dictates that every definition that does not rectify the omission of the state cannot be accepted. At the same time, those that do include the role of the state do not seem to have catered for the potential of genocide in failed and/or weak states, which in turn dictates that these are also rejected. Since this book does not engage with case study analysis it may seem odd to include a definition of genocide, yet it is clear that in bringing genocide into an IR framework one has to be aware of the debates that have been raised. The definition, therefore, is more of a by-product.

Having reviewed the literature it seems that there is a lacuna with regard to presenting the understanding embodied within the definition above, which is obviously heavily indebted to the discourse itself. However, it has to be stressed that in rejecting Article II, this author does not reject the Genocide Convention itself for the convention embodies

other critical aspects such as the legal obligation to prevent genocide. While one's obligation to prevent a crime is obviously dependent on how one defines the crime, this book will discuss how the Genocide Convention represents a collective understanding of genocide prevention as *rightful conduct* in international relations (see Chapters 4 and 5). It is Chapter 3 then that takes the idea of bringing genocide into an IR framework one step further as it addresses the relationship between genocide and IR.

3
Genocide and the Three Traditions

The disciplines of IR and Genocide Studies do not represent two singular families of thought that can be simply introduced to one another. Understanding genocide within the context of international relations requires *not* only an understanding of genocide (Chapter 2) but also of international relations. Accordingly, this chapter utilises Andrew Linklater's application of Martin Wight's three traditions (realism, rationalism, revolutionism) in order to distinguish between an *international system*, an *international society*, and an *international community* perspective of international relations.[1] The value of this approach is that it enables a three-way dialogue to be forged between competing world views which highlights how the assumptions embodied within one's view of international relations shapes one's understanding of issues such as diplomacy, war, human nature, the security dilemma, and in this case, genocide. The utility of this tripartite framework, therefore, helps explain its revival over the last two decades and underpins the ES's commitment to theoretical pluralism which will be discussed below.[2] While this is something that is often alluded to in ES literature, Chapters 3 and 7 of this book put such thinking into practice as they engage with realist, ES, and cosmopolitan perspectives in order to provide insight into understanding genocide in international relations.

At this point those well versed in the humanitarian intervention debate may question why this chapter chooses to analyse genocide using the three traditions framework rather than the ES pluralist/solidarist divide (which will be discussed below). Primarily, the reason for this, as Alex Bellamy has rightly pointed out, is that the three traditions approach allows for a broader analysis which goes beyond the pluralist/solidarist narrative.[3] In short, it enables a more informed understanding to be constructed which factors in the realist focus on

power politics, the ES focus on order and justice, and the cosmopolitan focus on humanity, all of which need to be considered when engaging with the phenomenon of genocide. Furthermore, one should bear in mind Wight's claim that 'The three traditions are not like three railroad tracks running parallel into infinity … the three traditions are streams, with eddies and cross-currents, sometimes interlacing and never for long confined to their own river bed.'[4] This seminal statement demonstrates Wight's commitment to *theoretical pluralism* as he saw IR as a never-ending three-way conversation between the traditions of realism, rationalism, and revolutionism.[5] For Wight, one cannot find a *pure* realist stream, a *pure* rationalist or a *pure* revolutionist stream. The logic is that if one were to trace the history of ideas then one would reveal an interwoven tapestry of realism, rationalism, and revolutionism. Thus to suggest that an informed understanding of IR can be gained from studying either tradition in isolation is a fallacy as no single tradition can lay claim to hold a 'monopoly of legitimate knowledge'.[6] With this in mind, the chapter uses the three traditions framework to provide insight into how different world views shape perceptions of genocide.

To do this, the chapter is structured in a four-fold format. The first section will begin by presenting an overview of the three traditions in order to explain what is meant by an international system, an international society, and an international community perspective. From this background, the next three sections will put forward a more in-depth analysis of each perspective to reveal the assumptions embodied within each world view and how these hold implications for understanding genocide. The objective is that by the end of this chapter the reader will understand genocide as a concept (Chapter 2) and as a phenomenon which is interpreted in a radically different light by alternative IR perspectives (Chapter 3).

The three traditions

It was in the 1950s, while lecturing at the London School of Economics, that Martin Wight first identified the three traditions of realism, rationalism, and revolutionism as a teaching tool to help students navigate the realist–idealist dichotomy that dominated the discipline of IR in the inter-war period.[7] As Andrew Linklater explains, 'In his lectures, Wight lamented the way in which debates between realism and utopianism in the inter-war years had neglected the *via media* with its distinct focus on international society.'[8] For Wight, there was middle ground to be found between the overt pessimism embodied within realism and the

overt optimism embodied within what he labelled as revolutionism. Responding to this neglected middle ground Wight brought the rationalist tradition, which he associated with Hugo Grotius, back into his analysis of international theory.[9] It is here that the three traditions are of particular relevance as they present an understanding of how the ES approach fits within the broader context of IR. Furthermore, the three traditions illustrate how the assumptions embodied in alternative IR approaches shape one's world view which is an important point to consider when one approaches the study of genocide from an IR perspective.

To flesh out what is meant by the three traditions, let us turn to Andrew Linklater's work on 'Progress and its Limits: System, Society and Community in World Politics'.[10] Notably, Linklater equates system, society, and community with the three traditions of Martin Wight to discuss the potential for progress in international relations. For Linklater, the realist perspective represents a more pessimistic approach (international system), whereas the revolutionist approach is much more optimistic (international community), leaving the ES to occupy the middle ground (international society). While the complexities involved in this overview will be discussed below, in Figure 3.1, I attempt to bring the Linklater/Wight juxtaposition to life in order to help illustrate the three alternative world views.

Prior to engaging in an analysis of Figure 3.1, it is important to acknowledge that the simplicity of the spectrum accentuates many of the overt stereotypes to be found in any use of Martin Wight's three traditions. As Hedley Bull explains, Wight himself feared that such reification of the three traditions would only further simplify and distort the three concepts which Wight himself never published.[12] Indeed, the attempt to classify the history of ideas within three traditions has come under understandable scrutiny. For instance, Edward Keene explains that such an approach focuses on the continuities of thought to be found within the history of ideas, yet this critically dictates that discontinuities of thought may be forgotten.[13] Furthermore, there are notable exclusions of thought as the ES fails to tackle feminism and the role of genocide in international relations.[14] While such points are valid it seems that IR has always been plagued by the problem of classification. At times the discipline feels more like a music store as scholars strive to categorise, label, and present theorists in an easy to digest format: is Johnny Cash gospel or country? Is E. H. Carr a realist or an ES pluralist? On the one hand it seems that any attempt to present someone's life work in any field via a label is a gross over-simplification. On the other hand

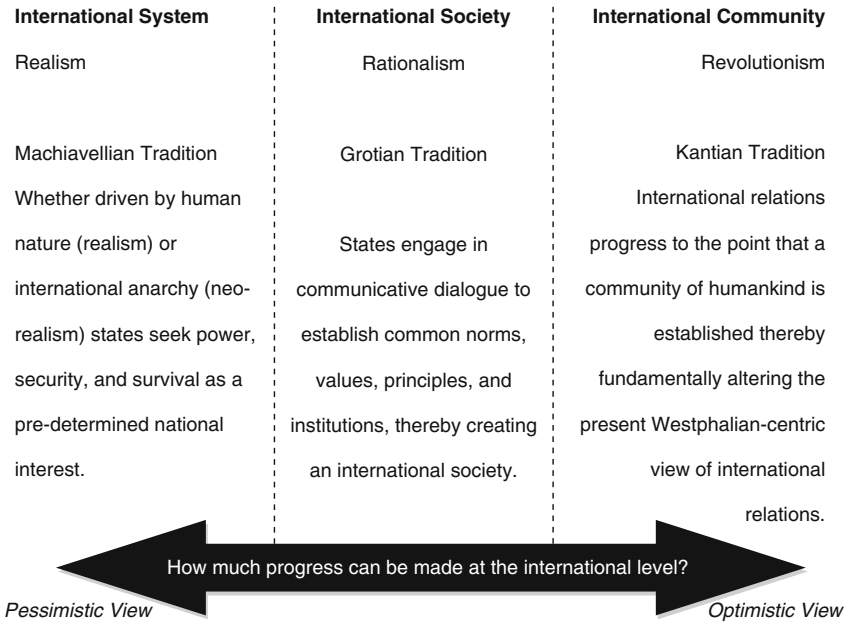


Figure 3.1 An overview of the Linklater/Wight juxtaposition[11]

there seems to be an evident need to use frames, labels, figures, and models as a way of illustrating the complexities involved. The reality is that if we were to label every musician in a music store using their name alone, the customer would be left bewildered.

Figure 3.1, therefore aims to simply illustrate the point that the three traditions of realism, rationalism, and revolutionism offer different perspectives on the potential for progress in international relations. This is important because one can see that one's position on this spectrum consequently holds implications for how one starts to theorise the impact of genocide on international relations, just as it would with any other concept, such as war, sovereignty, diplomacy, or justice. Each tradition embodies assumptions that one has to be aware of when attempting to understand genocide from an IR perspective. To consider this further, let us first of all address the tradition of *realism*.

International system: Realism

In Linklater's analysis on the potential for progress in international relations, Linklater equates the tradition of realism with the idea of an

international system. As he explains, 'The Hobbesian or Machiavellian perspective represents the anti-progressivist approach to international relations which contends that states belong to an international *system* in which there is seldom relief from competition and conflict.'[15] The statement encapsulates the scepticism embodied in the realist view of international relations. Unlike ES scholars, realists tend to see a world of international *in*stability rather than international order. The origins of this instability are traced back to the anarchical structure (neo-realism) or human nature juxtaposed with the anarchical structure (realism).[16] With no world government to constrain the conditions of anarchy or human nature, states remain embroiled in a never ending competition for power, security, and survival.[17] Essentially, states are locked into this *international system* of competition and conflict which prevents any potential for progress towards an international society or international community. Quite simply, humankind has found itself divided into states. It is therefore *un*realistic to ignore the reality that policymakers create policy on behalf of states rather than on behalf of humankind.

Although realists would like to live in a world without problems such as genocide they do not see how such problems can be resolved without the establishment of a world government. At the same time realists remain highly sceptical towards the idea that a world government can be established. Critically, realists argue that international institutions such as the United Nations do not have the power to 'mitigate anarchy's constraining effects on inter-state cooperation'.[18] In other words, because there is no world government, states operate within a climate of mistrust and fear (the security dilemma[19]). This zero-sum environment dictates that state x will only cooperate with state y if state x perceives that it will gain more out of the agreement that state y (and vice-versa), which for realists, explains why there is so little cooperation at the international level. This represents a relative gains approach as opposed to an absolute gains approach which is upheld by those that favour the idea of an international society. Such understanding helps explain why realists view genocide as just another insoluble problem as they reject the so-called idealistic belief that 'no problems – however hopeless they may appear to be – are really insoluble, given well-meaning, well-financed, and competent efforts'.[20] In sum, realists do not credit institutions such as the UN with any real power to help foster cooperation between states which, when juxtaposed with the fact that there is no world government, dictates that there is no functioning collective security system to address problems such as genocide.

Moreover, without a world government or a functioning collective security system realists remain fearful of states getting involved in altruistic moral crusades. Thus a normative argument emerges as realists claim that 'the path of justice and honour involves one in danger'.[21] As stated in Chapter 1, genocide prevention has the potential to lead states into 'complex and dangerous' foreign policy agendas (to use Andrew Hurrell's phrase).[22] For realists, complex and dangerous foreign policy agendas have the potential to undermine state security and should, therefore, only be pursued when matters of vital national interest are at stake. Moral crusades do not fall within this realist framework for as Morgenthau succinctly stated, while the individual has the right to say, 'let justice be done, even if the world perish', the state does not have the right to say this on behalf of its citizens.[23] Since realists reject the idea that states have a moral obligation to anyone other than their own citizens they have tended to view international normative developments such as the Genocide Convention as a humanitarian concern that is of little real concern to a state's national interest. From this perspective states should not send, or let the UN send, their 'sons and daughters' to die 'saving strangers'.[24] In addition to this, realists claim that so-called humanitarian intervention is nothing more than a 'Trojan horse'.[25] State elites speak with a moral tongue whilst intervening but pursue ulterior motives, which it is claimed, helps explain inconsistency.[26] Thus a secondary moral argument arises as realists claim that state sovereignty and non-intervention helps protect weaker states from the imperialistic agendas of powerful states.

Prior to highlighting the counter perspectives put forward by ES scholars (international society) and cosmopolitans (international community) it is important to stress that further interdisciplinary research needs to be done. For example, realists need to consider whether their view of genocide stems from their understanding of human nature, cooperation, national interest, anarchical structure – a mix of these – or, more importantly, genocide itself.[27] By this I mean that despite realists having a pessimistic view of human nature, a narrow understanding of national interest, a relative gains approach towards cooperation, and/or, a neo-realist belief that the anarchical system can push states to behave in certain ways, realists *do* accept that on certain issues states *do* cooperate within the anarchical realm. As stated in Chapter 1, states often cooperate on security issues when they perceive that the threat posed outstrips their individual security capacity. Although realists reject the liberal appeal to the idea of absolute gains, they do acknowledge that cooperation is a vital feature of international relations.[28] This is

important because it highlights that the realist view – that genocide prevention is not within the national interest of states – stems not from their view of cooperation or human nature , but their view of genocide. In other words, realists do not believe that genocide poses a security threat to states. It is this perception of genocide, therefore, that drives realists to claim states should not, whether unilaterally or multilaterally, engage in genocide prevention unless there are matters of national interest at stake. This brings us back to the fact that policymakers do not view genocide as an international threat.

Yet as stated in Chapter 1, IR scholars have given very little thought as to how genocide impacts on the current world order. As a result, the realist understanding of genocide seems to be built on a series of undertheorised assumptions rather than any serious critical analysis. This was put into perfect context in the aftermath of the Rwandan genocide as classical realist Henry Kissinger stated:

> At least in Bosnia we did something – maybe too late – but in Rwanda hundreds of thousands were killed. [Rwanda] is not a country of strategic importance for the United States; you cannot define a national interest that would take us there. And yet, there, I tend to think I personally would have supported an intervention. It would have been a violation of what ordinarily is my principle. Ordinarily I feel that you should not risk American lives for objectives where you cannot explain to the mothers why you did it … [Yet] my instinct tells me we should have done it in Rwanda.[29]

The statement neatly captures much of the rationale set out above as Kissinger highlights that states should only engage in complex foreign policy matters when there are national interests at stake. From a moral perspective, this is justified on the grounds that the lives of citizens should not be risked for anything other than national security. While one could raise the point that many grieving mothers may accept genocide prevention as a 'just cause', the interesting point is that Kissinger favours intervention even though it violates his ordinary principle (by which he means the assumptions set out above). This is problematic for the following concluding point: if realists accept that they may be willing to violate their ordinary principles when it comes to genocide prevention then is it not time that realists reformulated their ordinary principles so that they do not have to violate them in the first place?[30] Otherwise realism provides us with a theory of international relations except in those times when genocide is occurring. This undermines

the entire premise of so-called realism. With this in mind, it is worth considering the fact that realists do not hold a monopoly over interpreting reality which naturally leads us to the two alternative perspectives to be discussed below.

In sum, realists ask us to consider the tragedy that lies at the heart of international relations.[31] This tragedy stems from the fact that there is no world government to constrain human nature (classical realism) or mitigate the impact of the anarchical structure (neo-realism). Because of this, genocide represents an insoluble problem and furthermore genocide prevention represents an altruistic and dangerous foreign policy agenda which states should not pursue unless there are vital national interests at stake. Until a world government is formed, to think otherwise is simply unrealistic or utopian. Yet of course, counterclaims can be made which lead us to the international society perspective as ES scholars claim that even without a world government states can and do uphold legal, moral, and political agreements.

International society: Rationalism

As stated, the ES approach to international relations (that Wight associated with Hugo Grotius) is also known as the international society approach or the rationalist approach.[32] All three terms therefore are used interchangeably to refer to the ES view that the international society represents a *via media* between the international system advocated by realists and the international community advocated by cosmopolitans (to be discussed below). While the ES's focus on the state and the role of power within international relations has sometimes seen critics label it as 'realism in drag', as will be discussed, the idea that states have formed a society rather than a system demonstrates a fundamentally different interpretation of international relations with holds significant implications for how ES scholars view genocide.[33]

To flesh out this idea of an international society let us return to Linklater:

> The Grotian tradition occupies the intermediate position since it believes there has been qualified progress in world politics exemplified by the existence of a *society of states* which places constraints on the state's power to hurt and facilitates international cooperation. States in this condition are orientated towards communicative action to participation in diplomatic dialogues in which they advance claims and counterclaims with a view of establishing global

> standards of legitimacy which distinguish between permissible and proscribed behaviour.[34]

The statement encapsulates the spirit of the international society approach as English School scholars believe that although societal relations have developed beyond that of an international system, they have not progressed, and indeed are unlikely to progress, to the point of an international community. As a result, international society represents the middle-ground position: 'there is more to international relations than the realist suggests but less than the cosmopolitan desires'.[35] The idea of an international society therefore, stems from the belief that just as individuals at the domestic level create a society based upon establishing collective understandings, states create an *international society* by establishing, what Linklater refers to as 'global standards of legitimacy'. These standards of legitimacy are expressed via the norms, values, principles, and institutions found in international relations. It is claimed that these collective understandings enable and/or constrain the behaviour of states thereby increasing the likelihood of order at the international level.[36]

For ES scholars, the existence of order within anarchy demonstrates that states engage in civilising processes and it is here that the difference between an international system and an international society begins to emerge.[37] Whereas realists tend to explain international relations in terms of power, ES scholars acknowledge the importance of power but claim that power in itself is not enough and in turn incorporate power into a broader analytical framework. For example, offensive neo-realist John J. Mearsheimer claims that the primary reason for the (relative) peace within Europe since the Second World War (this is not to ignore the breakdown of Yugoslavia) is best explained by understanding the role of US power.[38] Simply speaking, the US let Europe know that it would not tolerate any further in-fighting. Yet while accepting that US power undoubtedly played a role, Andrew Linklater asks us to consider the civilising process by which he means that Europe's collective memory of two world wars led it to implement a series of political changes which ultimately played a significant factor in pacifying Europe.[39] From this perspective, the behaviour of European powers was shaped not just by external factors such as US power but by civilising processes, thus, ES scholars claim international society *is* shaped by global standards of legitimacy which are forged through communicative dialogue and expressed via norms, values, principles, and institutions.

From this perspective, the Genocide Convention signifies a normative reaction to the Nazi atrocity which was later labelled as genocide.

By which it is meant that the Nazi genocide acted as a catalyst which stimulated a civilising process as it altered international legal, moral, and political expectations. For instance, Gareth Evans explains that for 300 years the Westphalian principles that underpinned international relations acted to 'institutionalise indifference' in that political leaders were both immune to external accountability and largely indifferent towards the suffering of others within states.[40] Of course, this is not to say that political elites never voiced concern over human rights violations with other states.[41] Rather that this institutionalised pattern of indifference was believed to be morally and legally unacceptable in the aftermath of the Nazi genocide. From this perspective, international society's willingness to accept the term 'genocide' and codify it into international law reflected a new global standard of legitimacy. Furthermore, the Nazi genocide had broader implications on the civilising process as it helped shape the discourse on universal human rights and more importantly underlined the fact that an inter-governmental body was needed (the UN) to regulate human rights violations both within and between states.[42] Such developments reinforce the ES belief that international relations have progressed beyond that of an international system to the point that an international society has been created. Yet of course, at the same time, realists would highlight the fact that state elites have routinely failed to fulfil the promise set out in the Genocide Convention to claim that states remain locked in an international system.

For ES scholars however, realists overlook the role of values, principles, norms, and institutions in international relations. While there is some confusion regarding these terms, the first three are commonly used interchangeably to refer to collectively forged moral standards (whether formal or informal) that states should uphold.[43] Although these do not guarantee that states will act in a certain manner, ES scholars claim that they do increase the likelihood of international order. The premise is that through their construction states establish a 'yardstick' by which to measure one another's actions. More important are the institutions that states construct as it is generally accepted that these have more power than norms in shaping the behaviour between states. Institutions should be thought of in the primary and secondary sense with the former referring to non-administrative institutions such as great power management, diplomacy, war, and balance of power whereas the latter refer to administrative institutions such as the UN, the EU, and NATO.[44] Thus ES scholars claim that the latter have importance as they help contribute to the workings of the former. For example, whereas realists claim that the UN has no real power, ES scholars claim that its power

lies in the fact that it helps create and maintain international legitimacy in international relations. In sum, ES scholars ask us to consider the role or norms, values, principles, and institutions when seeking to understand how international order is constructed and maintained in international relations.

From this perspective, problems arise within international relations when states fail to forge collective understandings in the first place, or alternatively, create a body of rules which is somewhat contradictory in nature. It is here that the ES pluralist–solidarist divide is of relevance as pluralists and solidarists appeal to alternative empirical developments in international relations in order to put forward a normative claim of how international society should be ordered.[45] Essentially, ES pluralists believe that in a world full of competing legal, moral, and political claims, establishing a universal understanding of justice is highly unlikely. Because of this, pluralists claim that international society should be ordered on the principles of absolute sovereignty, non-intervention, and non-use of force.[46] As Wheeler explains, 'Pluralists focus on how the rules of international society provide for an international order among states sharing different conceptions of justice.'[47] On the contrary, ES solidarists offer a more optimistic approach towards the potential for progress in international relations. This is again raised by Wheeler (who is himself a solidarist), as he explains that solidarism, 'looks to strengthen the legitimacy of international society by deepening its commitment to justice. Rather than seeing order and justice locked in perennial tensions, solidarism looks to the possibility of overcoming this conflict by developing practices that recognise the mutual inter-dependence between the two claims'.[48] In other words, solidarists claim that despite the fact that there are many competing legal, political, and moral claims, it is still possible for states to forge global standards of legitimacy regarding a commitment to both order and international justice. Evidently, the ES should not be considered as a harmonious school of thought as there remains a substantial division between pluralists and solidarists over the relationship between order and justice in international relations.

However, restoring the centrality of international legitimacy in the formation of international society Ian Clark and Tim Dunne have claimed that international society should not be anchored on any fixed set of norms, values, principles, or institutions: 'international society is essentially neither pluralist nor solidarist: it is essentially legitimist'.[49] Essentially, Dunne and Clark put forward the view that international legitimacy underpins the construction of international society, and it is this view that is upheld throughout this book. For instance, in Barry

Buzan's analysis of institutions, the author acknowledges that even primary institutions can rise, evolve, and decline.[50] From this perspective, the primary institutions identified by Buzan are not fixed, and therefore remain dependent on *something*. This something, it is claimed here, is international legitimacy and this book upholds the view that international society should be anchored on the central concept of international legitimacy (the meaning of the term will be fleshed out in Chapter 4). As Clark explains,

> We should acknowledge that international society is constituted by its changing principles of legitimacy (first order), which express its commitment to be bound: we can then trace its evolving (second order) rules, revealed in its practices with regard to sovereignty, non-intervention, and non-use of force.[51]

The implications of this statement cannot be overstated as Clark puts forward the idea that the international society is primarily constructed on the process and practice of international legitimacy. This understanding goes to reaffirm the premise here, that international society should not be grounded on any predetermined pluralist or solidarist view of which institutions, norms, values, and principles should be prioritised in international society. These are second-order rules that remain dependent on the first order principle of international legitimacy. When one comes to answer the question, what type of international society?, it is imperative that one engages in an understanding of international legitimacy, and how this shapes international society's commitment to be bound by any set of norms, values, principles and institutions. In other words, to adapt the understanding set out by James Mayall, international legitimacy is the 'bedrock institution on which international society stands or falls'.[52] It is with such understanding in mind that this book explores the relationship between genocide and international legitimacy in chapters 4, 5, 6, and 7. In so doing, it attempts to bring the study of genocide into IR, via the ES, with a specific focus on international legitimacy.

To bring this analysis of the international society perspective to a close, let us consider Martin Wight's use of a statement made by the historian A. J. P. Taylor, 'There is a third way between Utopianism and despair. That is to take the world as it is and improve it; to have faith without creed, hope without illusions, love without God.'[53] The statement underpins the middle ground position upheld by ES scholars. Significantly, the rationalist tradition does not uphold the view that

human nature is, essentially good, or essentially bad.[54] Instead, it sees international society as a construction, rather than a natural outcome, and shares a much discussed common ground with constructivism, as both schools of thought uphold the classic Wendtian view that 'Anarchy is What States Make of It'.[55] This brings us back to the logic put forward in Chapter 1, that one should develop an understanding of genocide and genocide prevention by beginning with the facts of the problem rather than from any specific faith in any particular form of response. The ES approach, therefore, allows this study of genocide to escape any predetermined commitment to the national interest (realism), or humanity (revolutionism). Of course, this is not to say that the ES does not have a predetermined commitment itself, this it seems is clear as it focuses on the moral value of order in international relations. The fear is that just as international relations can progress, they can also regress, and the survival of international society requires a consensus forged over the basic principles of international order.[56] In essence, ES scholars uphold an evolutionary rather than a revolutionary ethic as they seek to gradually improve international society rather than radically redesign it. It is this latter aspect that this chapter now turns its attention towards.

International community: Revolutionism

The tradition of revolutionism remains the most under-theorised tradition (at least from an ES perspective), identified by Martin Wight. For Wight, revolutionism was a hybrid category which captured the 'soft' revolutionaries from Kant to Nehru, as well as the 'hard' revolutionaries of the Jacobins and Marxists.[57] Despite the fact that this in itself provides enough food for thought, Wight created subdivisions within this tradition as he attempted to distinguish the non-violent revolutionism of Pacifism (which he labelled as 'inverted revolutionism') and Wilsonianism (which he labelled as 'evolutionary revolutionism') from the more hard-line approach of Marx.[58] Amidst such complexity, it is clear that ES scholars need to develop a stronger theoretical understanding of revolutionism. However, it is also clear that the revolutionist tradition transcends the present Westphalian state-centric perspective embodied in the ES understanding of international society. Whether one upholds a Kantian commitment to an international community, or a more critical commitment to a world society, the variety of revolutionist perspectives act to remind both realism and rationalism of the moral imperfections to be found in the present state-centric model.[59]

Essentially, this ethic of radical change is what defines the core of the revolutionist position.

It is important then to stress that Figure 3.1, reflects Linklater's focus on the 'softer' revolutionary position of Kant and the idea of an international community. As Linklater explains, 'The Kantian tradition represents the progressivist tendency in international thought since its members believe in the existence of a latent *community* of humankind, and are confident that all political actors have the capacity to replace strategic orientations with cosmopolitan political arrangements governed by dialogue and consent rather than power and force.'[60] Perhaps the best way of viewing this Kantian perspective is in terms of what humanity should move away from, rather than exactly what humanity should move towards. For example, a Kantian commitment to humanity implies that we should move away from the present Westphalian state-centric model as this serves the interests of states rather than the interests of humanity. Yet at the same time there remains significant debate among Kantians as to how societal relations should be ordered instead.[61] The pressing point is that this perspective prioritises the value of humanity over that of the present state system (realism), or society of states (rationalism).

To relate this revolutionist focus back to the study of genocide, it seems clear that revolutionists could utilise the practice of genocide to illustrate just how the present state system is failing humanity. In so doing, revolutionists pose a direct challenge to the realist and rationalist dependency on states and state policymakers.[62] This would, in turn, further strengthen the cosmopolitan normative claim that international relations *should* progress to the point that the security of the individual is given priority over that of the state. By starting with the individual rather than the state, cosmopolitans break away from the state-centric top-down focus embodied in both the aforementioned international system and international society perspectives. Martin Shaw's work on *global society* provides great insight here as he explains that state-centric approaches are limited precisely because they neglect the 'complex social relations which bind individuals and states'.[63] Thus Shaw invokes a more complex formulation of international relations which seeks to understand both relations between and within states and in so doing invokes the idea of *human society*.[64] While not a cosmopolitan as such, Shaw's work could be placed within the international community framework as he claims that a new politics of global responsibility needs to be forged which goes beyond the narrow state-centric focus embodied in the international system and society perspectives.[65]

It is the concept of humanity therefore that seems to represent a point of fracture between the international society and international community approach. To put this into context let us consider William Bain's analysis of Nicholas. J. Wheeler's seminal ES text, *Saving Strangers* in which Bain claims: 'It seems as though Wheeler merely invokes humanity as a self-evident moral truth – the authority of which requires no further explanation – which in the end cannot tell us the reasons why we should act to save strangers.'[66] The statement is significant for two reasons. First, it highlights how ES scholars tend to present humanity as a self-evident truth which when one considers the criticisms raised by scholars such as Shaw above is understandable precisely because the state-centric nature of the ES approach is not necessarily compatible with the concept of humanity. Or at the very least, the ES embodies an under-theorised understanding of humanity. More importantly, however, is Bain's second point as he explains that in failing to justify the existence of humanity, ES scholars such as Wheeler fail to explain *why* we should act to save those targeted by crimes such as genocide. In other words, ES scholars tend to focus on the value of order rather than humanity yet at present the ES has failed to theorise the impact of genocide on either order or humanity.

The point of contention that this author has with the international community perspective is the value that it places on the concept of humanity, human nature, and human essence, to condemn acts, such as genocide, as *in*human.[67] The problem with this worldview is that it is built on the assumption that humanity and human essence exists.[68] One could, for example, claim that the widespread participation of 'ordinary people' in the genocidal process highlights the tragic reality that such acts are, in fact, human.[69] This somewhat profound philosophical argument was put into sharp context in the aftermath of the Nazi atrocities (which later became known as genocide and the Holocaust[70]) as news and images of events began to filter through mainstream British society. After viewing a *Daily Express* exhibition on the horrors that took place in Belsen, one 31-old woman when interviewed stated:

> I'm afraid it didn't make me feel anti-German; it made me feel anti-humanity. Would the same have happened here, I wonder, if we'd had the same government? I've heard some violent anti-Semitic talk which makes me think it would. I feel it's the fault of humanity at large, not the Germans in particular.[71]

The statement highlights that just as one can appeal to the idea of humanity to condemn the crime of genocide, one can equally appeal

to the crime of genocide to refute the existence of a common humanity. Furthermore, even if realists and ES scholars accepted that humanity does in fact exist they would then question how we can realistically transform the present international system or international society into an international community.[72] While cosmopolitan scholars offer normative claims, these problems demonstrate how this is an ongoing debate and that further research needs to be done.

To link this back to the relevance of this book, the pressing point is not that this book rejects the idea of humanity, but that this book is not built on the assumption that humanity exists (hence its focus is on order rather than humanity). By this I mean that I accept that human beings are not the same as animals but I do not uphold the Kantian premise that human beings are inextricably connected: 'a violation of rights in one part of the world is felt *everywhere*'.[73] The problem that this author has with such sentiment is the fact that between April 1994 and July 1994, the Rwandan genocide took place, yet quite clearly this was not felt everywhere as the world's attention was focused not on Rwanda but on events such as the World Cup in America (which also took place in June–July 1994). While, as will be discussed in Chapter 5, the Rwandan genocide did have an impact on the authority of the UN thereby impacting on the current world order, the fact that its impact was not felt everywhere demonstrates that international society has not progressed to the point that 'a community of humankind' (to use Linklater's phrase) has been established. This brings us back to the understanding set out in Figure 3.1. Whereas cosmopolitans believe that international relations *should* progress towards an international community, ES scholars do not believe that this represents an accurate picture of where international relations stand at present and remain sceptical towards the idea that an international community can be established. Such understanding is upheld here.

The obvious counterclaim here would be to question why ES scholars place so much faith in the idea of an international society when they themselves routinely acknowledge its moral deficiencies. In other words, how can it stress the moral imperfections of the anarchical society yet remain committed to a state-centric approach? This is perhaps best illustrated in Paul Keal's accomplished study in which he highlights that the laws and ideas embodied within the expansion of international society led it to be constructed on the dispossession of indigenous lands, the dehumanisation of indigenous peoples, and ultimately genocide.[74] From this perspective the historical evolution of international society should be understood as 'morally backward'.[75] Yet while Keal

accepts this morally bleak view of the history of international society, he goes on to uphold an ES approach for he claims that international society remains the most appropriate vehicle for moral progress within contemporary international relations.[76] In other words, ES scholars accept that states have committed atrocities in the past and will no doubt commit them in the future, but to suggest that an alternative non-state framework can be constructed is a fallacy. It may be possible, but it is not plausible. In turn, the ES position was succinctly captured in Andrew Hurrell's analysis *On Global Order* when he stated, 'the state can certainly be a major part of the problem but remains an unavoidable part of the solution'.[77] This neatly brings us back to the point raised in Chapter 1: this book starts from the view that one should develop an understanding of genocide and genocide prevention by beginning with the facts of the problem rather than from any specific faith in any particular form of response. Since this author believes that it is an empirical fact that we live in an international society, this book seeks to explore the impact of genocide on international society.

In sum, cosmopolitans would tend to accept that we do not live in an international community yet they uphold a commitment to cosmopolitan principles in the hope that a community of humankind can be established. Whereas ES scholars advocate the prevention of genocide on the grounds that this is a legal obligation that has to be fulfilled, cosmopolitans would tend to claim that there is something bigger at stake: humanity. Yet at the same time, the concept of humanity is problematic. Kantians may claim that genocide diminishes us all but realists would question: 'is this is true?' If it is not then 'what does this tell us about the concept of humanity?' If it is, 'how are we meant to transform the present international system into an international community?' Thus, further dialogue on this issue is essential for it may be the case that even if humanity does not exist, this does not mean that we should not construct it, cherish it, and protect it.[78]

Conclusion

This chapter has examined three perspectives on genocide to illustrate how one's view of international relations shapes one's perception, interpretation, and understanding of genocide within it. This is a simple yet important point. For example, genocide scholars continually refer to the international community's failure to prevent genocide yet it is clear that most IR scholars do not actually believe that an international community exists. Therefore, when genocide scholars use the term

'international community' they seem to be simply repeating a political mantra which is often put forward by politicians for political purposes. Through examining the idea of an international system, international society, and international community, this chapter revealed how alternative worldviews embody fundamentally different understandings of cooperation, power, justice, order, and human nature, which in turn shape perceptions of genocide. In other words, genocide is open for interpretation. This may seem somewhat shocking as it may be claimed that all scholars, policymakers, and laymen should see genocide as a problem of the greatest magnitude. Yet the truth is that there is not one interpretation of genocide. However, this brings us naturally back to the point that at present there is very little dialogue within the discipline of IR over the crime of genocide in international relations. Hence, Chapters 4, 5, and 6 will focus on the impact of genocide on international order (utilising an ES approach) prior to re-engaging with the three traditions in Chapter 7.

The intention to utilise the ES approach and view genocide through an international society lens, raises the question *why*? In other words, how can one go about prioritising any of the three perspectives when the above analysis highlights how each of the three traditions have limitations? The response seems straightforward in that unless each of the three perspectives explain exactly one-third of international relations then the default position must be that one perspective explains more than the other two. No one believes that realism, rationalism, or revolutionism explains all of international relations nevertheless they prioritise one position because they believe that it explains more than the others from either an analytical and/or normative perspective. This is not to say that this is a matter of fact or science but that IR scholars have to make a judgement over which view they uphold. At the same time one should note that each position embodies certain ontological and epistemological assumptions which dictate that one cannot change their approach at will and instead should think of their worldview as a skin rather than a sweater.[79] Thus this book from the outset has upheld an ES approach because quite simply, I believe that we, as human beings, live in an international society. Since the objective of Chapters 4, 5, 6, and 7 is to gain an understanding of how genocide impacts on international order, the ES's focus on the relationship between order and justice provides a fruitful framework for investigation.

4
Genocide and International Legitimacy

Having established an understanding of genocide (Chapter 2) and genocide within International Relations (Chapter 3) the reader may be left thinking, so what? To return to the opening sentiment expressed in Chapter 1: if I am not a member of the group being targeted then why should I care about its destruction? It is here that the next two chapters focus on understanding the impact that genocide has on the ordering structure of international society. Essentially, it will be claimed that when states fail to confront the crime of genocide, states actually increase the likelihood of international *in*stability. It is hoped that this approach highlights that there is more to genocide prevention than 'just' saving strangers. This novel approach utilises the ES's focus on how order and justice is facilitated through the process and practice of international legitimacy. Accordingly, this chapter will put forward an understanding of what is meant by international legitimacy prior to exploring the relationship between international legitimacy and genocide. It is argued that genocide holds a special relationship with international legitimacy because it is internationally regarded as the 'crime of crimes' from both a legal and moral perspective. This is important because it begins to highlight that genocide has an important impact on the institutional structure of international society *as well* as the groups being targeted. This point is explored further in the next chapter as the impact of genocide on the secondary institution of the UN is addressed. This chapter, therefore, focuses on the relationship between genocide and international legitimacy from a theoretical perspective which will lay the foundations for Chapter 5.

International legitimacy: Essential yet under-theorised

Prior to tackling the complexities involved in defining the term 'international legitimacy', it is important to touch on the point that despite the term's

importance, the concept of international legitimacy remains under-theorised in IR.[1] As Ian Clark explains, 'Legitimacy is much the most favoured word in the practitioner's lexicon, but one that remains widely ignored in the academic discipline of international relations.'[2] This is important because it feeds into the complexities surrounding the term's meaning. If the concept had been studied more, one would expect that there would be a broader agreement over what the term means. This is not to detract from the fact that many scholars acknowledge international legitimacy as an 'essentially contested concept', but to highlight that the lack of scholarly research into this area has undoubtedly hindered clarity on the subject matter.[3] A large part of the problem stems from the fact that legitimacy has predominantly been analysed in the context of the domestic sphere rather than the international sphere. As a result, the concept of *international* legitimacy has remained under-theorised.

This, of course, is not to say that the concept of international legitimacy has been completely ignored. As a number of scholars have highlighted, there has been an increasing amount of academic interest in the concept of international legitimacy since the end of the Cold War.[4] Intriguingly, in Hurrelmann, Schneider, and Steffek's study of legitimacy, the scholars note that academic interest in the study of legitimacy tends to occur in phases of intense political conflict or massive change.[5] From this perspective, it would seem that events such as the end of the Cold War and 9/11 help explain why academic interest in international legitimacy has become more popular. This was perfectly illustrated in the aftermath of 9/11 and the US-led response to it. Primarily, the US-led invasion of Iraq in 2003 brought questions regarding legitimate authority and legitimate conduct to the centre of international relations. A surge of academic interest began to emerge as IR scholars discussed both an American crisis of legitimacy[6] as well as a broader *legitimacy crisis* in international relations.[7] Scholars highlighted that many of the post-9/11 questions raised, regarding legitimate conduct and legitimate authority, were evident in the debates surrounding the Kosovo crisis in 1999. As is well documented, the Independent International Commission on Kosovo report concluded that the NATO air strikes were 'illegal but legitimate'.[8] This apparent clash between legality and legitimacy implied that international law was somehow deficient. The obvious question is if international law is broken, what broke it, and how can it be fixed?

Significantly, the debate surrounding international legitimacy was not some abstract philosophical debate: wars were being fought and people

were dying while the world debated the legitimacy of the actions being taken. With this in mind, it was clear that a more informed understanding of international legitimacy, and the legitimacy crisis, was urgently needed. It is here that a critical problem arose as while the question of what is international legitimacy took centre stage, the question of how international legitimacy should be studied seemed to become somewhat overlooked. This is understandable as the tragic events of 9/11 and the subsequent 'War on Terror' created an air of intellectual urgency. Scholars felt that they had a responsibility to help provide answers to the profound questions being raised.[9] However, this reality seemingly created an environment in which the question of what is international legitimacy took priority over the more mundane methodological question of how international legitimacy should be studied.

This was put into context in Corneliu Bjola's related analysis in which the author provides a literature overview of the approaches to be found on the study of international legitimacy.[10] The author highlights that seminal scholars such as Martha Finnemore, Ian Clark, Richard Falk, and Andrew Hurrell have all put forward alternative approaches to the study of international legitimacy, which, it is claimed, reflect their epistemological position.[11] Attempting to provide some much-needed clarity, the author suggests that this stems from scholars adopting a Weberian (descriptive) or Kantian (prescriptive), type of reasoning and that this has to be addressed in order to overcome the analytical–normative divide identified by Bjola.[12] While this Weberian–Kantian divide, would, in itself, provide enough food for thought, in Ian Clark's more recent publication, Clark goes beyond the two-fold framework provided by Bjola. Addressing the reluctance among IR scholars towards the study of international legitimacy, Clark states:

> This reluctance was no doubt reinforced by the bewildering variety of competing categories for conceptualizing legitimacy: empirical/normative; descriptive/prescriptive; a form of compliance, distinct from coercion, or self interest; input/output; substantive/procedural; representational/deliberative; legitimacy/legitimation/legitimization, and so on. When this entire spectrum of approaches is considered, we soon realize that legitimacy is less a single concept, and more a whole family of concepts, each pulling in potentially different directions.[13]

The statement underlines the two-fold problem in that the complexity involved *in* framing the study of legitimacy has in turn hindered

scholarly research into the concept *of* international legitimacy. Those that have sought to engage with the concept have been faced with the challenge outlined here by Clark who in fact does not even capture all the perspectives involved as more recent publications have invoked alternative perspectives to those outlined above.[14] Noticeably, these competing approaches pull in different directions and one has to bear this in mind when engaging in a study of the concept. Despite the fact that such ontological, epistemological, and methodological debates go beyond the parameters of this chapter, they do help illustrate David Beetham and Christopher Lord's claim that the starting point in understanding international legitimacy should be to acknowledge the complexities involved.[15]

The challenge here is made even more problematic as this book aims to explore the relationship between two 'essentially contested concepts' (genocide and international legitimacy). Having set out an understanding of genocide, I now utilise the understanding of international legitimacy put forward by Ian Clark in his work *Legitimacy in International Society*.[16] The work is of relevance because it approaches the study of international legitimacy from an ES perspective which notably aids this project's attempt to incorporate the study genocide into IR, via the ES. Moreover, the author provides a conceptually rich theoretical analysis that incorporates an in-depth empirical study on the evolution of international society from Westphalia right up until the post-9/11 legitimacy crisis. To return to the array of conceptualisations presented above, Clark's study predominantly focuses on the 'substantive' and 'procedural' approaches to understanding international legitimacy. This distinction is outlined as Clark draws on the understanding put forward by Beetham and Lord to explain that 'rules may be deemed appropriate either because they emanate from a 'rightful source of authority' (procedural), or because they embody 'proper ends as standards' (substantive)'.[17] Whereas the former judges the legitimacy of a claim by assessing the procedure that underpins the outcome forged, the latter judges the legitimacy of a claim by assessing the claim's inherent worth. For example, in the context of debates over morality, a substantive approach would more commonly be associated with an appeal to natural law and the value of the claim made; judged on its perceived moral worth. However, a procedural approach would tend to focus more on how the claim made was procedurally constructed; for example, which actors were involved and what sort of consensus was forged on the claim being advanced.

The intention here therefore, is not to engage in a more in-depth analysis of such debates as the focus of this book is not on international

legitimacy as such, but on using international legitimacy as a conceptual tool for understanding the impact of genocide on international society. Unlike Chapter 2's focus on the concept of genocide, this conceptual analysis does not attempt to deconstruct the concept of international legitimacy, thereby engaging in a critical analysis of the 'bewildering variety of competing concepts' listed by Clark. This is not to say that one can ignore the conceptual implications that arise from where one positions themselves in the relevant debate. For example, one cannot simply bracket one approach off from the others listed above in the hope of placing one's approach within a conceptual vacuum. As Clark explained above, all the approaches listed seem to have something in common, yet pull in different directions. Accordingly, one is seemingly left with a multidimensional approach to a multi-faceted concept.[18] Within this complexity, the relevant question still stands.

What is international legitimacy?

According to Clark, international legitimacy should be understood as a process rather than as a property.[19] It draws its value from a collective understanding (which reveals the role of consensus) forged among the relevant actors involved (which reveals the role of power), over the role of legality, morality, and constitutionality in international society. Significantly, Clark does not see international legitimacy as synonymous with either norm and instead claims that international legitimacy sits in a hierarchical position above the three norms.[20] As one would expect, morality, legality, and constitutionality are not fixed principles as the understandings that underpin these norms change over time. It is here that the role of *power* and *consensus* are of direct relevance. Since the anarchical realm is dogged by competing legal, moral, and constitutional claims, power and consensus play a pivotal role in that they help establish a collective understanding of these norms at the international level. With no world government, the reality of international relations is that those states with more power have more sway in shaping the international agenda. This does not mean that power, in itself, is enough as states still have to appeal to the legal, moral, and constitutional understandings that have been forged in order to gain a reasonable level of support for their actions. These collective understandings are therefore dependent not only on power, but on a 'tolerable consensus' (to use Clark's phrase) being forged among the relevant actors involved (whoever they may be). A sufficient level of consensual support reflects a satisfactory level of recognition between the actors involved, that

the understanding forged constitutes what Clark refers to as 'rightful conduct' and 'rightful membership'.[21] The fulfilment of these two principles signifies that the relevant actors involved have been recognised as legitimate rights holders (rightful membership), and that a collective understanding of what constitutes legitimate practice has been created (rightful conduct).

While this brief overview will be fleshed out in more detail below, it provides a framework for understanding international legitimacy and the idea of a *legitimacy crisis*. For example, if the relevant actors involved fail to forge a consensus over what role the three norms of morality, legality, and constitutionality, should play, international society is left with no collective understanding of what constitutes rightful conduct. As a result, states may voice opposing understandings of rightful conduct which, as one would expect, may see instability and conflict arise in international society. The problem, therefore, is not so much a tension arising between the three norms (this is to be expected), but the failure of the actors involved to resolve this tension. If states fail to resolve such tension then there remains no collective understanding to guide the conduct of states in the anarchical realm. The implications of which, can see conflict arise between states as they perceive each other's conduct to be unjustifiable. While this will be discussed in more detail throughout this book, it is clear that understanding and resolving any legitimacy crisis that emerges is therefore critical if international society is to increase the likelihood of long-term international order. To return to the ES focus on the moral value of order in international relations, international order is in the national interest of all states.

The three norms

Perhaps the most attractive quality to be found in Clark's understanding of international legitimacy is his idea that international legitimacy sits in a hierarchical position above the three norms of morality, legality, and constitutionality. International legitimacy draws its value from these three norms, yet should not be seen as synonymous with either one. At present, the discourse on international legitimacy continually refers to tensions arising between international legitimacy and morality and/or international legitimacy and legality. According to Clark, such understandings are misguided as international legitimacy does not have any independent value in its own right and therefore cannot 'clash', as it were, with morality, legality, or constitutionality. The approach here upholds the idea that international legitimacy should not be seen as

synonymous with either norm. With this in mind, let us first consider the relationship between international legitimacy and the three norms of morality, legality, and constitutionality prior to analysing how power and consensus play a role in accommodating the understanding of these norms into international relations.

The most common misuse of the term 'international legitimacy' sees its meaning become synonymous with legality to the point that legal positivists marginalise the role of morality. However, scholars such as H. L. A. Hart have countered this legal positivist logic by highlighting the 'internal aspects' of law, thereby referring to the normative motivations that underpin the construction of law which in turn help create its perceived moral value within society.[22] From this perspective, laws endure precisely because they have a compliance pull in that people value the perceived standard of behaviour that the law promotes.[23] This is not to suggest that laws have causal power as it is evident that states, just like individuals, will break the law at times. The point is that actors usually abide by the rule of law because they perceive that these rules embody a legal *and* moral value. As Armstrong and Farrell explain, 'individuals do not obey law simply because they are compelled to do so but because they are persuaded of its necessity, utility or moral value'.[24] Such logic highlights the interrelated nature of legality and morality and helps explain why laws are constructed, changed, and abolished. To take this latter point, it is clear that laws are often abolished, not because they are illegal, but because they are perceived to be immoral. Such understanding helps explain why international legitimacy should not be viewed as synonymous with international law and instead should be viewed as a collective understanding that draws its value from more than just international law. As Clark explains, 'legitimacy is one vehicle for redefining legality, by appeal to *other* norms'.[25] It is here that we have to consider the *other* norms of morality and constitutionality in the construction of international legitimacy.

If legality and morality cannot be divorced from one another, then just as with legality, one cannot attempt to prioritise morality to the point that it becomes synonymous with international legitimacy. To explain this I raise the recent revival of the just war tradition. While the theory can be interpreted in many ways,[26] Michael Walzer's analysis of the recent Iraq War is of specific relevance:

> So, is this a just war? The question is of a very specific kind. It doesn't ask whether the war is legitimate under international law or whether

> it is politically or militarily prudent to fight it now (or ever). It asks only if it is morally defensible: just or unjust? I leave law and strategy to other people.[27]

The marginalisation of legality in Walzer's analysis seemingly implies international legitimacy can be constructed on legal grounds as well as moral grounds, or alternatively, morality should be prioritised to the point that it becomes synonymous with international legitimacy. The limitation of this approach is that in Walzer's construction of justice, the author fails to acknowledge the morality embedded in existing laws. In marginalising the role of law, Walzer's understanding of justice is constructed on a false narrative.[28] One has to factor in not just legality but also constitutionality in order to gain a more informed understanding of the international context in which morality operates. This latter point is raised by Corneliu Bjola: 'the just war theory faces a serious problem – its standards of evaluation of the legitimacy of military interventions are conspicuously disconnected from the political context in which decisions about the use of force are taken'.[29] By drawing on the political context to be found within the anarchical realm, Bjola rightly claims that the political sphere can have an impact on the norm of morality within the legitimacy process. It seems clear that morality cannot be simply bracketed off from legal and political considerations, the latter of which brings us on to us the norm of constitutionality.

The norm of constitutionality refers to the political context in which international society operates at any given time. Again, constitutionality should not be seen as independent from the norms of legality and morality but intertwined within the legitimacy process. The term itself is somewhat ambiguous and needs clarification. As Clark explains:

> This third norm to be considered is the most overtly political, that of constitutionality. This is the realm neither of legal norms, nor of moral prescriptions. Instead, it is the political realm of conventions, informal understandings, and mutual expectations.[30]

Clark's use of the term 'constitutionality' is less formal than conventional understandings of constitutionality. Within an ever changing security environment, what is deemed to be politically acceptable at the international level is not just a product of morality or legality but also of circumstance. Essentially, Clark utilises the norm of constitutionality to capture how morality and legality do not fully account for how

states construct a shared understanding of international legitimacy. Attempting to illustrate this point, Clark states: 'Russia found itself accepting things in the 1990s – such as a unified Germany within NATO – that would have been inconceivable a few years earlier.'[31] The norm of constitutionality, therefore, draws on the implications that can arise out of the day-to-day developments in international relations. One is reminded here of Robert Jackson's analysis of norms in international relations in which he states, 'foreign policy must always operate within what Edmund Burke termed "the empire of circumstances"'.[32] The norm of constitutionality seemingly to captures this sentiment as it draws on the formal and informal realities of the anarchical realm which play an integral role (along with morality and legality) in shaping the construction of international legitimacy. This is not to say that the three norms in themselves are enough and it is here that the roles of power and consensus have to be factored in.

Power and consensus

In their simplest form, power and consensus can be thought of as factors which help the transition from the *process* to the *practice* of legitimacy. Clark provides a succinct overview of the legitimacy framework outlined above and to be discussed below when he states:

> Normatively, legitimacy can be most helpfully thought of as that political space marked out by the boundaries of legality, morality, and constitutionality. At any point in time, it is constrained by the prevailing conceptions drawn from these three areas. However, since these often 'pull' normatively in incompatible directions, there needs to be an accommodation struck amongst them. The practice of legitimacy describes this process, as the actors reach for a tolerable consensus on how these various norms are to be reconciled and applied in any particular case.[33]

The statement reiterates much of the understanding already discussed while going one step further to highlight the role that power and consensus play in reconciling the differences that arise between the three norms. Since the collective understandings that underpin the three norms change over time, power and consensus play a pivotal role in accommodating the different legal, moral, and constitutional perspectives into an internationally agreed code of conduct. This is evident as the two principles of rightful conduct and rightful membership are

fulfilled. Prior to analysing these, let us consider the role of power in the construction of international legitimacy.

Regarding the role of power, it is important to address the state-centric approach embodied within ES theory. Accordingly, when international legitimacy is discussed in this context, states are identified as the most relevant actors in the construction of international legitimacy. Conversely, those that approach IR from a more revolutionary perspective may claim that it is illegitimate to consider states as the relevant actors in international relations. For example, Richard Falk clams that such state-centric approaches do not take into account the rise of non-state actors both as participants of, and challengers to, the current world order.[34] The point made by Falk is valid in that non-state actors certainly have relevance in international relations. The question remains however, how much relevance do they have to the formulation of international legitimacy? To use Falk's claim regarding the participation of non-state actors, it seems that while non-state actors such as the World Economic Forum and the World Social Forum may help shape international society's understanding of rightful conduct, they do so by going through states. States may listen to such non-state actors which highlights that they do not act exclusively of other actors, but ultimately they take the hands on role in constructing international legitimacy. Essentially, despite the challenges made by non-state actors, states remain in the driving seat and while they may take on board the opinion of passengers, they determine the direction that international relations are steered in. Of course, this may change in the future (notably Falk rightly points out the role of non-state actors in challenging the current world order), yet, it seems clear that states remain the more powerful actors in international relations and therefore remain the most relevant actors in the construction of international legitimacy.[35] The focus here is on the 'top down' construction of international legitimacy by states in *international society* rather than the 'bottom-up' construction of international legitimacy by non-state actors in *world society*.[36]

At the same time it is important to note that the focus on power within the legitimacy process does not lead this analysis to marginalise the role of morality, legality, and constitutionality. Classically, the focus on power in realism and neo-realism has seen the role of norms given little causal significance; in this sense, international legitimacy can often be seen as a product of power politics. The problem with such understanding is not that power is not important, but that power in itself is not enough. For instance, in Fouskas' and Gokay's critique of US imperialism, the authors' state, 'asserting a claim to power in itself has no power if circumstances

make it plain that such power does not exist'.[37] Essentially, the authors underline the role of constitutionality as they highlight that even the most powerful state has to accept that its power operates within the aforementioned 'empire of circumstances' (to us Burke's aforementioned phrase). Intriguingly, Barak Obama put this into the context when he claimed that without legitimacy, America would lack the power it needed to renew American leadership.[38] From this perspective, legitimacy is not born out of power alone because for authority to be recognised as legitimate, other factors such as morality help shape how that power is perceived.[39] This feeds back into the understanding set out in Chapter 3 in that ES scholars place the centrality of power within a normative framework to highlight that power can be both enabled and constrained by norms such as morality and legality. As Nicholas J. Wheeler boldly asserted: '*state actions will be constrained if they cannot be justified in terms of plausible legitimate action*'.[40] The term 'plausible' is pivotal here as it implies that states have to appeal to the norms of morality, legality, and constitutionality in order to justify their actions. If, for whatever reason, states fail to justify their actions, then their actions will be constrained as they will fail to win over enough support at the international level.

This aptly brings us to the final aspect of *consensus*, which is perhaps the most complex and problematic dimension. As Clark questions, does legitimacy spawn consensus or is it the other way round?[41] While these polarities stand in sharp contrast to each other, they are nonetheless both plausible. Within this complexity, Clark identifies three approaches. Primarily, the more substantive position advocates the idea that legitimacy spawns consensus. Appealing to ideas such as natural law or *jus cogens*, the premise here is that the legitimacy of the claim made is dependent on its intrinsic value. Any agreement forged merely reflects the 'truth' that existed prior to the agreement being struck: 'From this point of view, the international political process is tantamount to a seminar in which truth will eventually out, and become the foundation of international policy.'[42] This sees international legitimacy as something that is 'teased out' rather than something that is 'worked in'.[43] The idea that legitimacy has to be 'worked in' to the legitimacy process brings us on to the second perspective as it suggests that legitimacy is forged not by appealing to some external 'truth' but the procedural reality that an agreement has been struck among the relevant actors involved. Finally, Clark offers a third perspective, which is that of the political and overly more pragmatic stance which claims that consensus should be privileged because of the procedural benefit it offers international society.[44]

To put this into context, let us consider the fable of the man who was laughed at because he believed the world was round. The story suggests that at some point in history, one man claimed that the world was round rather than flat and in doing so he challenged the mainstream consensus. Let us take it for granted that this person was the only person in the world that believed the world to be round: was his claim legitimate? From a substantive perspective, one may claim that the value of the claim depended not on the level of support gained, but on the value of the claim itself. In sharp contrast, from a procedural perspective, one may argue that unless this claim is supported by some procedural process then this cannot be considered as legitimate. Finally, the more pragmatic stance would tend to claim that since the vast majority considered the claim to be illegitimate, the claim should be understood as illegitimate because of the pragmatic benefit that consensus offers international order. The interesting point to this fable is that the claim made was a matter of empirical fact (although not known at the time). As a result, one would expect that the man could have scientifically proven his claim which would validate the substantive approach as well as increase the likelihood of a consensus emerging which would have supported the claim made from a pragmatic stance. The more pressing problem, therefore, arises when international society is faced, not with scientific claims, but with moral ones. If one person claimed that their position was the moral position, would this claim have any legitimacy?

Now quite obviously, the fable does not answer the question of whether legitimacy spawns consensus or consensus legitimacy. Yet it does begin to highlight complexities involved, for example, Clark notes that 'consensus touches upon legitimacy in both the substantive and procedural senses'.[45] It would seem that the relationship between international legitimacy and consensus cannot be addressed from purely a substantive, procedural, or pragmatic perspective. Regarding the former, one is reminded of the realist fear that moral claims in themselves cannot be the guiding force of international relations. With no world government to make a judgement on competing moral claims, it seems evident that one cannot rule out the role of consensus. However, it also seems clear that consensus in itself is not enough. For instance, it is quite plausible that the permanent five members of the UNSC (P5) use their power to manipulate a political consensus which other states believe to be immoral. In such a context, the states that oppose the political consensus forged may appeal to the three norms within the legitimacy process in order to try and gain further support at the

international level. Again, arrays of complexities arise in such circumstances. One could perhaps make the point that the debate over *intent* within the concept of genocide and the debate over *consensus* within the concept of international legitimacy highlight just why these two concepts are regarded as essentially contested concepts for it is difficult to perceive how such debates can ever be resolved. The overarching point is that while the debate regarding consensus and legitimacy will continue, one has to acknowledge the interplay between consensus, power, morality, legality, and constitutionality in the construction of international legitimacy.

Rightful conduct and rightful membership

When the norms of morality, legality, and constitutionality are entrenched at the international level, this signifies that Clark's two principles of 'rightful conduct' and 'rightful membership' have been fulfilled. The fulfilment of these two principles signifies that a collective understanding has been forged among the relevant actors involved. For example, the Geneva Conventions act as the procedural face that embodies the legal, moral, and constitutional understanding of what constitutes rightful conduct in the context of war. While the fulfilment of such principles should not be considered as some sort of final stage (international legitimacy is an ongoing process), they indicate that 'global standards of legitimacy' (to use Linklater's phrase) have been established. The fulfilment of these principles is therefore extremely important as it is through establishing such collective understandings that the likelihood of international order is increased.

The principle of rightful conduct is relatively straightforward in its meaning. As raised in Chapter 3, international society constructs collective understandings of what constitutes rightful conduct which are expressed via norms, values, principles, and institutions in international relations. Going back to the idea put forward by Linklater, states establish global standards of legitimate behaviour through communicative dialogue. States appeal to such understandings when attempting to justify their behaviour, which in turn, underpins the ES belief that such collective understandings work to enable and/or constrain the behaviour of states within the anarchical realm, thereby creating a high level of international order. It is from this perspective that we see how international legitimacy increases the likelihood of international order as such collective understandings help shape (rather than cause) state behaviour.[46] As will be discussed in Chapter 5, the UN Charter plays a

central role in international relations as the understandings embodied within it play an integral role in shaping international society's contemporary understanding of rightful conduct.

To put this principle into practice let us consider the legitimacy of the nineteenth-century slave trade. At least from a procedural perspective, the slave trade was at some point deemed to be legitimate in that it was recognised as lawful, constitutional, and morally acceptable. While those being traded would not have shared this view, they had no power to question the consensus forged among the powerful actors involved. Yet it is clear that at some point in time, the legitimacy of the slave trade came under intense scrutiny.[47] Essentially, a tension arose within the legitimacy process between the norms of morality and legality as the actors involved questioned the moral value of a law that permitted the trade of human beings. As the norms of legality and morality clashed it was imperative that a new consensus was forged that could establish whether the law could be altered accordingly. The subsequent abolition of the slave trade signified that what had previously been thought of as *rightful conduct* was now deemed to be *wrongful conduct*. A tolerable consensus had been forged among the relevant actors involved. This consensus embodied a new legal, moral, and constitutional perspective. The example therefore illustrates the transition between the process and practice of international legitimacy. A consensus had to be struck among the relevant actors concerned in order to fulfil the principle of rightful conduct which in turn permitted an alternative international practice to be deemed legitimate. Consequently, such understanding highlights how international legitimacy could touch on both substantive and procedural elements. Regarding the latter, one could highlight how the slave trade was deemed to be legitimate and then illegitimate because the relevant actors involved deemed it to be so. However, one could also question why the actors involved altered their views in the first place in an attempt to highlight the inherent moral value of abolishing the slave trade.

This brings us on to the second principle of rightful membership which essentially acts to reveal who is, and who is not, accepted as a rightful member of international society. Within Clark's historical study, it is clear that polities, states, and empires have had to pass certain tests to gain membership status.[48] This underlines the relationship between rightful conduct and rightful membership as states are accepted into the 'family of nations' when their conduct is considered to be rightful. Since the Second World War, for example, the number of UN members has increased from 51 in 1945 to 159 by the end of the Cold War and

193 at present. Amidst this expansion of international society, states have increasingly 'signed up' to the codes of conduct set out by states, for example, in the UN Charter. The willingness of states to adhere to such codes of conduct emphasises the idea that states are willing to be bound by certain rules of co-existence, which for Clark, reflects the fact that an international society *does* exist.

However, the use of the term 'rightful membership' in this book is notably different. Primarily, Clark's use of the term stems from his attempt to study the historical evolution of international society as it has undergone noticeable changes in the post-Westphalian era. While this study does not dispute this, it is clear that the focus of this book is noticeably different as the objective here is to solely study the impact of genocide on the current world order. What are of specific interest here are the two circles of rightful membership that were established within the construction of the UN. As will be discussed in more detail in the next chapter, international society is indeed made up of states; however, five of these members have been granted a privileged status in international relations. Of course, here I am referring to the five permanent members of the UNSC. Essentially, the establishment of these five elite members has seen a hierarchy established within the principle of rightful membership as while there are now 193 states (to focus on the General Assembly) recognised as rightful members of international society, only five are rightful members of the UNSC in the permanent sense. These five rightful members notably stand as the rightful authority with regard the use of force in international relations. It is the tension therefore that can arise between these two membership circles within the present construction of international society that is of specific interest to this book.

Notably, there is scope for taking Clark's understanding as it is with its focus on the membership of international society as a whole unit and the tests that states pass in order to gain rightful membership status. For example, a study could be done on whether perpetrator states and/or bystander states should be marginalised from international society. To use the idea of a test, then a 'genocide test' could be used to discredit a state's right to have rightful membership status. Essentially, such rationale underpins the present debate over the potential establishment of a league of democracies as it is claimed that membership of international society should be restricted to those states that pass the 'democratic test'. From a legitimacy perspective, the problem with such an approach is that it tends to place too much focus on morality, which remains a highly subjective concept. Within this democracy debate, it seems clear that China and Russia cannot be simply left out of the decision-making

process when the reality is that the relationship between the US and China will be one of the determining features of twenty-first-century international relations. Again, with genocide, there is no consensus regarding the attempt to implement a 'genocide test' whereby perpetrator states would be excluded from international society. Complexities would naturally arise regarding the question of bystander states. While such an approach has potential, this is not the focus of this book. To be clear then, when the term 'rightful membership' is used, its use here refers to the two membership circles that were established within the construction of the UN. The point of interest for the study of genocide is the tension that can arise between these two membership groups with regard to who acts as the *rightful authority* overseeing the legitimate use of force in international relations.

These two principles will be discussed in more detail in the next chapter which will begin by focusing on the role of the UN in relation to the principles of rightful conduct and rightful membership. In essence, it will be claimed that genocide exposes the tension to be found in international society's understanding of rightful membership and rightful conduct. In failing to confront the crime of genocide, international society fails to resolve the tension that arises, and in doing so undermines the authority of the UN and the UNSC which *de*stabilises the ordering structure of international society. While a more in-depth study of the UN will be addressed in the next chapter, at this point the reader may be rightly asking the question: why is genocide so important? Quite clearly, the UN fails to fulfil many of its duties, responsibilities, and obligations in international relations. To gauge this it is important to address the relationship between genocide and the three norms that help makeup international legitimacy.

Genocide and international legitimacy

Having set out an understanding of international legitimacy let us now re-engage with the claim that genocide holds a special relationship with international legitimacy. To do this, it is important to address the relationship between genocide and the three norms of morality, legality, and constitutionality. As stated, international legitimacy draws its value from these three norms, which can change over time and even clash with each other on certain occasions. The intention here therefore is to make the case that genocide is internationally regarded as the 'crime of crimes' from a legal and moral perspective, yet critically remains a low priority in policymaking which highlights the problematic relationship

between genocide and constitutionality. In turn, political expectations do not meet the legal and moral expectations of international society, the impact of which will then be discussed in the next chapter.

Genocide and morality

On first consideration, the idea that genocide is immoral seems obvious. Indeed, it seems frustrating to even contemplate that one has to justify just why genocide is bad, yet it is clear that one has to. As Jonathan Glover explains, the twentieth century has seen a crisis emerge over the authority of morality and the idea of moral progress.[49] With the legacy of Nietzsche, and his foretold 'death of God' looming large, it seems that the Hobsbawm 'age of extremes' has been accompanied by an age of increasing amoralism and moral relativism.[50] The crime of genocide has not escaped such challenges as critics question how we can validate any moral judgements made – even towards events such as the Holocaust. In his attempt to answer Nietzsche, Glover accepts that the prospect of reviving the belief in moral law is dim as he questions the external validation of moral claims.[51] Without external validation, the author proposes that we can either abandon morality or recreate it.[52] Adopting the latter position Glover intriguingly uses case studies of genocide and mass violence to support his argument. It would seem that there is *something* about genocide that fundamentally challenges moral relativism. Perhaps this is best illustrated as Glover recalls that he was part of a group of British philosophers that once travelled to Auschwitz on a bus. He claims that on the way there a philosophical discussion arose regarding issues such as the rationality of such acts. Intriguingly, Glover goes on to state that on the journey back from Auschwitz 'we were silent'.[53] Summarising the state of mind that many must have felt when confronting the reality of genocide the author concludes: 'No ethical reflections, no thoughts, seem adequate.'[54]

One gets the impression here that Glover struggles to comprehend the scale of horror embodied in Auschwitz. In essence, there is no easy way to convey the *something* about genocide that disturbs us so much. This is a common problem as both scholars and survivors have struggled to represent the horror to be found within genocide. This point is raised in Martin Gilbert's analysis of the Holocaust titled 'The Most Horrible of All Horrors', as the author explains that neither words, nor statistics, nor examples, can adequately convey the suffering involved in the Holocaust.[55] Within just months of leaving Auschwitz, Primo Levi was

all too familiar with this problem as he struggled to bear witness to the events that he himself had seened:

> Then for the first time we became aware that our language lacks words to express this offence, the demolition of man. In a moment, with almost prophetic intuition, the reality was revealed to us: we had reached the bottom. It is not possible to sink lower than this; no human condition is more miserable that this nor could it be conceivably so.[56]

Primarily the statement touches on the limitations of language which remains a common feature within the discourse on genocide. Yet the idea put forward by Levi, regarding 'the bottom', offers a highly interesting take on genocide from a moral perspective. While one can find an abundance of terms and phrases utilised within the discourse to describe genocide, the description of genocide as 'the bottom' seems to provide an apt portrayal. From a moral perspective, can we, as human beings, sink any lower?

The problem with such rationale is that it is built on the premise that there *is* 'a bottom'. For moral relativists, Glover's aforementioned acceptance that the revival of moral law is doubtful highlights that even the act of genocide cannot escape the debate surrounding moral relativism. As John W. Cook explains, the principal advocates of the moral relativist doctrine have tended to be anthropologists who claim that 'their studies of various cultures have enabled them to show that morality is relative to culture, which implies, among other things, that we cannot rightly pass moral judgements on members of other cultures except by our own cultural standards, which may differ from ours'.[57] Moral relativists claim that the foundations of morality stem from one's cultural experiences rather than any universal moral law. As a result, the question, *who are we to judge*?, naturally arises. Any attempt *to* judge, leads the moral relativist to claim that those seeking to judge are behaving in an ethnocentric manner. By this it is meant that those who judge use their cultural understanding of morality as the benchmark by which to assess the moral behaviour of others.[58] It is here that it is worth noting that the moral relativist doctrine reflects the ontological and epistemological perspectives that knowledge claims regarding morality cannot be constructed in the same manner as knowledge claims regarding science.[59] Moral relativists claim that it is impossible to discover objective moral facts. The foundations, therefore, that underpin universal moral claims are seen to be highly subjective rather than universal. From this

perspective, moral relativists come to the somewhat stark conclusion that pain, distress, misery, agony, and other forms of such suffering, are acceptable when they are part of an established way of life.

Within this discourse, Cook emphasises that the debate regarding moral relativism is not just some abstract philosophical argument, but that people have to make practical moral choices and therefore judge each moral claim on a case-by-case basis.[60] An important point here is that Cook differentiates between practices that involve *willing participants* and those that involved *unwilling participants*.[61] Regarding the former, the author uses the well-known example of Eskimos leaving their elders outside to freeze to death. Although this, at first, seems strikingly immoral, when one learns that the elders are willing participants in this practice, it becomes harder to judge this as an immoral practice.[62] Now obviously one could invoke ideas such as positive and negative freedom to discuss the issue of willing participation within such contexts further. However, the more pressing point here regards those that practice acts against unwilling participants as it is clear that genocide stands as a benchmark example, in the extreme, of such action, as states impose their collective will on unwilling participants. The term 'participant' in this latter context seems somewhat misplaced as unwilling participants in the context of genocide surely qualify as victims. Drawing on much of the sentiment to be found in just war theory, Cook goes on to pose the point that if we have the capacity to intervene (militarily or otherwise) and reduce the amount of suffering involved then do we not have a moral duty to do so?

This line of thinking is familiar in the debate over humanitarian intervention as scholars debate whether there is a moral threshold at which the legality of sovereignty can be overridden in international society. As Michael Walzer succinctly stated, 'How much human suffering are we prepared to watch before we intervene?'[63] Notably, Walzer first posed this question in 1977, the subsequent Rwandan genocide that took place in 1994 demonstrated that international society is quite prepared to watch a genocidal level of suffering unfold. From this perspective, Walzer's line of inquiry should be reformulated: How much suffering should we not be prepared to watch before we intervene? Michael Walzer famously set the benchmark as those crimes which 'shock the conscience of humankind', as he advocated intervention that prevented or put a stop to any 'supreme humanitarian emergency'.[64] In so doing, Walzer upheld a *minimalist approach* as he reduced the debate over absolute morality and universal human rights down to a discussion of absolute immorality and universal human wrongs.[65] In Walzer's analysis of a supreme humanitarian

emergency, it is clear that genocide represented a benchmark example as the author claimed that even the violation of innocent lives was justified within the context of stopping Nazism.[66] It would seem, therefore, that there is something about a state destroying a group, not because of anything they have done, but because of whom they are, that represents a quintessential violation of a *universal moral minimalism*.[67]

Of interest here is the fact that even moral relativists have struggled to apply their doctrine to the behaviour of genocidal regimes.[68] This is put into stark context in Robert Redfield's analysis, which was notably published in 1953:

> I am persuaded that cultural relativism is in for some difficult times. Anthropologists are likely to find the doctrine a hard one to maintain. … It was easy to look with equal benevolence upon all sorts of value systems so long as the values of unimportant little people remote from our own concerns. But the equal benevolence is harder to maintain when one is asked to anthropolgize the Nazis.[69]

The statement seemingly turns moral relativism in on itself as it highlights how a moral relativist position may actually embody an 'ethnocentric' ethic. The statement implies that the author viewed the suffering of Europeans as something qualitatively different from the suffering felt by 'unimportant little people'. Such a perspective poses a direct challenge to the moral relativist as it implies that when moral relativists study what they perceive to be 'alien' cultures, they are more willing to accept 'alien' behaviour, yet when these 'alien' actions arise in a culture that they perceive to be less 'alien' to them, the moral relativist struggles to come to terms with their own doctrine. Although the cultural relativist may claim that Redfield falls into the trap of making a habitual response that stems from cultural conditioning, the statement captures the reality that the author was shaken, as millions across the world were, by the horrors embodied within the Holocaust. To use the moral relativist idea of each culture establishing its own unique understanding of 'the good life', it is brutally evident that groups such as the Jews were experiencing 'the good life' in Germany until the Nazis came along. The horror of genocide seemingly holds qualitative significance for the debate surrounding moral relativism as it turns the question of *who are we to judge*? on its head – within such grave circumstances: *who are we not to judge*?

It is with such understanding in mind that Stephen T. Davies claims 'genocide is the *reductio ad absurdum* of moral relativism'.[70] In essence, the author is making the assertion that there is *something* about genocide

that is so inherently immoral that genocide proves moral relativism to be wrong. As the author goes on to explain, the strongest position that the moral relativist can take against genocide is to claim: '*I hold genocide is morally wrong*. Or perhaps, *I hold, and my community holds, that genocide is wrong*. But the problem is that such a position allows the perpetrator of genocide (a Nazi, perhaps) to reply: *Sorry, but my community holds that genocide is morally right*'.[71] Significantly, Davies points out that if one takes moral relativism to its logical end, then the perpetrator of the genocide could utilise moral relativism to justify their policy of destruction. A point of interest worth noting here is that genocidal perpetrators never actually utilise a morally relativist position to justify their actions. For example, the Nazis went to great lengths to cover up their destruction policy, which implies that they knew that their actions were morally indefensible within the broader context of international relations.[72] Such a reality only goes to strengthen the conclusion drawn by Davies that anyone upholding the doctrine of moral relativism within the context of genocide is 'badly confused, malicious, or insane'.[73] The conclusion drawn by Davies brings us back to the idea of *consensus* as it is clear that those who uphold moral relativism within the context of genocide stand on the margins of world opinion. The role of consensus brings us back to the point that morality in itself is not enough to underpin international legitimacy. The relationship therefore between morality and consensus has to be considered.

To consider this let us turn to Jack Donnelly's seminal study, *Universal Human Rights*, in which the author analyses the 'anti-genocide norm' within the context of the debate surrounding humanitarian intervention.[74] Reiterating much of the sentiment raised above, the author claims, 'Whatever one's moral theory-or at least across most of today's leading theories and principles – *this* kind of suffering cannot be morally tolerated.'[75] Intriguingly, in accepting that 'most leading theories' denounce genocide (rather than *all* leading theories), Donnelly leaves the door open for counter moral arguments. However, what is interesting about this analysis is that the author goes one step further as he raises the relationship between morality and consensus within the context of the debate over genocide and humanitarian intervention. In a striking passage, Donnelly explains:

> The interdependence of all human rights, and the underlying idea that human rights are about a life of dignity and not mere life, makes acting *only* against genocide highly problematic. We place ourselves in a morally paradoxical position of failing to respond to comparable

> or even greater suffering so long as it remains geographically or temporally diffuse. As uncomfortable as this may be, though, it seems to me the least indefensible option when we take into account the full range of moral, legal, and political claims in contemporary international society. In absence of a clear overlapping consensus – which I think exists today only for genocide – the moral hurdle of respect for the autonomy of political communities is very hard to scale.[76]

The statement places genocide firmly within the understanding of international legitimacy presented above. Essentially, the author believes that there may be times when an amount of suffering, equal or greater to that of genocide occurs. This is his personal view, yet critically (albeit reluctantly), he acknowledges the role that consensus plays in the construction of rightful conduct in international relations. It is here that genocide is of specific relevance as Donnelly claims that in a world dogged by competing moral, legal, and political claims, there exists an overlapping consensus *only* for genocide prohibition.

The role of consensus raised by Donnelly brings us back to the idea of international legitimacy as it is clear that we can appeal to more than morality alone to dismiss the claims made by moral relativists. While it may not be possible to disprove moral relativism in a scientific manner, it is possible to re-engage with the understanding of international legitimacy presented above to prove that moral relativism, at least within the context of genocide, is illegitimate and outside of common moral belief. The relationship between morality and consensus reflects the fact that genocide is internationally regarded as the benchmark of what constitutes a universal human wrong. It was the universal moral abhorrence felt towards the Nazi atrocities that led to international society accepting the term genocide and subsequently codifying this new moral and constitutional expectation into international law. The Genocide Convention embodies a clear legal, moral, and constitutional consensus that genocide constitutes wrongful conduct. However, genocide should not, and is not, viewed as just another example of wrongful conduct because it is recognised as the quintessential violation of a universal moral minimalism. This brings us to the idea that genocide is internationally recognised as the 'crime of crimes' from both a moral and legal perspective.

Genocide and legality

Just as moral philosophers have constructed an understanding of a universal moral minimalism, international lawyers have constructed an

understanding of a universal legal minimalism. The point of relevance here is that genocide is internationally accepted as the quintessential violation of both.

To gauge international society's perception of genocide from a legal perspective, it is necessary to go back to the drafting of the Genocide Convention.[77] Intriguingly, the aforementioned relationship between morality and law was put into stark context within the drafting procedure. For instance, in 1946 the UN General Assembly Resolution on the Crime of Genocide stated that genocide 'shocks the conscious of mankind' and went on to claim 'The General Assembly, therefore affirms that genocide is a crime under international law which the civilized world condemns.'[78] The statement underlines the fact that it was the moral revulsion felt towards the Nazi genocide which lies at the heart of the international legal movement. The universal moral revulsion expressed in the 1946 General Assembly Resolution was reiterated throughout the subsequent drafting process as state representatives regularly spoke with a universal moral tongue when condemning the crime. For example, the Dominican Republic representative stated: 'the moral tribunal of the world demanded the denunciation of genocide'.[79] From a legitimacy perspective, therefore, it is clear that it was the moral revulsion felt towards the Nazi genocide that acted as the catalyst needed to alter international society's legal, moral, and constitutional expectations. Accordingly, the Genocide Convention represents the procedural face of rightful conduct and in doing so highlights that genocide constitutes wrongful conduct. However, it is also clear that international legal perspectives towards genocide have gone much further than simply recognising genocide as wrongful conduct as they have sought to establish genocide as the 'crime of crimes' in international law.

To judge this it is important to go back to November 1950, when the UN General Assembly first approached the International Court of Justice (ICJ) amidst concerns over the ratification of the Genocide Convention. As Caroline Fournet explains, the ICJ ruled, 'the principles underlying the Convention are *principles which are recognized by civilized nations* as binding on States, even without any conventional obligation'.[80] In so doing, the ICJ sought to give the crime of genocide a *higher status* than other crimes in international law as its ruling implied that genocide violates international peremptory norms (*jus cogens*). As Fournet explains, this has been reiterated in a series of judicial rulings including those made by the ICTY, ICTR and ICJ.[81] The theory of *jus cogens* stipulates that there are peremptory norms in

international relations, these exist whether states recognise them or not, and in turn states cannot derogate from them.[82] For that reason, the idea of *jus cogens* does not sit comfortably with the idea that international law is constructed by states as it implies that states cannot evade the international legal arm of *jus cogens*, even if they were to try to through constructing specific treaties and/or conventions. As Fournet explains, despite the fact that the idea of *jus cogens* was recognised in Article 38 (1) of the ICJ Statute and Article 53 of the 1969 Vienna Convention on the Law of Treaties, there remains little clarity regarding the sources and identity of these 'supernorms'.[83] This lack of clarity causes concern, especially for legal positivists, as it seemingly leaves the door open for *jus cogens* to be grounded on such notions as natural law, divine law, or laws of humanity.

The point here is not to engage in this unresolved legal debate but to simply highlight the fact that the recognition of *jus cogens* in international law, whether right or wrong, reflects the fact that international law has been constructed in a manner to suggest that there exists a hierarchy of norms in international law.[84] Writing in 1996, M. Cherif Bassiouni (who has served the UN in a number of legal capacities), stated that there is sufficient legal basis to conclude that 'aggression, genocide, crimes against humanity, war crimes, piracy, slavery and slave related practices and torture' are part of *jus cogens*.[85] The recognition that these crimes hold greater legal resonance illustrates that international lawyers have sought to establish a hierarchy of international crimes. Within this hierarchy, the increasing acceptance of pre-emptory norms reflects an attempt to construct a *universal legal minimalism*, from which no state can derogate (*jus cogens*). Such acknowledgement underlines the point that just as moral philosophers have constructed an understanding of a universal moral minimalism, international lawyers have constructed an understanding of a universal legal minimalism. Significantly, genocide is internationally accepted as the quintessential violation of both.

The legal acknowledgement of genocide as standing at the top of the legal hierarchy was most forcibly recognised by the International Criminal Tribunal for Rwanda. In 1998, in the case of the Prosecutor vs. Jean Kambanda, the trial chamber of the International Criminal Tribunal for Rwanda ruled that genocide is the 'crime of crimes'.[86] Essentially, the gravity of this heinous crime drove the trial chamber to declare that in their opinion, genocide represents the gravest crime in international law. While such a ruling does not represent international

society as a whole, it has set a precedent that has since been upheld by seminal scholars in the field, as William Schabas explains:

> Human rights law knows many terrible offences: torture, disappearances, slavery, child labour, apartheid and enforced prostitution to name a few. For victims, it may seem appalling to be told that while these crimes are serious there are more serious crimes. But in any hierarchy, something must sit at the top. The crime of genocide belongs at the apex of the pyramid. It is, as the International Criminal Tribunal for Rwanda has stated so appropriately in its first judgements, the 'crime of crimes'.[87]

The statement highlights the somewhat tragic reality that even within the context of human suffering, a hierarchy exists. While the intention here is not to overlook the horror embodied in these other crimes; when one juxtaposes the legal understanding put forward here, and the moral understanding outlined above, it is clear that genocide is internationally regarded as the 'crime of crimes' from both a legal and moral perspective.

It is worth pausing here to consider the four crimes identified by the 2005 Responsibility to Protect – genocide, war crimes, crimes against humanity, and ethnic cleansing – as these crimes are omitted within the hierarchy presented by Schabas above. Notably, these crimes represent state crimes that are legally recognised as a violation of *jus cogens* (there remain complexities surrounding ethnic cleansing as it is not recognised as a independent crime in international law). Essentially, they all signify a violation of a universal legal minimalism and many perpetrators have been charged on grounds of committing these crimes. The point of interest here is that even within this grave context, it seems clear that genocide is still internationally regarded as the 'crime of crimes' in that it sits in a hierarchical position above these other crimes.

To put this into context, let us consider the conclusion put forward by the International Commission of Inquiry in to the events of Darfur. In January 2005, the Commission famously concluded that genocide had *not* been committed in Darfur but that crimes against humanity had.[88] William Schabas explains that the conclusion drawn – that the Government of Sudan had *not* pursued a policy of genocide – led to suggestions that the report was some kind of 'whitewash or betrayal'.[89] The suggestions of a whitewash or betrayal are quite fascinating as the commission had ruled that crimes against humanity were occurring in Darfur. It would seem that the international outcry that followed

the commission's conclusion arose because it was generally felt that the recognition of crimes against humanity was not enough. Indeed, the commission felt it necessary to qualify its ruling as it stated: 'Depending upon the circumstances, such international offences as crimes against humanity or large scale war crimes may be no less seriousness and heinous than genocide.'[90] Although the Darfur Commission had been set up to make a judgement on genocide, it is clear that the commission, and the international response towards it, upheld the idea that genocide acts as the benchmark of human wrongs by which other human rights violations are measured by. This reaffirms the idea that genocide is internationally regarded as the 'crime of crimes' from both a legal and moral perspective. It also reaffirms the relationship between morality and law as it is clear that it is the universal moral abhorrence felt towards genocide that drives the legal need to place genocide at the apex of the aforementioned legal pyramid.

At this point the reader may be rightly asking the question, if genocide is internationally regarded as the 'crime of crimes', then why do states fail to confront the crime of genocide? This line of questioning naturally brings us back to the sentiment raised in Chapter 1 as it is clear that genocide is not internationally regarded as the 'crime of crimes' from a political perspective. This point is neatly raised in Thomas W. Simon's normative inquiry into international law. Intriguingly, Simon acknowledges that since the events of 9/11, international terrorism (which according to Simon's fits within the context of war crimes and crimes against humanity) has been prioritised over genocide.[91] According to Simon, the prioritisation of other crimes such as international terrorism over genocide represents a 'backward step on the road of humanitarian progress' which has to be remedied for genocide represents the gravest crime international society.[92] Such logic seems perfectly understandable as it is clear that while international terrorism poses a serious problem in international relations, unless terrorists acquire nuclear arms, then they cannot bring about the level of destruction that states can, and indeed do, towards unarmed innocent groups. Quite simply, states continue to hold more power than terrorists do. It is with such rationale in mind, therefore, that Simon's places genocide prohibition at the fore of constructing international law on universal normative standards: 'If we cannot find a widespread global agreement on an ethic that prohibits genocide, then the prospects for the world seem indeed dismal.'[93] The bleak statement captures the seriousness of the issue as the author questions how international society can have a body of international law that incorporates ethics if this law cannot confront the crime of

genocide. It seems policymakers overlook such arguments and it is here that the relationship between genocide and the norm of constitutionality comes to the fore.

Genocide and constitutionality

It is important to note that Clark identified this as the most overtly political norm of the three. In turn, the political nature of constitutionality dictates that the collective understanding underpinning this norm has a tendency to change more rapidly than the norms of morality and legality. The relationship therefore between genocide and the norm of constitutionality is perhaps the most complex as international society's understanding of constitutionality has a tendency to alter more frequently than that of law or morality. The reason is that political expectations are often dependent on circumstance which can change rapidly in international relations. For example, international political expectations on 10 September 2001 were radically different from those that emerged in the aftermath of 9/11. To put this into the context of this book, it is clear that in 1948 there was an international constitutional expectation that genocide should be prevented. Significantly, this expectation radically diminished within the extreme political context of the Cold War yet re-emerged in the post-Cold war era. This will be discussed in more detail in the next chapter. However, it is important here to touch on one critical point. While there is an international expectation that genocide *should* be prevented, to go back to the understanding put forward by Andrew Hurrell in Chapter 1, it is also clear that there is an international acceptance that genocide *will not* be prevented.

To explain this, it is necessary to differentiate between the *national* and *international* political expectation towards genocide prevention. This analysis utilises the political rhetoric of '*never again*' to illustrate this difference as this phrase has become synonymous with the expectation that genocide should be prevented. The phrase 'never again' litters the discourse on Genocide Studies to the point of saturation, it refers to international society's vow (made in the aftermath of the Second World War) that genocide would 'never again' be allowed to occur in international relations. As Samantha Power explains, the Genocide Convention 'embodied the moral and popular consensus in the United States and the rest of the world that genocide should "never again" be perpetrated while outsiders stand idly by'.[94] The statement highlights that the Genocide Convention does not just represent a legal and moral expectation, but also a constitutional expectation that genocide should 'never again' be allowed

to take place. Essentially, the rhetoric of 'never again' was built on the understanding that international society had failed in its responsibilities to protect those targeted by the Nazis and that the Genocide Convention provided a solution to this failing. Accordingly, there was a clear *international* expectation that genocide should be prevented in international relations, for, as stated in the preamble of the Genocide Convention, genocide is 'contrary to the spirit and aims of the United Nations and condemned by the civilized world'.[95] Obviously, one does not have to be a genocide scholar to figure out that this expectation was flawed. While international society does not *permit* genocide, it does *allow* it to occur. It is here that this *international* expectation that genocide should not occur tragically collapses into the *national* expectation that states should not get involved in such 'complex and dangerous' foreign policy agendas (to use Hurrell's phrase).

This is perfectly illustrated by looking at the US. Perhaps more than any other country, the US has routinely invoked the vow to 'never again' let genocide occur. As Samantha Power notes, Presidents Jimmy Carter, Ronald Reagan, George Bush and Bill Clinton have all expressed the 'never again' rhetoric when addressing the need to prevent genocide.[96] For instance, in 1979, President Carter boldly claimed, 'never again will the world fail to act in time to prevent this terrible crime of genocide'.[97] Drawing on the exact same sentiment expressed in the aftermath of the Nazi genocide, President Carter utilised the political rhetoric of 'never again' to suggest that the genocide that had just taken place (Cambodia), was a tragedy that the world would never allow to happen again. Of course, it did. President Carter simply paid 'lip service' to the international expectation that genocide should be prevented. It is here that the reality of such 'lip service' lies, for the truth is the US did not once acknowledge genocide in the twentieth century – while genocide was actually occurring.[98] The vows therefore made by the presidents listed above, were made in the aftermath of genocide, whether that be 'Cambodia (Carter), northern Iraq (Reagan, Bush), Bosnia (Bush, Clinton) and Rwanda (Clinton)'.[99] None of these presidents were strangers to war and/or intervention, yet none wanted to intervene to prevent genocide, hence they stayed silent until it was over.

Responding to the silence of the US administration over the genocide in Rwanda, President George W. Bush famously vowed that he would never allow genocide to occur under 'his watch'.[100] This campaign pledge was then reiterated once Bush took office.[101] To his credit, the Bush administration became the first US administration to acknowledge genocide *as it occurred* (Darfur).[102] Yet, as is well documented, this promise did not

see President Bush lead a US attempt to prevent the genocide in Darfur, despite the fact that it occurred on 'his watch'. While one can raise the valid point that the US was heavily engaged in two wars at the time (Afghanistan and Iraq), the track record of the US in relation to genocide does not fill one with hope that the administration would have attempted to catalyse an international effort. To bring this up to date, in January 2008, Barak Obama stated that genocide threatens our 'common security and our common humanity'.[103] Since taking office, President Obama responded to the sixteenth anniversary of the Rwandan genocide by stating, 'It is not enough to say "never again." We must renew our commitment and redouble our efforts to prevent mass atrocities and genocide.'[104] In addition, since 2008, the US has published two reports which specifically look at the issue of preventing genocide and mass atrocity crimes;[105] however, Obama's administration's role in Darfur juxtaposed with his refusal to acknowledge the Armenian genocide since taking office (even though he had promised to do so[106]) suggests there is little 'change' to be found in Obama's approach towards genocide.

These examples illustrate the vast chasm between reality and rhetoric. Perhaps this is summarised best in the conclusion drawn by Samantha Power:

> Before I began exploring America's relationship with genocide, I used to refer to US policy as a 'failure'. I have changed my mind. It is daunting to acknowledge, but this country's consistent policy of non-intervention in the face of genocide offers sad testimony not to a broken American political system but to one that is ruthlessly effective. No US president has ever made genocide prevention a priority, and no US president has ever suffered politically for his indifference to its occurrence. It is thus no coincidence that genocide rages on.[107]

The statement goes right to the heart of the matter regarding the relationship between genocide and constitutionality. Quite simply, the US, as every other state does, pays 'lip service' to the international expectation that international society should prevent genocide. But it then upholds a realist foreign policy ethic that genocide prevention is not within the national interest of states. As Power highlights, the reality is that states do not fail to prevent genocide, because essentially they are not trying to prevent it. At the same time, this national policy should not detract us from the point that there remains an international expectation that genocide cannot be tolerated in international society. As Kofi Annan stated in 2004, 'There can be no more important

issue, and no more binding obligation, than the prevention of genocide.'[108] The complexity therefore lies in the fact that while there is an international expectation that states should prevent genocide, there remains a clear national expectation that states should not engage in such 'complex and dangerous' foreign policy agendas because states have little to gain.

This brings us back to the understanding put forward in Chapter 1. There is *no* long-term collective security strategy being forged among states regarding genocide prevention because political elites the prevention of genocide within the national interests of states. This is the real problem. If genocide is to be prevented, there has to be a long-term collective effort forged as no state can oversee the prevention of genocide alone. At present, the lack of any international collective effort represents the fact that the impact of genocide is not felt among policymakers world-wide. They understand that the genocide is morally abhorrent but view genocide as just one of many insoluble problems. As Power highlighted, the truth is that policymakers do not see a political problem arising from adopting such a position. It is here that the next chapter challenges such mainstream understanding as it addresses the impact that genocide has on the ordering structure of international society.

Conclusion

The understanding of international legitimacy set out above is bound to raise controversy as it is clear that just as with the concept of genocide, no understanding will ever please everyone. Significantly, the rejection of natural law, at least in theory, opens the door for genocide to be considered as legitimate practice. If (and yes this is a big if) all the relevant actors (whoever they may be) in international relations deemed genocide to be morally, legally, and constitutionally acceptable then this would constitute rightful conduct and in turn genocide would be deemed a legitimate practice. Although one may be horrified at the potential implications of such an understanding, and in turn uphold an appeal to ideas such as natural law, it is important to consider two things. First, with no world government to make a ruling on which moral claim international society should adhere to, it is imperative that competing moralities are not allowed to dictate international relations, for this may create a state of international chaos. It is here that the moral value of international order re-emerges as it is clear that a constant state of chaos could potentially lead to unprecedented levels

of violence and suffering. The importance therefore of international legitimacy cannot be overstated as it acts to increase the likelihood of international stability within the anarchical realm. Second, one has to consider that such an outcome would mean that international society's legal, moral, and constitutional understanding would have to alter to the point that we would accept genocide as rightful conduct. Despite that there is a theoretical possibility, in practice; such an outcome would suggest constructing a world so alien to the present that it is difficult to comprehend.

The chapter set out the idea that genocide holds a special relationship with international legitimacy as it is internationally regarded as the 'crime of crimes' from both a legal and moral perspective even though it is not considered in the same light from a political perspective. To return to the understanding of 'the bottom' presented by Primo Levi, it would seem that international society *has* constructed an understanding that there is a bottom – a universal legal and moral minimalism – and that genocide stands as the paradigmatic violation of both. As J. K. Roth succinctly explains, 'Genocide is an *abyss of horror* or … nothing could be.'[109] This is important because it begins to highlight that the relationship between genocide and international legitimacy is the key that opens the door to understanding the impact of genocide on international order. While the discourse on humanitarian intervention sometimes makes fleeting reference to the idea that genocide erodes the authority of the UN, this is often assumed and lacks any real grounding. From an ES perspective, it is through understanding the relationship between genocide and the primary institutions of international law and international morality that a more informed understanding of how genocide impacts on the secondary institution of the UN can be gained. This is the focus of Chapter 5.

5
The Impact of Genocide on International Order

As discussed in Chapter 4, genocide is internationally regarded as the 'crime of crimes' from both a legal and moral perspective yet it remains a low-priority issue in foreign policymaking. Thus, despite the many persuasive moral arguments put forward with regard to saving strangers, the will of the politically unwilling has remained unaltered. As discussed in Chapter 1, policymakers do not think that genocide poses a threat to the national interest in the same way that crimes such as nuclear proliferation, piracy, and drug trafficking do. It is here that this chapter challenges such mainstream thinking as it claims that in failing to prevent genocide states increase the likelihood of international instability in international relations.

To validate this central claim this chapter will focus on how genocide impacts on the secondary institution of the UN. Despite the idea that international legitimacy is not a property and therefore no institution can claim to own it or produce it, international society's contemporary understanding of international legitimacy is indebted to the legal, moral, and constitutional agreements that were institutionalised into the architecture of the UN in the post-Second World War era. This explains why the origins of the post-Cold War *legitimacy crisis* have often been traced back to the construction of the UN system. It is here that crime of genocide, and its relationship with international legitimacy, is of relevance as it will be argued that genocide erodes both the legitimate authority of the UN (which acts as the primary facilitator of international legitimacy) and the UNSC (which acts as the stabilising function in international relations) more than any other crime.[1] This point was aptly illustrated by the post-Cold War *legitimacy crisis* that unfolded in the aftermath of the Rwandan genocide as a 'tolerable consensus' was forged that supported a none-UN authorised intervention in Kosovo in 1999. Explaining the central

problem, Kofi Annan stated, 'If the collective conscience of humanity cannot find in the United Nations its greatest tribune, there is a grave danger that it will look elsewhere for peace and for justice.'[2] If the UN cannot oversee international society's most profound moral commitments, then there is a real danger that states will look elsewhere for justice. In failing to prevent genocide, therefore, the UN and the UNSC run the risk that states will look elsewhere to address this moral deficit within the current ordering structure of the UN. The real problem is, not that unilateral action may lead to genocide prevention, but that the UN and the UNSC's authority may become eroded to the point that international *in*stability arises as states fail to forge clear understandings of what constitutes rightful conduct and rightful authority (with regard to the use of force).

This chapter will therefore be structured as follows. The first section will place the idea of genocide prevention into international society's understanding of rightful conduct. In so doing, it will address the tensions in the UN Charter and also explain how the Genocide Convention impacts on the legal, moral, and constitutional understanding found in the post-Second World War construction of rightful conduct. The next section will look at the impact that genocide has on the UN from a theoretical perspective. It will be argued that genocide poses a threat to international order because it erodes the authority of the UN and the UNSC more than any other crime. This theoretical perspective helps us understand why the post-Cold War legitimacy crisis arose in the aftermath of the Rwandan genocide. The third section offers an analysis of why genocide *did not* have a profound impact on international society in the Cold War era as states regressed on their solidarist commitments to international justice. The last section brings us to the post-Cold War era to highlight the empirical reality of how the Rwandan genocide eroded the authority of the UN and the UNSC and in doing so played an integral role in creating the subsequent legitimacy crisis within international relations. If, to go back to the understanding of international legitimacy set out in Chapter 4, one accepts that international legitimacy increases the likelihood of international stability and one accepts that genocide played an integral role in the legitimacy crisis then one must accept that genocide poses a threat to international order. This is important because it helps explain that there is more to genocide prevention than just saving strangers.

Rightful conduct

In discussing the language of human rights, Ken Booth stated: 'We inherit scripts, but we have the scope – more or less depending upon,

who, when and where we are – to revise them.'[3] It is proposed that such rationale was embodied in the international consensus forged in the aftermath of the Second World War as state representatives attempted to rewrite the 300-year old Westphalian script they had inherited. The UN Charter, therefore, acts as the procedural face of what was to constitute rightful conduct in the post-Second World War era of international relations, for it embodied international society's legal, moral, and constitutional expectations.

As is well documented, the UN Charter embodies a problematic commitment to both human rights and state sovereignty which has caused an endless debate over the legitimacy of humanitarian intervention.[4] James Mayall places this debate within an ES framework when he states that the UN Charter's appeal to both human rights and state sovereignty left international society constructed upon a commitment to both ES pluralism and ES solidarism.[5] In essence, there is, and remains, a fundamental tension within the UN Charter as through Articles 2, 2 (4), and 2 (7), the UN Charter espouses a pluralist commitment to the minimal rules of co-existence (state sovereignty, non-use of force, and non-intervention).[6] However, the UN Charter also sets out a broader solidarist agenda in its commitment to human rights within its preamble as well as Articles 55 and 56.[7] This latter aspect was expanded further via the 1948 Universal Declaration of Human Rights and its two related covenants, The 1966 The International Covenant on Civil and Political Rights and The International Covenant on Economic and Social Rights. A tension therefore arises between order and justice as the script that was written in the post-Second World War era seemingly tied the UN to two contradictory commitments. While it should be noted that the architects of the UN Charter never intended to provide a rigid set of guidelines that would be interpreted literally in a word-by-word fashion,[8] the potential benefits of any flexibility are hindered by this problematic understanding of rightful conduct. As Ian Clark explains 'many of the contradictions in the post-1945 discussion of international legitimacy are thus thought to derive from this basic inconsistency'.[9]

In committing itself to both human rights and state sovereignty, the UN Charter's understanding of rightful conduct seemingly embodies a *dual commitment*. This dual commitment has critical implications at the international level as states can, at least attempt to, construct a legitimate case for action, or inaction, based on a commitment to either state sovereignty or universal human rights. This dual commitment has been explicit in the debate over *humanitarian intervention* as advocates and critics have been divided over whether the UN Charter permits the right of

humanitarian intervention in international relations. Problematically, the dual commitment embodied within the UN Charter dictates that states can interpret the UN Charter in a way that favours their particular view of what constitutes rightful conduct.[10] This idea of a dual commitment was put into context in Kofi Annan's famous analysis on 'The Two Concepts of Sovereignty'.[11] Writing within the context of the crisis in Kosovo and East Timor, Annan notably put forward the idea that there existed two types of sovereignty in international relations, that of the *state* as well as that of the *individual*. Explaining his position on the latter, Annan states, 'the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties—has been enhanced by a renewed and spreading consciousness of individual rights'.[12] In so doing, Annan seemingly placed the understanding of state sovereignty and individual sovereignty on a level playing field thereby implying that the UN Charter embodied a *dual commitment* to both types of sovereignty. As Gareth Evans notes, while Annan's intention was to help resolve the debate regarding humanitarian intervention, he did nothing more than simply restate it.[13] This led Annan to later concede (in a private conversation with Evans) that he wished he had phrased this argument in a less antagonistic manner.[14] It is important therefore to understand that although the UN Charter embodies a dual commitment to both state sovereignty and human rights, in attempting to extend the UN Charter's commitment towards human rights into a commitment towards humanitarian intervention, Kofi Annan put forward a contemporary interpretation of the UN Charter that differed substantially than that set out in 1945.

To understand this let us consider a piece of primary research found within the UN archive. In 1946, John P. Humphrey (the director of Division of Human Rights Division in the UN Secretariat) addressed the issue of UN responsibility regarding human rights violations *within* states.[15] In an interoffice memorandum to M. Henri Laugier (assistant Secretary-General in charge of Social Affairs) Humphrey raises the point: 'As you undoubtedly know, a number of communications from individuals and non-governmental organisations have been addressed to the Commission on Human Rights and to the Secretary-General which relate to human rights and fundamental freedoms. Some of these allege violations of human rights within specific member states.'[16] The communication explicitly raised the question of what the UN should do when the human rights violations occur *within* states. To which John Humphrey replied:

> But these communications which allege violations of human rights within specific Member States give rise to *difficulties of the first*

> *magnitude*. For while the Secretariat must hand them on to the Commission, the latter does not appear to have any right under the Charter to make recommendation to the States in question in regard to them. The facts and circumstances described in the communications are 'matters which are essentially within the domestic jurisdiction' of the Member States, with the result that, under Article 2 (7) of the Charter, all intervention (and even a *recommendation might and probably would be considered intervention by the Member State envisaged*) by the United Nations is excluded. As I understand the situation, no recommendation can be made with regard to a matter 'essentially within the domestic jurisdiction of any State' unless the recommendation is made by the Security Council under Chapter VII of the Charter, i.e. when the situation constitutes a threat to peace.[17]

While one should always be careful not to extrapolate too much from a single source, since Humphrey was the director of the Human Rights Division and a subsequent drafter on both the Genocide Convention and Universal Declaration of Human Rights it seems fair to say that the statement provides us with an insight into the 'UN perspective' on humanitarian intervention at the time. Significantly, the statement clearly implies that there was a real fear that simply making a recommendation to the relevant member state, regarding human rights violations within their state, may be considered as intervention, thereby violating the UN Charter.

From a legitimacy perspective, at least according to such understanding, it is clear that the idea of military intervention was certainly not considered to constitute rightful conduct (from a legal and constitutional perspective). Although times have changed, and as discussed, international legitimacy is a process not a property and therefore actors can put forward contemporary interpretations of how they think the UN Charter should be understood, I would go as far as stating that in 1946, sovereignty was viewed as absolute. The understanding therefore set out by Humphrey, supports the conclusion drawn by the Independent International Commission on Kosovo: 'human rights were given a subordinate and marginalised role in the UN system in 1945'.[18] To go back to the understanding of a *dual commitment* set out above, one has to recognise that this reflects a contemporary understanding of the UN Charter as it has been reinterpreted and re-evaluated through 60 years of human rights discourse. From a legitimacy perspective, actors such as Kofi Annan try and forge the tolerable consensus needed to alter collective understandings of what constitutes rightful conduct.

Yet at the same time, it is evident, at least from the understanding set out by Humphrey above, that the UN system as constructed in 1945 did not legitimise the idea of humanitarian intervention as we know it today. While its commitment to human rights embodied a 'solidarist ethic' of international justice, this stopped short of legitimating humanitarian intervention.

The interesting aspect therefore, regarding genocide, is that international society felt it necessary to take its commitment to human rights one step further. It would seem that states did not feel that the UN Charter, or the Nuremburg principles, did enough to provide the necessary legal framework needed to prevent the crime of genocide. To go back to the legitimacy process, the moral abhorrence felt towards the Holocaust altered international society's moral, constitutional, and legal expectations to the point that states established the Genocide Convention which acts as the procedural face for the legal, moral, and constitutional norms embedded within it. Thus it is important to gauge how the Genocide Convention fits within the post-Second World War understanding of rightful conduct.

The UN Convention on the Prevention and Punishment of the Crime of Genocide

The 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide was unanimously endorsed by the UN General Assembly on the 9 December 1948. This led the then president of the General Assembly, Mr. H. V. Evatt to boldly declare the: 'supremacy of international law has been proclaimed and a significant advance had been made in the development of international law'.[19] A key point to consider therefore is how this significant advance in international law altered international society's understanding of rightful conduct. As discussed, the solidarist aspirations that were embodied within the UN Charter were essentially grafted on to a pluralist framework in that the minimal rules of co-existence: sovereignty, non-use of force, and non-intervention, underpinned the foundation of the UN Charter.[20] Yet when one places the Genocide Convention within this pluralist–solidarist context, it is clear that the understanding of justice to be found in the Genocide Convention's understanding of rightful conduct challenges the pluralist norms of absolute sovereignty and non-intervention.

While Article 2 (7) of the UN Charter states that the UN cannot intervene in matters of a 'domestic jurisdiction' it is clear that the drafters of the Genocide Convention never viewed genocide as a matter of

'domestic jurisdiction'. This can be traced back to the 1946 General Assembly Resolution as it stated: 'The punishment of the crime of genocide is of international concern.'[21] It went on to state: 'The General Assembly, therefore affirms that genocide is a crime under international law which the civilized world condemns.'[22] The universal tone embodied within this statement is important as it highlights that while genocide may be committed within a state's territorial boundary, it was perceived to be a matter of *international jurisdiction*. Notably, state representatives spoke with a universal moral tongue throughout the drafting process which highlights how the drafters viewed genocide as a matter of international jurisdiction. As Matthew Lipmann's analysis explains, Mr Villa Michael of Mexico proclaimed that genocide prevention was a matter of 'the greatest importance' that poses a 'direct and serious threat to the welfare of the human race'.[23] At the same time, Mr Henriquez Urena of the Dominican Republic stated that even if the convention was not ratified, its moral and legal weight was needed because 'the moral tribunal of the world demanded the denunciation of genocide as a "crime against humanity"'.[24] While Article 2 (7) of the UN Charter (regarding the rights of states to control their own domestic jurisdiction) was not discussed explicitly in the drafting process, it is evident that the drafters of the Genocide Convention did not foresee that Article 2 (7) of the UN Charter would pose a legal barrier to genocide prevention as genocide was not a matter of domestic jurisdiction.

This naturally brings us to the controversy surrounding the sovereignty–intervention debate. Regarding the former, it seems evident that the Genocide Convention is constructed upon a conditional understanding of sovereignty. This goes back to the Nuremburg trials themselves, just as *sovereign immunity* had not served those on trial at Nuremburg (who claimed that they were simply following orders), the right of sovereignty did not grant states the right to destroy a 'national', 'ethnical', 'racial', or 'religious' group in a post-1948 world.[25] As a result, the Genocide Convention places a clear constraint on the idea of sovereignty. As Gareth Evans has explained, for 300, the Westphalian principles underpinning international relations acted to 'institutionalize indifference' in international society.[26] Leaders were not only indifferent to the suffering of others but also held the so-called right of sovereign immunity as they were not had accountable for their actions within their domestic sphere of control. Evans's point is that this Westphalian commitment to indifference and immunity changed in the aftermath of the Holocaust. Sovereignty, at least in a post-1948 world, was not to be understood as absolute as it was conditional on the fact that genocide

was not a legitimate practice. As Bruce Cronin explains: 'The conclusion of the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide (UNCG) created a legal framework for states to override the rights of sovereignty whenever genocide was committed.'[27] While advocates of the 2005 R2P claim that this legal barrier to mass atrocity prevention has been overcome via the endorsement of *conditional sovereignty* embodied in the R2P, it is apparent that such understanding was established within international law in 1948.[28]

Of course, the idea of conditional sovereignty does not, in itself, justify the right of military intervention. This remains the most controversial aspect of any debate over humanitarian intervention. This reservation was raised by the UK representative (and former British prosecutor at Nuremberg) Sir Hartley Shawcross in the 1947 Sixth Committee, *Discussion on the Draft Convention of the Crime of Genocide*.[29] At the time, Shawcross was concerned by a number of things to be found within the Draft Convention (such as the idea of non-physical genocide which was discussed in Chapter 2). Of relevance here is his concern regarding *implementation and intervention*. This stemmed from the fact that 'under article XII of the convention, the high contracting parties agree to call upon the competent organs of the United Nations to take measures for the suppression or prevention of the crime committed in any part of the world'.[30] The concern, therefore, was one of implementation as Shawcross perceived that the international court would act as the necessary organ, yet since genocide is committed by state officials, it is impractical to think that the same state officials would give themselves up to any international judicial process.[31] This makes perfect sense as one has to only look at the fact that Sudanese President Omar Al-Bashir refuses to give himself up to the International Criminal Court.[32] Such a reality underpinned Shawcross's central reservation that 'the only real sanction against genocide was war'.[33] Intriguingly, this led Shawcross to claim that the convention was unrealistic in that the majority of states would not accept it, yet as history tells us, states unanimously endorsed the Genocide Convention, even if they then did not ratify it (as of 2012, there are 142 state parties to the Genocide Convention).

It took nearly 40 years for the US to ratify the Genocide Convention, and notably, it was the debate over military intervention that remained a central obstacle that hindered ratification. In a fascinating piece written in 1949, George A. Finch (the then editor-in-chief and vice-president of *The American Journal of International Law*), reflects on the American Bar Association's recommendation that the Genocide Convention (as submitted) should *not* be ratified by the US.[34] For Finch, the omission

of the state in the drafting of the convention has critical implications regarding implementation.[35] Reiterating the exact same sentiment expressed by Shawcross above, Finch states: 'In the debate at St. Louis the question remained unanswered: How is an international tribunal or foreign national court to obtain custody in time of peace of an accused genocidist?'[36] Again, the conclusion drawn echoes the reservation raised by Shawcross as Finch claims: 'To take the accused by force would mean an act of war.'[37] Essentially, this leads Finch to claim that the role of the state has to be placed at the heart of the Genocide Convention and that in such circumstances states should be held accountable in international law.[38] Controversially, it is claimed, that such an approach would not involve war.[39] Yet this latter point seems misconstrued as it fails to answer the previous unanswered question of how international society gets genocidal regimes to cooperate with any international judicial process in the first place? Although, as discussed in Chapter 2, the omission of the state within the drafting of the convention is a mistake, it is difficult to see how its inclusion would make genocide prevention any easier. It is highly doubtful that this would have any profound impact on the political will of genocidal perpetrators or bystanders.

The stark reality is that the drafters of the Genocide Convention at the time explicitly discussed the issue of sovereignty-intervention and proceeded to put forward a legal obligation to prevent and punish the crime at the international level. Despite the fact that it took the US nearly 40 years to ratify this obligation, the reality is that they did accept it and are therefore obligated under international law. Yet as William Schabas explains, while the Genocide Convention places an *obligation* on states to prevent genocide, the question of whether this dictates that states have a *duty* to intervene remains unanswered.[40] Intriguingly, Schabas reflects upon Professor Hersh Lauterpacht's analysis of the Genocide Convention (written in the 1950s) which set out the understanding that states have an *obligation* to prevent genocide and the *right* to intervene to fulfil this obligation.[41] Although the complexities of war dictate that states should not necessarily be obligated to intervene militarily, it would seem, as the United States Ambassador for War Crimes, David Scheffer stated: 'No government should be intimidated into doing nothing by the requirements of Article II [*sic*]; rather, every government should view it as an opportunity to react responsibly if and as genocide occurs.'[42] The statement in many ways underlines the central paradox to be found within the Genocide Convention as on the one hand international society has a clear *obligation* to prevent genocide, yet on the other hand, there remains a serious lack of any

implementation strategy. Essentially, this is a problem that has never been resolved, for as will be discussed in Chapter 6, the R2P also fails to address this critical issue.

To go back to the very first stage of the drafting process, the 1946 General Assembly Resolution made the recommendation 'that international co-operation be organised between States with a view to facilitating the speedy prevention and punishment of the crime of genocide'.[43] The statement aptly summarises the ambiguity surrounding *implementation*. While upholding the view that the General Assembly wanted *speedy* prevention and punishment of genocide, the drafters seemingly left the question of how this speedy prevention would be implemented, unanswered. One can only assume that they put their faith in the hope that ad hoc willing coalitions would take on this responsibility. By the time the Genocide Convention had been finalised, a little more clarity had been provided, but not much. Article VIII states: 'Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of genocide or any other acts enumerated in Article III.'[44] The competent organ is generally understood to be that of the UNSC, which dictates that the prevention of genocide is placed under the responsibility of the UNSC.[45] This did little to aid the idea of genocide prevention as there is no preventative strategy embodied within the Genocide Convention despite it being built on a commitment to prevent.

It is important here to explain that the ambiguity surrounding implementation should not lead one to think that the Genocide Convention does not address the issue of obligation. For example, in Henry Shue's analysis in *Limiting Sovereignty*, the author utilises the crime of genocide (rather than the convention) to highlight that certain rights are universal and therefore place limitations on the right of sovereignty.[46] Such understanding aligns itself with Chapter 4's view, that genocide violates a universal moral minimalism. This in itself is not problematic. However, when the author shifts his attention to the Genocide Convention, he dismissively states, 'it is strictly permissive concerning implementation, merely inviting any state that should take a notion to do something in order to prevent genocide to approach the International Criminal Court of Justice, but binding no one to nothing'.[47] The statement touches on an important point as despite the ambiguity surrounding implementation, the fact is that the Genocide Convention embodies a legal obligation. Shue's claim, therefore, that the convention *binds no one to nothing* is inaccurate. Article I of Genocide Convention states: 'The Contracting

parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish.'[48] The statement reflects two important points. The first is that the Genocide Convention recognised that genocide can be committed in times of peace as well as war and in doing so went beyond the Nuremburg principles (which only recognised genocide in times of war). The second is that it clearly sets out the premise that in endorsing the convention states did in fact bind themselves to this cause. Although the reality may be that there is little anyone can do if states do not fulfil this obligation, this does not detract from the fact that this legal obligation exists.

The *obligation* to prevent genocide juxtaposed with the lack of an *implementation* strategy brings us back to the understanding first set out in Chapter 1: state leaders' fear that genocide prevention may lead states into 'complex and dangerous' foreign policy agendas and therefore do not fulfil their obligation (to use Hurrell's phrase). Yet the critical point is that state representatives at the time were aware that the 1948 Convention infringed on sovereignty and would involve intervention; indeed they discussed it, yet they proceeded to put forward a legal obligation to prevent and punish the crime at the international level. From a legitimacy perspective, not only was the practice of genocide judged to constitute wrongful conduct, but the obligation to *prevent and punish* the crime of genocide was deemed to be rightful conduct. Now that this legal obligation has been created, states can, as they have done, ignore it. However, the critical point here is whether right or wrong, the Genocide Convention dictated that the authority of the UN and the UNSC was to become intrinsically linked with genocide prevention. It is this aspect that this chapter now turns its attention towards as this helps us understand the broader impact of genocide on international relations.

The impact of genocide on the UN

Before analysing the impact of genocide on the UN, it is important to explain the idea that the UN acts as the primary facilitator of legitimacy, and that the UNSC acts as the stabilising function in international relations. To use Thomas G. Weiss' understanding, the UN plays a multifaceted role in international relations as it is an actor, a symbol, an arena, and a creator and innovator of ideas.[49] Because of this (as will be discussed further below) it seems fair to suggest that the UN facilitates the process of international legitimacy more than any other secondary

institution. At the same time, it is necessary to acknowledge the UNSC as a related yet separate entity precisely because of the fact that, as Bruce Cronin and Ian Hurd explain, 'The United Nations Security Council is the most powerful international institution in the history of the nation-state system.'[50] In other words, within the complexity of the UN (outlined by Weiss), the Security Council takes on a specific and fundamentally important role in relation to international order. While this is a complex relationship, and the source of ongoing debate, this chapter subscribes to the view that simply conflating the UN and the UNSC is too simplistic. While the role of the UN Secretariat is also important,[51] from an ES perspective, I argue that the UN and the UNSC take a lead role as secondary institutions in facilitating the process and practice of the primary institutions, international law, international morality, and international politics. Thus, let us consider this relationship further prior to bringing the concept of genocide into the analysis.

At least in theory, the UN draws its authority from the premise that it is a supranational body that works in the *collective interest* of all member states. With its rule of one vote one state, the UN stands as the *primary facilitator of international legitimacy* as it acts as the main arena for international public reason formation. States will be more willing to accept a decision, or indeed the failure to make a decision, if the deliberation has occurred within the UN because as UN member states they perceive themselves to be part of the process. While the UN cannot hold states to account in the same way that a world government potentially could, it aids international stability by overseeing the codes of conduct embodied in international agreements such as the UN Charter. The establishment of treaties and conventions therefore signify the procedural face of international legitimacy as they represent international society's understanding of what constitutes rightful conduct. States utilise such collective agreements to hold each other's actions to account, which in turn helps constrain the practice of wrongful conduct thereby aiding the likelihood of international stability. Essentially, this is the power of the UN.

It is important to qualify the point that the UN stands as the primary facilitator of international legitimacy for it is clear, in a classic Orwellian sense, that within the UN: all states are equal (Article 2. 1), but some states are more equal than others (P5).[52] This latter point is explicit in the context that there are two circles of rightful membership within the UN itself: the UN General Assembly and the permanent five members within the UNSC. Against the backdrop of the failed League of Nations, the Allied Powers became the self-appointed overseers of collective security in international relations. To all intents and purposes

they granted themselves a privileged status within the UNSC on the grounds that this would enable (rather than constrain) the UN to fulfil its collective security function.[53] The 'P5 club', if you will, became the international equivalent of a VIP club whose members were to hold privileges that non-members would not. Of course, non-members were not overtly happy with this hierarchical element. As Plano and Riggs explain, Australia and other middle powers challenged the great power position in an effort to limit the absolute veto, reject the idea of permanent membership, and enlarge the Security Council, yet they were ultimately defeated.[54] This defeat however, did not prevent these middle powers from joining the UN, which would imply that they ultimately accepted, or at least acquiesced, into the fact that the Allied powers would hold a privileged status in international relations. This, it would seem, has been the case ever since as while UN membership has expanded rapidly since its conception, states remain willing to uphold the 'geo-political order' that is to be found within the UN.[55]

To gauge why this is the case it is important to bear in mind two things, the first is the fact that the Great Powers of the P5 are 'great' in the sense that they have great military might, the second and related point is the role that the Security Council plays in international relations. Regarding the first point, the reality of the situation is not that states then, or indeed now, believe the P5 to be noble but instead they accept that the P5 remain the most dangerous actors in international relations. As Ian Clark explains, states were willing to accept the 'institutionalized inequality' embodied in the UN, because, as one Norwegian delegate at Dumbarton Oaks explained, they could not 'risk *not* to do it'.[56] The consensus, therefore, that emerged at the time implied that states perceived that this institutionalised inequality was a price worth paying if it managed to institutionalise the power of the P5. As John G. Ikenberry demonstrates, even the US, at the height of its hegemonic power in the post-Second World War era, was willing to institutionalise its power.[57] In essence a trade-off occurred as small powers, middle powers, and Great Powers attempted to *institutionalise order* within the post-Second World War era. The perception was that it was better to have all states around the 'UN table', than to have no table at all. Even if this meant that in practice there would be two tables, one for the members of the General Assembly and one for the Permanent and rotating Non-Permanent members of the UNSC (the non-permanent membership quota has changed over time).[58]

The idea of institutionalised order brings us to the second point regarding the role of the UNSC as it took on the mantle of overseeing

the maintenance of order in international relations. As a result, the UNSC formed a great power club that was, and still is, seen to provide a *stabilising function* in international relations (this was the conclusion drawn by The Independent International Commission on Kosovo in 2001[59]). To gauge why this is the case one has to only go back to the logic put forward by Hedley Bull, in that the hope was that the Great Powers of the P5 would help maintain international order by managing their relations with each other via the UNSC, while also steering international relations in a common direction.[60] This would help facilitate the likelihood of international stability as the P5 utilise their power to help steer international relations in a common direction, towards order and stability and thus away from anarchy and chaos. Yet as Hedley Bull rightly explains, while Great Powers can and sometimes do fulfil such responsibilities, they often do not. In sharp contrast they 'frequently behave in a way as to promote disorder rather than order; they seek to upset the general balance, rather than to preserve it'.[61]

As a result, the understanding of rightful membership is constructed on an inherently problematic relationship between the membership of the UN at large and the membership of the P5 as an elite group within the UN. While all states are members of the UN and can have their voice heard around the 'UN table', the words spoken by members of the P5 simply carry more weight. While non-permanent members may get to sit at the 'UNSC-table', they have to wait their rotational turn and even then they do not have the same privileges that the P5 have. If, for whatever reason, the P5 perceive that the UN's pursuit of the collective interest clashes with their national interest then they may use their veto power to prevent the UN from acting. At times therefore, the UN's pursuit of the collective interest can be overridden by the P5's pursuit of the national interest.[62] This can cause a crisis within the principle of rightful membership as the interests of the elite group (P5) clashes with the collective group of the UNGA. To return to the norm of constitutionality, it seems clear that on the one hand no one expects P5 members to support a UN action that undermines their own vital national interests, however, it is also clear that within certain circumstances the P5's pursuit of their national interest can actually undermine the authority of the UN itself and more specifically the authority of the UNSC. In essence, *the stabilising function of the UNSC can be destabilised by the actions of the P5*.

The important point to consider therefore is the impact that the P5's actions can have on the authority of the UNSC and the UN itself. To put this into context let us consider D. D. Caron's analysis, *The Legitimacy of the Collective Authority of the Security Council*.[63] Caron

raises the point that the spirit and the integrity of the UN are integral to its perceived legitimacy: 'yet sometimes – and I would assert this is the case with the veto – the potential to betray the promise is built directly and tragically into the organisation'.[64] By raising the integrity of the UN, Caron implies that the perceived authority of the UN is dependent on its ability to fulfil its obligations, act in a consistent manner, uphold its values and generally meet the expectations of international society. This makes sense from a legitimacy perspective as one would expect that the UN would need to act in a consistent manner in order to hold on to its moral, legal, and constitutional authority. In practice then, as Caron explains, the P5 can prevent the UN from functioning as it should, which can, at times, erode the perceived authority of the UN itself. Although no one expects that the interests of the P5 and the UN will coincide on all issues, it is clear that on *certain issues* (I would put genocide prevention as the primary example of this) international society expects and demands that the P5 do their best to address the issues at hand. When they do not, they do not just undermine the perceived authority of the UN, but their own authority as the overseer of the use of force in international relations. It is within such specific circumstances that the actions of the P5 destabilise the stabilising function of the UNSC. Significantly, this can cause a crisis within the principle of rightful membership as states question the authority of the UNSC as the 'rightful' overseer of force in international relations (this will be discussed below within the context of the Rwandan genocide).

It is here that the crime of genocide and the Genocide Convention is of relevance. In recognising genocide as a crime, and placing the responsibility of its prevention on the shoulders of the UN and the UNSC, international society entrenched a legal understanding that cannot simply be ignored if the UN and the UNSC are to hold on to their perceived legal, moral, constitutional authority. Despite the fact that the UN has many duties and obligations, the Genocide Convention differs in that it represents the 'crime of crimes' in international relations (Chapter 4). Genocide therefore, more than any other crime, erodes the legitimate authority of both the UN (which acts as the primary facilitator of international legitimacy) and the UNSC (which acts as the stabilising function in international relations). It is hoped that such rationale helps provide a more informed understanding of the post-Cold War legitimacy crisis in international relations. Yet obviously, if such understanding is accurate, then one has to answer the question: why did the occurrence of genocide in the Cold War *not* have such an impact on international society?

The Cold War

It is quite striking how genocide prevention was so prominent in the international conscience of 1948, yet was immediately marginalised in the context of the Cold War. As William Schabas explains: 'Some may have legitimately questioned, in the 1970s and 1980s, whether the Genocide Convention was no more than an historical curiosity.'[65] The unwillingness of states to acknowledge the convention went hand in hand with the lack of state ratification and accession.[66] While as discussed in Chapter 4, the ICJ ruling of 1951 stated that genocide was a matter of *jus cogens* and therefore binding on states as part of customary international law, the fact that only 25 states ratified the Genocide Convention when it came into force on the 11 January 1951 highlights the point that with the outbreak of the Cold War, the prevention of genocide took a back seat. In this section then, it is important to consider why the solidarist ethic embodied in the Genocide Convention faded within the context of the Cold War period.

To explain why the solidarist commitment to prevent genocide became so marginalised within the context of the Cold War, one has to understand that the extremity of the security environment that emerged radically altered international society's understanding of rightful conduct. Regarding the concept of international legitimacy, international society's understanding of the three norms altered to the point that humanitarian intervention, even within the context of genocide prevention, was deemed to be illegitimate. This is put into context within Donnelly's analysis on humanitarian intervention in the Cold War:

> Despite the strong moral case, the political and legal environments were so uncompromising that giving priority to the danger of partisan abuse seemed the best course. There was a clear international normative consensus, across the First, Second, and Third Worlds, that humanitarian intervention was legally prohibited.[67]

The statement goes right to the heart of the matter as it highlights the relationship between the three norms of constitutionality, morality, and legality in the Cold War. When one looks at the Cold War period, one sees a striking paradox in that the Cold War represented a time of increasing human rights violations, yet at the same time an international normative consensus emerged on the prohibition of humanitarian intervention. Yet as Donnelly states, one has to put this within the context of the time. To gauge this it is important to consider

the impact of a paralysed UNSC, the threat of a nuclear holocaust, and the emergence of newly forged sovereign states on the sovereignty–intervention debate by considering their impact on the three norms in the legitimacy process.

The extremity of the Cold War security environment was captured in Lester Pearson's dictum that a 'balance of terror' had replaced the 'balance of power' in international relations.[68] The terror that Pearson referred to was the potential human catastrophe that could arise if the US and Russia engaged in nuclear war. As Peter J. Kuznick's analysis explains, within just 12 days of President Truman's first full day in office, two of his leading scientific advisors on nuclear weapons warned that 'modern civilisation might be completely destroyed'.[69] The sentiment expressed underpinned their concern that the atomic bomb should not be viewed merely as a weapon but as 'a revolutionary change in the relations of man to the universe'.[70] Such fear became the mainstream position. In 1949, Carlos Romulo, the president of the UN General Assembly bluntly declared: 'The choice before us is the survival or extinction of the human race and human civilisation. The stake is not merely high; it is total and final and, if we lose it, irretrievable. Fear can never be banished from the earth so long as the split atom threatens the very existence of mankind.'[71] The statement was made less than 12 months after the president of the General Assembly, Mr. H. V. Evatt, stated that the Genocide Convention signified a significant advance in international law. The problem is that, 12 months on, the threat of a nuclear war dictated that the fear gripping international society was not that *a group* could be destroyed, but that *the group* of humankind could be destroyed. As the scientific advisors at the time warned, such technology could be used as a 'weapon of genocide'.[72] The threat, therefore, of *omnicide*, by which I mean the destruction of humankind itself, saw the threat of genocide subordinated. From a legitimacy perspective, the morality embodied within genocide prevention is difficult to justify if one considers that any such military intervention could trigger a nuclear war. It was not until the end of the Cold War therefore, when the threat of omnicide lifted, that international society began to reengage with the threat posed by genocide.

A second point to consider is how the Cold War impacted on constitutional views at the time. Quite simply, the US and the Soviet Union divided international relations up into their relative spheres of influence which dictated that the UN itself had very little influence at all. As explained by Knight, the clash of political, ideological, and strategic interests between the superpowers of the US and the Soviet Union dictated that the UNSC was paralysed within a heightened 'climate of

mistrust'.[73] The paralysis of the UNSC dictated that the UN could not fulfil its collective security role in international relations, thus dictating that the UN could not fulfil its legal obligation to prevent genocide. To return to the norm of constitutionality, it seems self-evident that the extremity of the Cold War security environment had a profound impact on shaping formal and informal expectations. Regarding genocide prevention, the stark reality is that no one expected the UN to oversee genocide prevention within this period. The truth is that the UN did not have enough power to prevent, what Donnelly refers to as 'a pattern of superpower *anti*humanitarian intervention in places such as Guatemala, Hungary, Czechoslovakia, and Nicaragua'.[74] The two so-called superpowers knowingly supported oppressive, violent, and genocidal regimes within this period.[75] However, many states seemingly accepted the actions of the US and the Soviet Union as they provided somewhat of a security umbrella for those within their relative sphere of influence.[76] As a result, the UN's failure to prevent genocide in the Cold War period did not have a profound impact on the UN because states accepted that the UN did not have the power to prevent genocide without the collective support of the P5.

A final point to consider from a legitimacy perspective is how legal views towards sovereignty altered during the context of the Cold War. Significantly, the decolonisation process radically altered the membership of the UN and international society as a whole. Events such as 'The Declaration on the Granting of Independence to Colonial Countries and Peoples' significantly increased the number of UN member states to 150, which grew to 175 by 1990.[77] This rapid expansion had significant implications for the debate surrounding humanitarian intervention as these newly formed states upheld the view that state sovereignty should be understood as absolute. This is understandable as they sought to protect the very sovereignty that they fought so long and hard to gain.[78] Capturing the mood of the time, the 1965 UN General Assembly Declaration on the 'Inadmissibility of Intervention' stated: 'No state has the right to intervene, directly, or indirectly, for any reason, whatsoever, in the internal or external affairs of any other state.'[79] The sentiment encapsulates the explicit resentment felt towards the idea of humanitarian intervention within this period.[80] When one juxtaposes this 'north south' development, with the 'bi-polar' context of the Cold War, one sees how international society's legal, moral, and constitutional views towards genocide prevention altered during the Cold War period. This was perhaps most tragically illustrated in the context of the humanitarian intervention in Cambodia.

While not defended in humanitarian terms, the Vietnamese intervention in Cambodia brought about an end to the Khmer Rouge – one of the worst genocidal regimes of the twentieth century.[81] Yet, as Wheeler explains, this was met with moral revulsion from the US and its allies, the Association of South East Asian Nations (ASEAN), as well as neutral and non-aligned states.[82] This revulsion reflected the broad international consensus forged over the norm of non-intervention in the Cold War period. Not only was the conduct of the Vietnamese denounced but the UN General Assembly continued to recognise the Khmer Rouge government when it had been ousted. As Kuper explains: 'In September 1979, a majority of 71 (against 35, with 34 abstentions) voted to continue the assignment of the Cambodian seat to the ousted government. … One can only ask – is genocide a credential for membership in the General Assembly of the United Nations?'[83] The question posed by Kuper is interesting in that it ties back in with Clark's understanding of rightful membership as obvious questions can be raised over the morality of such procedural decision making. This morally bleak reality leads Kuper into a vehement attack on the UN in which it is claimed that the UN provided no more than a 'deaf ear' to the genocides in Burundi, Uganda, Bangladesh, and Cambodia not to mention the massacres of the Ibo in Northern Nigeria, the Arabs in Zanzibar, war crimes in Vietnam and mass violence in East Timor as well as Equatorial New Guinea.[84] The 'deaf ear' therefore shown towards the genocide in Cambodia is representative of a broader UN paralysis with regard to confronting the crime of genocide in the Cold War era. However, despite Kuper's scathing assessment of the UN, he concludes: 'the United Nations is the most appropriate body for the protection against, and punishment of, genocide'.[85] The statement brings us full circle as despite the fundamental problems embodied within the UN, it remains the primary facilitator of international legitimacy and the best chance, at least at present, for preventing genocide in international relations.

In summary, the Cold War saw the legal obligation to prevent genocide banished on conception. The ideas of conditional sovereignty and genocide prevention did not sit well within the Cold War context. Perhaps this helps explain why the post-Cold War debate over humanitarian intervention focused on the UN Charter to the point the Genocide Convention was grossly overlooked. The UN Charter had stayed with international society throughout the Cold War, by which I mean it had stayed in the consciousness of state leaders and policymakers. This was simply not the case with the Genocide Convention. If it were any

other legal convention, may be it would have been simply forgotten, however, as discussed, the Genocide Convention signifies more than just a legal obligation in that genocide is internationally regarded as the 'crime of crimes' from a legal and moral perspective. It was the moral abhorrence felt towards the Rwandan genocide, therefore, that brought the crime of genocide back in from the cold.

Genocide and the post-Cold War legitimacy crisis

The end of the Cold War brought an end to the balance of terror that overshadowed international society. The subsequent radical shift in the distribution of power heralded a new era in which international society's legal, moral, and constitutional expectations changed, thereby altering its collective understanding of international legitimacy. This was put into context on the 27 September 1991, as the foreign ministers of the P5 issued a joint declaration committing to a revitalised role for the UN within the context of a 'new world order'.[86] Problematically, the ambiguity of the US-led 'new world order' left fundamental questions unanswered regarding what would constitute *rightful conduct* and *rightful membership* in the post-Cold War era?[87] This helps explain why, within less than a decade, a legitimacy crisis arose in international relations. Although much has been written on the legitimacy crisis that arose in relation to the interventions in Kosovo and Iraq, it is proposed here that the occurrence of genocide in the post-Cold War era had a profound impact on the legitimacy process and in doing so created a *sovereignty-intervention-authority dilemma*. It was international society's failure to resolve this dilemma that saw a legitimacy crisis unfold within the context of Kosovo and ultimately spill over into Iraq. From this perspective, the impact of genocide on the legitimacy crisis has to be factored into our current understanding in order to help further international society's ability to resolve the legitimacy crisis (this will be discussed in Chapter 6). Yet prior to analysing the impact of genocide on the legitimacy process, it is important to address the problems embodied in the post-Cold War 'new world order'.

To understand how tensions arose within the legitimacy process let us first of all consider the *sovereignty-intervention debate* within the context of *rightful conduct*. Primarily, a tension arose as international society became divided over the potential role for *humanitarian intervention* in a post-Cold War era. To do this let us consider the historic consensus forged over the plight of the Kurds in northern Iraq. UN Resolution 688 seminally authorised Operation Provide Comfort in

northern Iraq, which as Alex Bellamy explains, 'marked a revolutionary moment in international society because it *implied* that human suffering could constitute a threat to international peace and security and hence warrant a collective armed intervention by the society of states'.[88] In essence, the flexibility of the post-Second World War script allowed the P5 to weave the thread of collective interest between the UN Charter's commitment to international peace and security, with the issue of human rights violations *within* states. Yet as Bellamy states, the Resolution only *implied* that human suffering could constitute a threat to international peace and security. Resolution 688's potential therefore for establishing the norm of humanitarian intervention in international relations remained unfounded, for as Wheeler explains, the threat of a Soviet veto upon the resolution signalled consensus through 'acquiescence' rather than 'tacit legitimation'.[89]

The example illustrates how a deep-seated problem began to arise as the 'new world order' embodied a highly ambiguous understanding of rightful conduct. Resolution 688 masked an underlying tension as the P5 upheld alternative legal, moral, and constitutional views of what *should* constitute rightful conduct in the post-Cold War era. On the one hand, China and Russia adopted a more pluralistic commitment to absolute sovereignty and non-use of force in international relations.[90] The legal right of sovereignty was therefore seen to be absolute. On the other hand the US, the UK, and France tended to espouse a more solidarist commitment to conditional sovereignty and the morality of humanitarian intervention.[91] Thus, there was a clash of norms within the legitimacy process as the legality of sovereignty clashed with the morality of intervention. At the same time, constitutional expectations altered as it was evident that something had to be done about the increasing number of conflicts *within* states. This was explicit within the context of Somalia as the UN authorised intervention signified an agreement among the P5 that certain internal matters warranted international intervention. Yet once again, the intervention masked an underlying tension regarding sovereignty-intervention, for as Wheeler highlights, the intervention in Somalia gained support precisely because the UNSC agreed that since Somalia was a failed state it did not qualify as a sovereign state.[92] Accordingly, the right of sovereignty was not seen as an applicable legal obstacle that could hinder the morality of intervention. The division among the P5 therefore reflected a deeper division in international society regarding the compatibility of order and justice in the post-Cold War era. This ultimately hindered international society's ability to forge a common understanding of rightful conduct.

Furthermore, it is important to consider how the debate over *rightful conduct* began to impact on the *authority* of the UN itself. Thomas G. Weiss puts this relationship into context when he claims that the expansion of the Chapter VII remit in the early 1990s had a detrimental impact on the authority of the UN and the UNSC.[93] Primarily, Weiss criticises the ambiguity to be found within post-Cold War UN Resolutions as it is claimed that such uncertainty fuelled conflicting interpretations which ultimately undermined 'the substantive provisions of the UN Charter's collective security system'.[94] Thomas M. Franck puts such understanding into the context of international legitimacy when he claims that rules lose their determinacy, or in other words, their compliance pull, when they become unclear.[95] Problematically, states constructed a vague, ever-expanding, normative agenda that the UN simply did not have the capacity to fulfil. This had a detrimental impact on the perceived authority of the UN itself.[96] With the wisdom of hindsight it seems clear that the 'new world order' needed to embody a clear understanding of what would constitute rightful conduct in a post-Cold War era, yet tragically, it did not. Perhaps the UNSC should have 'triggered' the Genocide Convention retrospectively to address the Kurdish crisis within Iraq, rather than attempt to make the link between human rights violations within states and international peace and security.[97] The point here is not to suggest that a case cannot be made for such interventions but that the legal foundations of such interventions were largely unsubstantiated.[98] Such legal ambiguity did nothing to resolve the tension that was arising regarding the legality of sovereignty versus the morality of intervention which as Weiss noted above only acted to erode the authority of the UN system.

It is here that the Rwandan genocide is of relevance as it acted as a catalyst that brought the sovereignty-intervention-authority dilemma to the fore of international relations. To put this into the broader context of the post-Cold War era let us consider Michael Barnett and Martha Finnemore's analysis, *Genocide and the Peacekeeping Culture at the United Nations*.[99] The authors notably set the pretext for the UN [in]action in Rwanda as they explain that by mid-1993 many actors inside and outside the UN were aware that the UN was 'trying to do too much, too fast' which ultimately undermined the moral authority of the UN.[100] This led the Security Council and the secretariat to re-evaluate the role of the UN. As the authors explain, 'the UN was already returning to the classic rules of peacekeeping when the US Rangers died in Mogadishu on October 3, 1993'.[101] The event seemingly reinforced the idea that the UN's rules of engagement should be constructed on a commitment

to peace*keeping* rather than peace*making*. Since it was having difficulty doing the latter, it was running the risk of having its authority increasingly scrutinised. It is here that the paradox lies. Quite simply, the UN's inaction over Rwanda represented a misunderstanding of the rules as there was a clear legal obligation to prevent genocide and in failing to fulfil this legal obligation, the UN and the UNSC's legitimate authority was eroded to the point that a legitimacy deficit arose within the ordering structure of the UN.

The impact of genocide

In 2006 Richard Falk addressed the issue of *International Law and the Future*, in which he stated, 'The world precedent associated with using military force non-defensively in Kosovo, as well as, without a UN Security Council mandate, created a unilateralist momentum that culminated in the Iraq war of 2003.'[102] Although this is undoubtedly true, there are two points to consider. The first is that while the discourse is littered with unilateral rhetoric, what is actually meant here is a UN *unauthorised momentum* as it is clear that in the context of Kosovo (1999) and Iraq (2003), interventions were made by *unauthorised* coalitions rather than unilateral actors (albeit US-led and grounded on an appeal to existing UN Resolutions). This underpinned the authority crisis to be discussed below. The second point to consider is the question: why did this unauthorised momentum emerge in the first place? The answer proposed here is the Rwandan genocide: as it is extremely difficult to imagine that any such unauthorised momentum (by which I mean UN unauthorised) could have occurred without the Rwandan genocide first of all eroding the perceived authority of the UN system. For example, the US quite clearly had the power and interest to intervene in Kosovo without UN authorisation, yet critically, it could not have gained the level of consensual support that it did, without the Rwandan genocide first of all eroding the perceived legitimacy of the UN and the UNSC.[103] This is not to suggest that NATO's intervention gained universal support but that Rwandan genocide eroded the authority of the UN to the point that a tolerable consensus emerged in favour of unauthorised intervention.[104] This analysis, therefore, sets out an understanding of how the Rwandan genocide played an integral role in the legitimacy crisis that subsequently unfolded.

Reflecting on the failure of the failure of the UN to prevent the Rwandan genocide, the Organisation of African Unity (OAU) report claimed: 'The politics were simple enough: In October 1993, at the

precise moment Rwanda appeared on the agenda of the Security Council, the US lost 18 soldiers in Somalia.'[105] The statement has to be read with caution as the OAU sought to distance itself from any significant level of accountability. However, in its analysis it does underline the UN's overdependence on the US whose unwillingness to intervene was echoed by the rest of the P5 and the UN Secretariat, who as discussed, wanted to reduce the humanitarian remit of the UN. However, to go back to the understanding of genocide presented in Chapter 2, the Rwandan genocide did not represent an ad hoc accumulation of human rights violations but a process of destruction that was instigated, aided, and abetted by the Rwandan state.[106] In other words, the state became the very architect of the life it had classically been envisaged to prevent: 'poor, nasty, brutish, and short'.[107] As is well documented, around 800,000 Tutsi, moderate Hutu and the Twa were killed in less than 100 days.[108] While the focus here is on the impact of the genocide rather than the genocide itself, it seems fair to suggest that if there was ever a cause for humanitarian intervention in the post-Cold War era, this was it. To return to the relationship between genocide and morality raised in Chapter 4, the Rwandan genocide acted as the 1990s paradigm example of an 'abyss of horror' (to use J. K. Roth's phrase) or nothing did do.

If the Rwandan genocide was not bad enough in itself, one cannot overlook the genocide that took place in Srebrenica in 1995. The timing could not have been worse as the UN was still recovering from the impact of the initial Rwandan extermination and still critically failing to deal with its consequences. The tragedies in Rwanda and Srebrenica illustrated the vast chasm between UN rhetoric and reality. This was explicit in the context of Srebrenica as UN Peacekeepers failed to prevent an estimated 7–8000 Bosnian Muslims from being murdered within the 'safe area' of Srebrenica between 13 and 19 July 1995.[109] The UN's empty promise of safety was to have a profound impact on the authority of the UN. This was put into context in the UN Secretary-General's subsequent report, *The Fall of Srebrenica*, in which it is claimed:

> They were neither protected areas nor safe havens in the sense of international humanitarian law, nor safe areas in any militarily meaningful sense. Several representatives on the Council, as well as the Secretariat, noted this problem at the time, warning that, in failing to provide a credible military deterrent, the safe area policy would be gravely damaging to the Council's reputation and, indeed, to the United Nations as a whole.[110]

The statement supports Finnemore's and Barnett's aforementioned logic as it implies that the UN Secretariat warned that if the UNSC did not fulfil the promises it made then its credibility would be gravely damaged. While such logic is understandable, it is also important to qualify such thinking. For example, *if* the UNSC had promised *not* to protect the people of Srebrenica and then fulfilled this promise, this would not have somehow helped save the authority of the UN and the UNSC. Any such talk therefore of saving the credibility of the UN by promising to do less should be put into context. Although no one expects the UN to prevent all human rights violations, the UN has a legal obligation to prevent genocide. This legal obligation is not like other legal obligations because genocide is international regarded as the 'crime of crimes' from both a legal and moral perspective. This is not to say that prevention would have been easy, in fact, Barnett claimed that the evident lack of capability within the UN Secretariat, lack of troop contribution from member states, and inability to better protect the existing troops, meant that he favoured reducing the United Nations Assistance Mission for Rwanda's presence and mandate.[111] The focus here is not on how difficult such a prevention would have been but that the promise to protect the victim groups in Rwanda and Srebrenica was set out in the Genocide Convention and it was the failure of the UN and the UNSC therefore to fulfil this promise that had a detrimental impact on the authority of the UN, the UNSC, and the legal rules that underpin them.

The impact of these genocides on the authority of the UN begins to illustrate why an *authority crisis* began to emerge in international relations. The UN's objective, of scaling back its humanitarian remit in order to help save its authority, quite simply, backfired. Within just weeks of the genocide in Srebrenica, David Reiff captured much the sentiment that has dominated the discourse ever since in his piece: 'Overhaul the UN or Retire It.'[112] Reflecting on the failure of the UN in Rwanda and Srebrenica, Reiff rightly states, 'The legitimacy of the United Nations does not derive from God, nor should the international security arrangements concluded in San Francisco 50 years ago be viewed as immutable. Perhaps the United Nations should be retained as is. Perhaps it can be improved. But perhaps it has outlived its usefulness.'[113] The statement aptly captures the relationship between the second-order institution of the UN and the first-order institution of international legitimacy as it is important to remember that the UN is a product of international legitimacy rather than a producer of it. While it is claimed here that the UN stands as the primary facilitator of international legitimacy (for the reasons discussed above), international

legitimacy is not a property and no institution can therefore claim to own it. To go back to Hedley Bull's understanding of institutions set out in Chapter 3, if the UN fails in its role of helping to facilitate the practice of international legitimacy then its legitimacy as a secondary institution will ultimately come into question.

At the same time, it is important to remember that the UN is only as powerful as the collective will of its member states. As Richard C. Holbrooke succinctly explained: 'Blaming the UN for Rwanda is like blaming Madison Square Garden when the Knicks play badly.'[114] Using such logic, General Romeo Dallaire (the Canadian head of UN forces in Rwanda) claimed: 'All the member states of the UN have Rwandan blood on their hands.'[115] Although this may be true, it is also clear that some states had more blood on their hands than others. As discussed, the power and privileged position of the P5 within the UNSC gives them a key role in steering international relations in a specific direction. Critically as the genocide unfolded in Rwanda, the P5 famously denied that genocide was even taking place in Rwanda, thus attempting to distance themselves from their legal obligation.[116] This had a detrimental impact on the authority of the UN, and more specifically the UNSC, as it was evident that the P5 utilised their position in 1994 to steer international relations in a specific direction: *away* from genocide prevention.

Such understanding helps explain why an *authority dilemma* arose within the context of Kosovo as the genocide in Rwanda and Srebrenica saw the authority of the UN eroded to the point that a tolerable consensus was forged regarding *un*authorised NATO intervention. To explain this let us return to D. D. Caron's analysis in which he makes the point that the end of the Cold War saw the UNSC begin to function as many of its founding fathers had envisaged.[117] However, Caron goes on to explain that somewhat ironically, it was in this period that concerns arose regarding the power of the P5 and the unfairness of the veto.[118] The important point to consider is that this piece was published in 1993 and at the time these concerns were raised by peripheral actors in international society. The authority of the UNSC consequently remained a marginal issue, for as Caron explained: 'although there will potentially always be actors on the periphery alleging illegitimate governance, the allegation and resonance of significance depends upon the power of the actor to be influential.'[119] The understanding set out by Caron helps us recognise the role of the Rwandan genocide in the legitimacy crisis that subsequently unfolded. In the aftermath of the Rwandan genocide, concerns regarding the authority of the UN and the UNSC were no longer a side-line issue. In sharp contrast, key actors in international relations

began to question the morality of the legal system that underpinned the UN and the UNSC.

This could not have been any more explicit as the then UN Secretary-General, Kofi Annan, asked those who opposed NATO air strikes in Kosovo (on the grounds that they had no Security Council mandate) not to think of Kosovo but of Rwanda:

> Imagine for one moment, in those dark days and hours leading up to the genocide, there had been a coalition of states ready and willing to act in defence of the Tutsi populations, but the council had refused or delayed giving the green light. Should such a coalition then have stood idly by while the horror unfolded?[120]

The statement captures the unauthorised momentum that emerged in the aftermath of the Rwandan genocide as Annan questioned whether *rightful conduct* dictated *rightful authority*. By framing the problem within the context of Rwanda rather than Kosovo, Annan sought to underline the moral deficiency of a legal system that can act to prevent the (legal) prevention of genocide. From a legitimacy perspective, Annan put the clash of norms within the legitimacy process into stark context as he appealed to the moral and constitutional expectation that the P5's right of veto should *not* act as a legal barrier to genocide prevention. Such sentiment was famously reiterated in Tony Blair's seminal speech, 'The Doctrine of the International Community'.[121] Such examples highlight just how questions regarding the authority of the UN (with regard the use of force) took centre stage in international relations in the aftermath of the Rwandan genocide. Actors such as the UK Prime Minister and the UN Secretary-General questioned the moral virtue of the legal rules that underpinned the UN, despite the fact that these legal rules served their personal interest. The Rwandan genocide, therefore, helps illustrate the theoretical point that when states fail to fulfil their obligation to prevent genocide, the authority of the UN and the UNSC is eroded. That is unless, as within the context of the Cold War, international society's legal, moral, and constitutional expectations alter to the point that the UN is not even expected to prevent genocide.

Having outlined how an *authority crisis* arose in the aftermath of the Rwandan genocide, it is important to juxtapose this development with the *sovereignty-intervention crisis* that also arose following the Rwandan genocide. Regarding this latter point, quite simply, the Rwandan genocide highlighted the moral bankruptcy embodied within the idea of absolute sovereignty. In so doing, it raised both moral and constitutional

questions regarding how international society should view the legal right of sovereignty in a post-Rwandan era. This was put into context in 2000 as Kofi Annan asked: '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?'[122] Perhaps somewhat tragically, Annan understated the issue at hand as he failed to acknowledge the legal obligation to prevent genocide embodied in the Genocide Convention. As a result, he failed to highlight that the drafters of the Genocide Convention never viewed genocide as a domestic issue. However, the statement does capture the tension that had arisen between the norms of legality, morality, and constitutionality as it seemed both morally and politically indefensible to suggest that sovereignty could act as a barrier to genocide prevention. In many ways, it seems that the Rwandan genocide resensitised international society to the horror of genocide. As discussed, the issue of genocide had been marginalised within the context of the Cold War as the pluralist rules of sovereignty and non-intervention were prioritised, this notably changed in the aftermath of Rwanda and Srebrenica.

To assess this change in international attitudes towards the idea of intervention let us consider the establishment of the African Union (AU) and the 'right to intervene' embodied within its Constitutive Act of 2000.[123] This regional development is important from an international perspective because more than any other continent, Africa upheld an absolute understanding of sovereignty following the decolonisation process, yet this radically altered in the aftermath of the Rwandan genocide. The establishment of the AU, in 2000, signified a 'U-turn' in African attitudes towards humanitarian intervention as the AU rejected the ideas of absolute sovereignty and non-intervention that had been enshrined within the Organisation of African Unity's Charter.[124] This was explicit as the African Union's Constitutive Act set out an understanding of sovereign equality, yet went on to state: 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity'.[125] Because of this, the AU's Constitutive Act became the first international treaty to formally recognise the 'right to intervene' in international law.[126] Obviously, the AU's lack of capacity dictates that a functioning African collective security system remains a distant objective. However, the point to consider here is how this regional change in attitudes affected the sovereignty-intervention debate. As discussed in the previous section, newly formed

sovereign states upheld a commitment to absolute sovereignty which dictated that humanitarian intervention, even within the context of genocide prevention, was denounced. The Rwandan genocide therefore had a profound impact in that it altered the attitudes of many newly formed states in Africa and indeed around the world. When one recalls that international legitimacy is dependent on a *tolerable consensus* being forged, the pro-interventionist stance of African leaders in the post-Rwandan era is significant. Moreover, it seems fair to suggest that this regional development reflects the broader pro-interventionist movement that arose following the Rwandan genocide which ultimately culminated in the 2005 UN endorsement of the Responsibility to Protect (see Chapter 6).

Of course, this is not to say that every state in international society favoured the idea of humanitarian intervention in the post-Rwandan period. As T. G. Weiss notes, within the context of Kosovo, China, Russia and much of the third world remained hostile not only to humanitarian intervention in Kosovo but also to Kofi Annan for raising the debate in the UN General Assembly.[127] The division therefore is central in our understanding of the *legitimacy crisis* as it highlights that by the time the events within Kosovo unfolded, international society had not managed to forge a collective understanding of rightful conduct. This was put into context as advocates of intervention in Kosovo argued that UN Resolution 688 had established the rule of intervention in international law,[128] yet this was refuted by Moscow.[129] Such understanding neatly brings us back to the relationship between rightful conduct and rightful authority.[130] It is important therefore to juxtapose the impact that the Rwandan genocide had on the idea of absolute sovereignty (thereby creating a sovereignty-intervention dilemma) with the impact the genocide had on the authority of the UN (thereby creating an authority dilemma). It is from this perspective that one can see how the Rwandan genocide laid the blueprint for the *legitimacy crisis* that unfolded as it created a *sovereignty-intervention-authority* dilemma in international relations that international society failed to resolve by the time the Kosovo crisis took centre stage in 1999. Critically, the Rwandan genocide exposed the failings of the UN system which, as discussed, led actors such as Annan to question whether rightful conduct ensured rightful authority. Famously, Annan left this question unanswered, the problem is, as will be discussed in the next chapter, it remains unanswered.[131]

A final point to consider is the aforementioned conclusion drawn by The Independent International Commission on Kosovo in 2001, which stated that NATO's intervention was 'illegal yet legitimate'.[132] At face value, the

conclusion drawn suggests that there is a tension between legality and legitimacy; however from the understanding of legitimacy presented in Chapter 4, since legitimacy cannot exist independently of law, it is more accurate to understand the report's findings as a clash between legality and morality. Within Clark's analysis of the Kosovo report, he explains: 'the term legitimacy needs to be transcribed as a coded word for morality, thus capturing the tension between morality and legality'.[133] The sentiment expressed by Clark is supported by the report's rationale, as it states: 'The Commission considers that the intervention was justified because all diplomatic avenues had been exhausted and because the intervention had the effect of liberating the majority population of Kosovo from a long period of oppression.'[134] The statement underpins the commission's rationale that because the military intervention was deemed to be a last resort that brought an end to a humanitarian catastrophe, it was seen as illegal, yet just. The report upheld the sentiment found within the solidarist wing of the ES as it subscribes to the idea that within such extreme circumstances, the morality of intervening should trump the legality of sovereignty.[135]

From this perspective, one could argue that the report answers the question posed by Annan. In stating that within such grave circumstances, morality trumps legality, the report implies that rightful conduct does indeed dictate rightful authority. Yet to draw such a conclusion is misleading as the report goes on to explain:

> If the Kosovo war is employed as a precedent for allowing states, whether singly or in a coalition, to ignore or contradict the UNSC based on their own interpretation of international morality, *the stabilizing function of the UNSC will be seriously imperilled*, as will the effort to circumscribe the conditions under which recourse to force by states is permissible.[136]

The statement explains that the unilateral intervention should *not* set a precedent in international relations because the stabilising function of the UNSC remains the best way of ensuring international order within an anarchical realm dogged by competing moral claims. Although this is true, the commission failed to acknowledge that the UNSC is a product of international legitimacy, not a producer of it. Its value is therefore dependent on its ability to fulfil its function. To return to the relationship between genocide and international legitimacy, it is evident that in the aftermath of the Rwandan genocide many actors felt that the UNSC was not fit for purpose. The commission, which focused on Kosovo

rather than Rwanda, therefore failed to address how genocide impacts on the secondary institution of the UN.

Conclusion

To paraphrase Winston Churchill: the United Nations is the worst form of international organisation apart from all those others that have been tried before.[137] The statement attempts to convey the message that while the UN has its problems it remains the primary facilitator of international legitimacy for the simple fact that international society has failed to forge a more legitimate alternative. In the post-Second World War era, international society institutionalised its collective understandings of order and justice into the UN via a process of legitimacy. Despite its flaws, the UN stands as the primary facilitator of international legitimacy and the UNSC acts as the stabilising function in international relations. Problematically, the success of the UN and the UNSC is largely dependent on the actors involved, yet it is evident that at times these actors hinder the UN. It is here that concerns arise regarding rightful conduct for it is evident that when states do not establish a clear understanding of rightful conduct conflicting interpretations and tensions arise within the legitimacy process. As stated, the post-Second World War script embodies certain fundamental problems that were exposed by the post-Cold War debate over humanitarian intervention. International society's failure to answer these questions resulted in a crisis emerging as states divided over what constituted rightful conduct in a post-Cold War era. This ultimately saw questions arise regarding the authority of the UN and the UNSC itself.

It is here that the crime of genocide is of specific relevance. As discussed in Chapter 4, genocide holds a special relationship with the institution of international legitimacy because it is internationally recognised as the 'crime of crimes' from both a legal and moral perspective. Such understanding helps us see how genocide does in fact pose a threat to international order, for as discussed, genocide, more than any other crime, erodes the authority of the UN (which acts as the primary facilitator of international legitimacy) and the UNSC (which acts as the stabilising function in international relations). Therefore, although the discourse on humanitarian intervention sometimes makes fleeting reference to the idea that genocide erodes the authority of the UN it is the special relationship between genocide and international legitimacy that acts as the key that opens the door to understanding the impact of genocide on international order. This helps us understand how genocide impacts

both on the secondary institution of the UN and the primary institutions of international law and international morality. Within the context of the Rwandan genocide, international society's failure to fulfil its legal obligation eroded the authority of the UN and UNSC to the point that NATO could challenge the authority of the UN (with regard to use of force) within the context of Kosovo. While the actors involved did not explicitly reject the UN, the level of consensual support that arose in international society did so because the Rwandan genocide had first of all eroded the perceived authority of the UN and UNSC. This is because of the crime's relationship with international legitimacy.

It is important therefore to consider that anything that undermines the authority of the UN to the point that other sources of power can, at least attempt, to challenge its authority, poses a threat to international order. This takes us back to the understanding raised by Kofi Annan at the start of the chapter: 'If the collective conscience of humanity cannot find in the United Nations its greatest tribune, there is a grave danger that it will look elsewhere for peace and for justice.'[138] Although Annan's appeal to the idea of humanity does not mean that humanity actually exists, it is clear that states see the UN as a vehicle in which international codes of legitimate practice can be established and adhered to. If, for whatever reason, states perceive that the UN is hindering rather than helping the practice of international legitimacy then there is a genuine risk that states will begin to look elsewhere. The worry here is not that unilateral intervention will lead to genocide prevention but that a weakened UN increases the likelihood of ad hoc challenges to its authority, which may cause a more systemic breakdown of international order. It is from this perspective that we can see genocide as a threat to international order precisely because it undermines the legitimate authority of the UN more than any other crime.

To understand genocide as an international threat, is important to consider that in acknowledging that the UN only contributes to international legitimacy, the UN acts as somewhat of a red herring. It is the special relationship between genocide and international legitimacy that is of relevance. For example, let us contemplate the idea that international society decided to abandon the UN. Although this may seem highly unlikely, it is nevertheless feasible. However, what is less feasible is the thought that international society could then go on to forge an alternative understanding of order and justice in a post-UN world without having a commitment to genocide prevention embodied within it. As discussed in Chapter 4, while this is theoretically possible, in practice, such an outcome would mean international society

constructing a legal, moral, and constitutional world so alien to the present that it is practically impossible to comprehend. In other words, it is extremely difficult to conceive that in a post-Holocaust era, international society could construct a collective understanding of order and justice that does not embody a commitment to genocide prevention. From this perspective, genocide prevention is about more than 'just' saving strangers; it is about saving the perceived value of international law and international morality. This is something that policymakers need to consider carefully.

To put this into the broader context of international relations, the unauthorised momentum that arose in the aftermath of the Rwandan genocide ultimately spilled over into Kosovo and then Iraq. Therefore, we can see how the erosion of the UN's authority in the context of the Rwandan genocide had broader implications as this paved the way for states to challenge the authority of the UN in an ad hoc manner. While France, Russia, and China opposed the 2003 US-led intervention in Iraq, and the US itself subsequently opposed the 2008 Russian intervention in Georgia in attempting to justify their opposition, the P5 appealed to the same rules that they themselves continually fail to uphold. Although no one expects the P5 to be able to prevent all human rights violations, it is clear that genocide cannot be seen as just another policy option that should only be opted for when there are national interests at stake. Because of the relationship that genocide holds with international law and international morality, when genocide occurs in international society, the value of these ideas are eroded. Accordingly, genocide prevention is very much within a state's national interest, that is, if states value international order.

With this in mind, this book shifts its attention to the 2005 World Summit's endorsement of the Responsibility to Protect as it is evident that international society endorsed the R2P in an attempt to address many of the questions that were raised by the legitimacy crisis. The problem is that since genocide was not factored into its understanding of the legitimacy crisis, many fundamental questions remain unresolved, which suggests that it may only be a matter of time before another legitimacy crisis emerges.

6
The Responsibility to Protect

At the UN World Summit in 2005, the United Nations General Assembly unanimously endorsed the Responsibility to Protect (R2P) principle which is grounded in the central idea that state sovereignty entails responsibilities as well as rights.[1] This responsibility exists at both the national and international level as states have a responsibility to protect populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. If, for whatever reason, a state 'manifestly fails' in this responsibility, then international society is called on to fulfil this responsibility deficit.[2] Accordingly, the R2P represents international society's attempt to forge a new understanding of rightful conduct as legal, moral, and political expectations were altered. This has two points of relevance for this study. First, by applying the R2P to the crime of genocide, it is important to consider how this has impacted on the issue of genocide prevention. Second, by setting out to address the crises that had come to the fore over Kosovo, it is important to analyse the impact of the R2P on the sovereignty-intervention-authority dilemma, which as discussed in Chapter 5, underpinned the post-Cold War legitimacy crisis.[3] As a result, this chapter analyses these two points from a legitimacy perspective. In short, the chapter concludes that while the R2P has helped resolve the sovereignty-intervention dilemma through certain aspects, it also suffers from being 'R2P lite' as it lacks any serious implementation strategy or new legal requirements; more worryingly, it failed to resolve the authority dilemma, and finally, introduced the prerequisite of a 'manifest failure' which may have unintentionally created an additional obstacle to genocide prevention in the future.[4]

Broadly speaking, controversy has arisen as scholars remain divided over whether the R2P should be operationalised as it stands, whether it should be altered, or whether it should be rejected outright.[5]

Providing an insight into why such controversy has arisen, former UN Commissioner on Human Rights, Louise Arbour, explains that problems arose as the international pressure to operationalise the R2P grew despite the fact that the concept was not fully understood.[6] As Arbour goes on to make clear, although the R2P says a lot, 'there are lots of things it doesn't say. First of all, it doesn't say what kind of responsibility it is, the responsibility to protect. *Is it a moral responsibility? Is it a political responsibility? Or is it a legal one?*'[7] This three-fold approach does not represent anything new as such and can be traced back to the legal, moral, and political debates that surrounded humanitarian intervention.[8] The point here is that this line of questioning reflects the centrality of international legitimacy within the debate over the R2P. To return to the three norms of morality, legality, and constitutionality that lie at the heart of Clark's analytical framework, one cannot help but think that the real question that lies at the heart of the R2P debate is how it has impacted on the legitimacy process. After all, it was the sovereignty-intervention-authority crises in 1999 which led to the establishment of the International Commission on Intervention and State Sovereignty that created and recommended the R2P concept. Yet as discussed in Chapter 5, the Rwandan genocide played a central role in creating this legitimacy crisis in the first place. With this is mind, this chapter is structured in a five-fold format as it provides an overview of the R2P and how it has helped resolve sovereignty-intervention-dilemma, prior to raising four points of concern: (i) implementation, (ii) rightful authority, (iii) legality, and, (iv) manifest failure. In so doing, this chapter helps address the relationship between the Genocide Convention, genocide prevention, the Responsibility to Protect, and the legitimacy crises which remains under-theorised within the current R2P discourse.

What is the Responsibility to Protect?

In its initial conception, the International Commission on Intervention and State Sovereignty (ICISS) presented the R2P concept in a 90-page report titled the *Responsibility to Protect* in December 2001.[9] In its subsequent transitional period the R2P concept was reanalysed and reaffirmed within the 2004 UN Secretary-General's High Level Panel Report, *A More Secure World, Our Share Responsibility*, as well as the 2005 UN Secretary-General Report, *In Larger Freedom: Towards Development, Security and Human Rights for All*, prior to being endorsed by the UN General Assembly at the 2005 World Summit.[10] Critically, by the time it

had been endorsed by the UN General Assembly, the R2P concept had been stripped down to just three paragraphs (paragraph 138, 139, and 140) which are worth citing in full here:

> 138. Each individual State has the *responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity*. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and act in accordance with it. The international community should as appropriate, encourage and help states to exercise this responsibility and support the United Nations in establishing an early warning system.
>
> 139. The 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. In this context, we are prepared, to *take collective action, in a timely and decisive manner through the Security Council in accordance with the Charter, including Chapter VII*, on a case-by-case basis and in cooperation with relevant regional organisations as appropriate, should peaceful means be inadequate and national authorities *manifestly fail* to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter under international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations for genocide war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.
>
> 140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention Genocide.[11]

Primarily, paragraphs 138 and 139 underline a two-fold *domestic responsibility* as states have to protect their populations (not just citizens), from genocide, war crimes, ethnic cleansing, and crimes against humanity and also *prevent* these crimes from arising (including their incitement).

The R2P principle, therefore, clearly constrains the idea of absolute sovereignty as the right of sovereignty is bound with this two-fold responsibility to prevent and protect populations from the four crimes identified. In addition to this domestic responsibility, paragraphs 138 and 139 also stipulate an *international responsibility* as the 'international community' has a responsibility to 'encourage and help states exercise this responsibility'. If, for whatever reason, states 'manifestly fail' to fulfil their R2P, then paragraph 139 paves the way for military intervention as the 'international community' has a responsibility to 'take collective action, in a timely and decisive manner through the Security Council in accordance with the Charter, including Chapter VII'. Finally, paragraph 140 commits all signatories to fully support the Special Adviser of the Secretary-General on the Prevention Genocide (OSAPG), whose position was created in 2004 as part of Kofi Annan's 'Action Plan to Prevent Genocide'.[12] Essentially, this post aims to strengthen 'preventative diplomacy'.[13]

Since its initial endorsement, the R2P has snowballed to the point that it has become the 'master concept' in relation to mass atrocity crimes such as genocide, war crimes, crimes against humanity, and ethnic cleansing.[14] To offer a brief chronological overview, following the initial 2005 World Summit, the R2P was endorsed by the UNSC in 2006 and has been invoked in three UN Resolutions since: 1674, 1706, and 1894.[15] In 2006, after a co-ordinated effort led by many leading NGOs, 'The Responsibility to Protect-Engaging Civil Society' project (R2PCS) was established at the Institute for Global Policy in New York. In December 2007, the UN appointed Edward Luck as the first UN Special Advisor on the R2P who now works alongside the UN Special Advisor on the Prevention of Genocide (see paragraph 140 above).[16] In 2008 the R2PCS then advanced the R2P concept worldwide with seven informative global consultative roundtables.[17] In 2009, the first academic journal on the R2P came into publication, *The Global Responsibility to Protect* (edited by Alex Bellamy) while the 'Global Centre for the Responsibility to Protect' at the Ralph Bunche Institute for International Studies in New York (which has seen further affiliations arise since) was also established.[18] Moreover, in 2009, the UN Secretary-General presented the first of what have since become three reports on the R2P which have all been subsequently deliberated through 'informal dialogue' in the UN General Assembly. In short, the multitude of actors and events listed here highlights the fact that R2P advocates do not want the R2P to succumb to the same fate as the Genocide Convention. This is to be commended as the R2P has been linked to the crises in Zimbabwe,

Myanmar, Georgia, the Democratic Republic of Congo, Sri Lanka, Kenya, Guinea, Niger, Kyrgyzstan, and the 2011 'Arab Spring movement' to name just a few.[19]

Amidst this flourish of activity however, the R2P has also courted controversy. As Gareth Evans explains, in 2008, a number of Latin American, Arab, and African delegates took to the floor at the UN to declare it the 'World Summit rejected the R2P in 2005'.[20] The declaration was a straightforward denial of fact; however, it underlines the issue that some states (though it should be stressed not many[21]) have already distanced themselves from their R2P commitment. For example, as stated in Chapter 4, many African states boldly adopted the idea of humanitarian intervention in the African Union Constitutive Act of 2001. This development has since been identified as a major stepping stone towards forging the consensus needed to pass the R2P. However, it is also clear that this African pro-interventionist stance has waned over the last five years.[22] While one has to be careful not to overstate the anti-R2P sentiment at the international level, one can see scope for tensions arising within the legitimacy process in the future which underlines the need to assess the R2P in relation to the sovereignty-intervention dilemma which it set out to resolve.

Amidst this controversy it is important to take stock of the positive impact that the R2P has had on the legitimacy process as it has addressed many of the problems evident in the post-Cold War debate over humanitarian intervention.[23] The first point to consider is that the R2P's focus on *prevention*, *reaction*, and *rebuilding* dictates that the R2P is much broader in scope than military intervention alone.[24] This was one of the biggest problems to be found in the post-Cold War debate over humanitarian intervention. UN Secretary-General Ban Ki-moon explained this point well as he stated, 'Humanitarian intervention posed a false choice between two extremes: either standing by in the face of mounting civilian deaths or deploying coercive military force to protect the vulnerable and threatened populations.'[25] The statement highlights that the humanitarian intervention debate of the 1990s embodied an over simplistic dichotomy: war or nothing.[26] Distancing itself from this simplistic dichotomy, the R2P upheld a *broader operational scope*. Addressing this point, Gareth Evans explains that many R2P critics hold a misguided view that the R2P is just another word for humanitarian intervention. Instead, Evans claims that the R2P should be viewed as a multifaceted concept which upholds a three-fold commitment to *prevent*, *to react*, *and to rebuild*.[27] Accordingly, the R2P concept should not be stripped down to a debate over humanitarian intervention alone for this is only one

aspect. This relates to a secondary point in that international society has more at its disposal than military power alone. As Evans rightly notes, a broad range of legal, political and economic measures that can be utilised to help fulfil the R2P.[28] Although this is undoubtedly true, it is also important to remember the fact that the Genocide Convention is actually called the 1948 Convention on the *Prevention* and Punishment of the Crime of Genocide. In many ways therefore, the R2P made positive steps but actually achieved this normative progress by restating the ideas embodied in the Genocide Convention while obviously applying them to more than just genocide alone.

This is also evident as one considers that the R2P set out to focus on the *rights of the victims* rather than the *rights of the interveners*. As Gareth Evans explains this became an integral part of the language used in the phraseology:

> This turned the 'right to intervene' language on its head, focusing not on any rights of the great and powerful to throw their weight around but rather on the responsibility of all states to meet the needs of the utterly powerless. In the first instance, the responsibility to protect a country's people from mass atrocity crimes lay with its own government; but if it proved unable or unwilling to do so, a wider responsibility lay with other members of the international community to assist preventatively and, if necessary, react effectively.[29]

The statement underpins the conceptual shift that lies at the heart of the R2P as its focus is *not* on the rights of the powerful (states) but on the rights of the powerless (victims). The language used was seen to be less divisive than the language used in the debate over humanitarian intervention. Just as the Brundtland Commission used the phrase 'sustainable development' to navigate a middle ground between environmentalists and developers, Evans hoped that the R2P terminology would provide the conceptual framework for allowing a common ground to emerge.[30] Regarding the construction of international legitimacy, it is evident that the R2P attempted to establish a clear moral foundation with its victim-based approach. In essence, the Genocide Convention embodies the very same logic as it focuses on the *rights of groups* rather than the *rights of interveners*. Thus, it would seem that the post-Cold War debate over humanitarian intervention seemingly lost its way in relation to this critical point.

Furthermore, by invoking a universal moral minimalist approach, the R2P helped ease the tension surrounding the question of threshold.

Since the R2P focused on the rights of victims rather than interveners, it had to answer the difficult question: what do people have the right to be protected from? In stating that people have the right to be protected from genocide, war crimes, crimes against humanity, and ethnic cleansing, the R2P set the threshold of responsibility *high*. For some critics, the R2P has set the threshold of responsibility too high. For example, there remain those in international relations who feel that where possible, democratic states should use force to spread democracy in international society.[31] Conversely, critics of this position claim that this approach would see the threshold for military intervention set too *low*. The critical point is that, either way, such debates problematically acted to prevent *any* threshold from being established in the post-Cold War debate over humanitarian intervention. Whether right or wrong, the R2P did at least set a threshold. The R2P stipulates that *if* international society is to use force, then this should only be used to bring about an end to the very worst crimes in international relations, which it identifies as genocide, war crimes, crimes against humanity, and ethnic cleansing. The R2P therefore distanced itself from the ambiguity to be found within the debate over humanitarian intervention, which as discussed in Chapter 5, had a detrimental impact on international relations in the post-Cold War era. Providing much-needed clarity on this issue, the R2P saw international society express its collective view, that states, both domestically and internationally, should not deviate from their R2P as the crimes of genocide, war crimes, crimes against humanity, and ethnic cleansing violate a universal moral minimalism.

The fact that the R2P does not just cover genocide represents a significant development which should not be overlooked. As Louise Arbour explains, 'outside the Genocide Convention, no firmly established doctrine has been formulated regarding the responsibility of third-party States in failing to prevent war crimes and crimes against humanity, let alone ethnic cleansing – which, it should be remembered, is not as such a legal term of art'.[32] The R2P notably acts to broaden third-party responsibility beyond that of genocide. This is to be welcomed. As discussed in Chapter 2, the Genocide Convention only protects national, racial, ethnic, and national groups. As a result, if political, economic or gendered groups are destroyed in *whole*, then this does not constitute genocide in the legal sense which dictates that the Genocide Convention cannot be invoked.[33] The R2P makes a progressive step in protecting these groups, even though, as discussed in Chapter 2, the case could equally be made that these groups should also be protected in the legal definition of genocide. When one considers that the atrocities in Darfur and the

Democratic Republic of Congo have been defined by the UN as crimes against humanity equal to that of genocide but not defined as genocide, one can see the real-life need to extend the remit of third-party protection beyond that of genocide alone. In so doing, the R2P also extends the understanding of conditional sovereignty set out in 1948.

As stated, the R2P established a threshold, which in turn holds implications for how international society views sovereignty. The consensus forged over the R2P implies that international society forged a collective understanding that the right of sovereignty should be viewed as *conditional*. It is conditional in the sense that sovereignty in a post-R2P world is bound by a responsibility to protect populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. If states 'manifestly fail' in this responsibility then international society has a responsibility to take collective action. As a result, it is difficult to see how states can make the case that sovereignty is understood as absolute in a post-R2P world. This holds implications for humanitarian intervention, for as Alicia L. Bannon's legal analysis explains: 'If nations have no sovereign right to commit or passively permit atrocities against their own populations, then they cannot object on sovereignty grounds to coercive actions halting the commission of those atrocities. Sovereignty simply does not extend that far.'[34] Of course, this does not mean that the sovereignty-intervention debate is resolved but it does highlight that states cannot necessarily appeal to the right of sovereignty if it has been proven that they have failed in their domestic responsibility to protect. This restates the point that the R2P embodies a solidarist ethic: '*States that massively violate human rights should forfeit their right to be treated as legitimate sovereigns, thereby morally entitling other states to use force to stop oppression.*'[35] Quite simply, in a post-R2P world, it is extremely difficult to see how a state can reject the idea of an 'R2P-intervention' by appealing to the right of sovereignty. Again such understanding was evident in the Genocide Convention; the notable change is that this has now been extended to cover the crimes of war crimes, crimes against humanity, and ethnic cleansing.

In sum, the R2P has helped ease the tension surrounding the sovereignty-intervention debate by appealing to ideas such as a universal moral minimalism, threshold, prevention, non-military options, and conditional sovereignty. However, while these represent progressive steps, this chapter shifts its focus to four particular areas of concern regarding (i) implementation, (ii) rightful authority, (iii) legality, and (iv) manifest failure, precisely because all of these factors feed into the sovereignty-intervention-authority dilemma and international society's understanding of rightful conduct.

Implementation

Regarding the issue of implementation, the R2P restates the same problem embodied in the Genocide Convention: both lack a substantive implementation strategy. As a result, international society is left with two documents that set out bold aspirations yet offer little in the way of suggesting how these can be met in practice.[36] Recognising this, the UN Secretary-General Ban Ki-moon, presented his 31-page report titled 'Implementing the Responsibility to Protect' to the UN General Assembly in July 2009 which introduced the idea of a three-pillar implementation strategy.[37] However, while this is a work in progress, at present, the truth is that nothing more substantial than a UN General Assembly re-endorsement of the R2P has been achieved.[38] This was recognised explicitly in December 2010 when the Mass Atrocity Response Operations Workshop was established to discuss *how* the US military can fulfil its R2P and in turn identified an 'incoherent middle ground between prevention and response' which captures the fact that real problems surrounding implementation still need to be addressed.[39] In short, when it comes to mass atrocity prevention, it is difficult to see that international society is in a better operational position now than it was in a pre-R2P world.

To gauge this further let us return to paragraph 138 of the Outcome Document which states, 'This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means.' It goes on to claim, 'The international community should as appropriate, encourage and help states to exercise this responsibility and support the United Nations in establishing an early warning system.'[40] The problem with this statement is that while everyone wants *prevention* rather than *intervention*, paragraph 138 offers little in the way of grounding this objective. So on the one hand everyone wants 'long term preventative measures that would make intervention unnecessary',[41] but on the other, 'As a concept, prevention is often ill-defined and all-encompassing' as there is very little within the R2P to actually guide real-world policymaking.[42] Again, one should remember that the Genocide Convention is actually titled the Convention on the *Prevention and Punishment of the Crime of Genocide*. Regarding the issue of incitement, paragraph 138 of the World Summit Outcome uses the exact same language as displayed in Article III of the Genocide Convention which also states that 'Direct and public incitement to commit genocide' is punishable.[43] Yet when one reads these two documents side-by-side one is left wondering how states are meant to, for

example, prevent and punish the incitement of genocide when state elites are the ones that incite dehumanisation (Chapter 2) in the first place. Of course, this is not to detract from the continual deliberations taking place over the idea of early warning systems but to highlight that we should not place too much faith in them.[44] As Bellamy explains, in February 2011, 'None of the worlds various risk-assessment frameworks viewed the country [Libya] as posing any sort of threat of mass atrocities.'[45] It seems, therefore, that nearly 60 years on from the Genocide Convention, the endorsement of the R2P offers little in the way to ground the aspiration of prevention.[46]

With the lack of any clear preventative strategy in place, the following question naturally arises: what happens if prevention fails? Paragraph 139 states, 'we are prepared, to take collective action, in *a timely and decisive manner* through the Security Council in accordance with the Charter, including Chapter VII, on a case-by-case basis.'[47] The proactive sentiment embodied within this statement implies that the UNSC will react in a *timely and decisive manner* which seemingly opens the door for humanitarian intervention. Yet again, however, the same language is evident in the 1946 General Assembly Resolution on 'The Crime of Genocide' which recommends 'that international co-operation be organised between States with a view to facilitating the *speedy prevention and punishment* of the crime of genocide'.[48] The statement bears a striking resemblance to the R2P rhetoric regarding *timely and decisive* action. The problem is that neither document explains how such bold aspirations can actually be implemented. While one could claim that by invoking the Security Council the R2P does in fact detail just how an R2P response should be implemented, when one glances at the historical record on genocide, the challenges facing a successful R2P intervention are all too evident.

As stated, UN Secretary-General Ban Ki-moon attempted to address the issue of implementation in January 2009 as he set out his 'Three Pillar' strategy: (i) the protection responsibilities of the state, (ii) international assistance and capacity-building, and (iii) timely and decisive response.[49] Essentially, the document fits within what has been described as a 'R2P-Plus' approach, by which it is meant that R2P advocates set out to help operationalise the ideas embedded in the R2P.[50] For example, in discussing the idea of a timely and decisive response, Ban Ki-moon claims that the bilateral, regional, and global efforts made to reduce the outbreak of violence in Kenya in early 2008 brought about a successful outcome and in doing so highlighted that there is a middle way between the use of force and simply doing nothing.[51] The example

illustrates the aforementioned point that international society has more options available at its disposal than military force alone. Although there is nothing wrong with this 'R2P-Plus' movement as further debate on this concept is essential, the simple fact is that UN member states have not agreed to any of these subsequent proposals. In 2009, nearly five years on from the endorsement of the R2P, the UN General Assembly stated that it will 'continue its consideration of the Responsibility to Protect'.[52] If the language seems familiar it is because paragraph 139 of the Outcome Document stressed 'the need for the General Assembly to continue consideration of the responsibility to protect' which begs the question, when will the continual consideration and re-consideration of the R2P lead to something a little more concrete? After all, the reality is that potentially millions of lives are dependent on timely and decisive action being taken.

In sum, the lack of progress regarding the issue of implementation represents a significant thorn in the side of the R2P. Despite the claims made by R2P advocates, when one surveys the ongoing atrocities in places such as Syria, Bahrain, and western Myanmar (to name just a few as I write), the intention of framing mass atrocity issues in a manner that would provoke policymakers to respond as part of a 'global reflex action' remains somewhat of a pipedream.[53] Of course, advocates would claims that the R2P remains a 'work in progress' but while this is somewhat understandable from an R2P perspective, when one considers that 2011 marked 60 years since the Genocide Convention came into force, the sad truth is that very little progress has actually been made. Thus, while efforts within the UN as part of their continual process of reconsideration are to be welcomed, from an implementation perspective, it is difficult to see how international society is in a better position to prevent genocide than it was in a pre-R2P world.

Rightful authority

As discussed in Chapter 5, in the post-Cold War era an authority dilemma emerged as international society was faced with the potential for a political deadlock in the UNSC on the one hand and an unfolding humanitarian catastrophe on the other. In response to this, the ICISS report of 2001 specifically addressed 'The Question of Authority' at some length while also detailing recommendations for planning, carrying out, and following up any military interventions.[54] As part of this, the commission drew on *Just War Theory* to set out legitimacy criteria which could guide decision making regarding the use of force: '*right authority,*

just cause, right intention, last resort, proportional means and reasonable prospects'.[55] As shall be discussed, however, none of these recommendations made it into the World Summit Outcome Document. With the legacy of the 2003 US-led intervention in Iraq looming large, the World Summit Outcome Document restated the UNSC as the only legal body that can authorise intervention. However, when one considers Annan's position in 1999 as the authority dilemma came to the fore over Kosovo, it seems that nothing has been done to address the moral deficiencies of the present legal system. Hence, over a decade on from Kosovo, international society is in no better position to resolve an authority dilemma when it next emerges.

To return to the initial ICISS report, it states that after 'global consultations', the 'overwhelming consensus' had been that the Security Council had to remain at the heart of any decision-making process regarding the use of force in international relations.[56] This is despite the fact that the ICISS acknowledged that 'There are many reasons for being dissatisfied with the role that the Security Council has played so far.'[57] This is fleshed out in the report's sub-section titled, 'legitimacy and the veto' which states: '*it is unconscionable that one veto can override the rest of humanity on matters of grave humanitarian concern*'.[58] The tone and context of the statement emphasises the magnitude of the authority problem as the present legal system permits the P5 to utilise the right of veto in circumstances that undermine humanity as a whole. In response, the ICISS recommends a P5 'code of conduct', whereby the P5 agree to refrain from using their veto when significant humanitarian crises unfold.[59] While the idea of a veto constraint that works in favour of humankind is to be commended, the ICISS went on to claim that since a UN Charter amendment is unlikely, this 'code of conduct' should be enacted as 'a formal, mutually agreed practice'.[60] The problem with this is that although unwritten norms shape the behaviour of actors, it seems somewhat optimistic to suggest that an unwritten voluntary code of conduct can govern what is perhaps *the* most important decision in international relations as the Security Council decides whether to authorise the use of force or not. When one considers that potentially millions of lives depend on the outcome of such decisions being made, it is highly questionable whether any such voluntary agreement would be more moral than the present legal system. If, as the ICISS stated, the present legal system is morally deficient in certain ways then surely the case has to be made that the legal rules need to be rewritten in order to address these moral deficiency.

The point here is not to suggest how the rules should have been rewritten but to highlight the need for further deliberation on this issue,[61] just as there has been extensive dialogue on the issue of implementation. Instead, the ICISS raised moral concerns regarding the UNSC yet went on to boldly claim: 'The task is not to find alternatives to the Security Council as a source of authority, but to make the Security Council work much better than it has.'[62] Notably, in 2004, UN Secretary-General Kofi Annan restated this claim word for word in the High Level Panel Report.[63] When juxtaposed with the explicit acknowledgement of UNSC failings, the attempt to defend the status quo seems somewhat odd. Offering a justification for its Security Council support, the ICISS stated:

> The authority of the UN is underpinned not by coercive power, but by its role as the applicator of legitimacy. … Those who challenge or evade the authority of the UN as the sole legitimate guardian of international peace and security in specific instances run the risk of eroding its authority in general and also undermining the principle of a world order based on international law and universal norms.[64]

The statement claims that power of the UN stems from its legitimacy rather than its military strength. In turn, any attempt to bypass the authority of the UN undermines the ordering principles of the UN, international law, and universal norms. However, to return to the understanding of legitimacy set out in Chapters 4 and 5, since the UN is an applicator rather than a producer of international legitimacy (as the ICISS acknowledges), the ICISS needed to consider that in order to maintain its legitimate authority, the UN has to address the moral discrepancies within its legal structure.

The alarming aspect therefore is that 2005 World Summit Outcome Document reads as though there is nothing wrong in upholding the existing UNSC system. One is reminded of E. H. Carr's assessment of utopianism, in which he criticises those that focus 'exclusively on the end to be achieved'.[65] Regarding Security Council authorisation, it seems that because the actors involved have come to the conclusion that they want UNSC authorisation (this is the end) they refuse to consider any alternative. In turn, Carr's example of Woodrow Wilson speaks volumes:

> When President Wilson, on his way to the Peace Conference, was asked by some of his advisers whether he thought his plan of a

> League of nations would work, he replied briefly: 'If won't work, it must be made to work'.[66]

The statement is relevant because when faced with the question of whether the Security Council will work as it should, the World Summit Outcome seemingly concluded that even though it has not worked as it should in the past, it should be made to work. But to return to the authority dilemma: what happens if it does not work? While the ICISS report proposed options such as the Uniting For Peace Resolution (to be discussed later), the World Summit Outcome Document offers no guidance. The outcome of which is, as Nicholas J. Wheeler explains: 'it is not evident that the UN is any better places to cope with a future Kosovo where the Council is divided on the merits of preventative action'.[67] As with the issue of implementation, it is difficult to see that international society has made any progress on the question of rightful authority. In other words, a consensus was forged regarding Plan A: the UNSC should act as the overseer of force, but problematically, there appears to be no Plan B to address the deadlocked Security Council.

It is worth returning here to the initial ICISS report, for as stated, it does in fact set out options that may be used to resolve the authority dilemma. In what is a startlingly simple, straightforward, and intelligent line of questioning, the ICISS posited: 'We have made abundantly clear our view that the Security Council should be the first port of call. … But the question remains whether it should be the last.'[68] To return to the idealistic faith placed in Plan A above, it seems that the World Summit Outcome never addressed the ICISS' line of questioning as it asks us to consider that while the UNSC should be understood as the first option, there is scope for questioning whether it represents the final option. Set against this background, the ICISS raised the role of regional organisations and the Uniting For Peace Resolution to, in effect, offer guidance regarding a Plan B. Regarding the former, the complexities surrounding regional organisations have been discussed extensively elsewhere. From a legitimacy perspective, regional organisations can play an integral role in forging the level of 'tolerable consensus' (to use Clark's phrase) needed within the legitimacy process. For example, Bellamy claims that the international response to the situation in Libya in 2011 was exceptional precisely because regional organisations in the region supported the international response which helped persuade China and Russia not to veto resolution 1973.[69] At the same time, however, Bellamy reflects on the political complexities involved in regional organisations to suggest that specific 'confluences of factors' emerged in relation to

Libya which is 'unlikely to be often repeated'.[70] Moreover, despite the importance of regional support, the fact remains that any use of force remains dependent on Security Council authorisation, which brings us back to the central question of authority.

This leads into the second option, established in 1950, the Uniting for Peace Resolution (Resolution 377) stipulates that although the UNSC has 'primary responsibility', it does not have 'exclusive responsibility' under the UN Charter for peace and security matters.[71] It states that if the UNSC reaches a political deadlock over a certain issue then the issue can be referred (by a majority vote within the Security Council or the General Assembly[72]) to the UNGA which can then make recommendations.[73] While the ICISS acknowledges that any decision regarding the use of force ultimately lies with the UNSC, from a legitimacy perspective, the Uniting for Peace Resolution would seemingly allow for a *tolerable consensus* to be forged in the UNGA without explicit UNSC consent. As the ICISS explains, 'an intervention which took place with the backing of a two-thirds vote in the General Assembly would clearly have powerful moral and political support'.[74] The statement highlights that while the UNGA does not have legal authority, if there were enough moral and political support, then this could help overcome this legal deficit from a legitimacy perspective (as it did in Kosovo). However, despite Resolution 377's potential, one should remember that the World Summit Outcome makes no mention of it and in sharp contrast, the P5 have in fact become increasingly hostile it.[75]

From a legitimacy perspective, the central problem remains that since the authority dilemma has not been addressed, it is only a matter of time before another authority crisis emerges. To explain this, I turn to Hilary Charlesworth and Jean-Marc Coicaud's analysis of international legitimacy.[76] Intriguingly, the authors raise the idea of legitimacy 'fault lines' by which it is meant 'areas of friction'.[77] Regarding the issue of rightful authority, by simply upholding the status quo, international society has created a legitimacy 'fault line' as there remains an unresolved 'area of friction'. For instance, let us return to Kofi Annan's line of questioning in 1999, as discussed in Chapter 5. Annan asked the international community to imagine that a willing coalition ready to intervene in Rwanda was faced with the problem that it had not received UNSC authorisation: 'Should such a coalition then have stood idly by while the horror unfolded?'[78] The point is that Annan left the question unanswered in 1999 and while the ICISS considered the question of whether the Security Council is the first and last port of call, the World Summit Outcome document did not engage in this debate

and ultimately failed to answer Annan's question. Because of this, the current status quo is built on a legitimacy fault line as there remains a significant and real point of friction between the morality of intervention on one hand, and the legality of UN authorisation on the other. While this legitimacy fault line lays dormant at present, it is only a matter of time before this becomes more active. There are two points of real concern here. First, one could imagine another genocide unfolding as that legal right of veto is utilised to prevent genocide prevention. Second, this could lead to a more 'systemic breakdown' in international order as states may act in a way that leads to the breakdown of the UN system or even a Great War.[79]

The point here is not to suggest that there are easy answers to what Fernando Tesón refers to as 'The Vexing Problem of Authority'.[80] Furthermore, the intention is not to offer prescriptive remedies of how the authority dilemma may be resolved, for example, Tesón suggests that an independent board of judges under the title, 'The Court of Human Security' could be established within the UN in order to rule on cases of intervention.[81] In contrast, this analysis aims to highlight that the authority dilemma has not been resolved precisely because the World Summit Outcome Document reads as though the status quo is good enough yet we know that (i) the ICISS explicitly acknowledged the moral deficiencies of the present legal system, and (ii) the failure of the UNSC to work as it should led to the authority crisis over Kosovo. This is not just important from the perspective of preventing genocide, war crimes, crimes against humanity, and ethnic cleansing but also from an international order perspective as the central concern here is that an authority crisis may lead to a more systematic breakdown. Despite the magnitude of the *authority dilemma* outlined in the context of Kosovo, the 2005 R2P offers no guidance on the best course of action to be taken if the UNSC finds itself deadlocked. Because of this, it is once again difficult to see how international society is any better placed to address this problem in a post-R2P world.

Legality

To suggest that the R2P could somehow act as an obstacle to genocide prevention may strike the reader as somewhat odd, after all, the R2P clearly sets out to protect populations the world over from genocide, war crimes, crimes against humanity, and ethnic cleansing. Yet prior to accepting this assumption, one should consider Jan E. Méndez' (former UN Special Advisor on the Prevention of Genocide) claim, 'I consider

that the current debate on the concept of the so-called responsibility to protect must not obscure the existing international legal obligation to prevent genocide.'[82] From a legal perspective, the statement captures a pressing concern as Méndez' fears that the legal obligation to prevent genocide may become subsumed within the broader R2P debate. At which point, the crime of genocide may lose its identity as an independent crime which is codified under a separate body of international law. In essence, because the R2P remains so heavily contested from a legal perspective, the concern here is that critics will simply dismiss the R2P outright as a non-legal concept which may see the Genocide Convention marginalised – just as it was in the Cold War – but this time for different reasons. This section will assess the debates that surround the R2P to demonstrate that while the R2P is grounded on existing international humanitarian law, it does not bring anything new to the table from a legal perspective.

The fact is that despite both the UN General Assembly and Security Council endorsement, the R2P's legality remains contested. The importance of language is evident here as advocates and critics debate the *obligatory nature* of responsibility embodied in the R2P. This was raised in 2005, as Hugh Bailey of the International Development Committee questioned the Parliamentary Under-Secretary of State, Foreign and Commonwealth Office, Lord Triesman on the R2P's obligatory nature: 'The UN World Summit approved the Responsibility to Protect. Is that Responsibility obligatory on the UN Member States, or just advisory?'[83] To which Lord Triesman replied, 'My understanding is that it has become a charter obligation and it should be binding upon all Member States.'[84] While this was Lord Triesman's view, even at the time it was quite clear that such understanding was not universal.[85] In what has become a famous letter in the R2P debate (notably written just prior to the R2P World Summit Outcome), US Ambassador John Bolton made the US position very clear when he stated that the US would 'not accept that either the United States as a whole, or the Security Council, or individual states have an obligation to intervene under international law'.[86] Offering a radically different interpretation of the R2P than that put forward by Lord Triesman, these two perspectives begin to illustrate why the obligatory nature of the R2P remains so contested.[87]

To understand the ambiguity surrounding the legal foundation of the R2P it is important to go back to the ICISS report of 2001. The ICISS stated that the R2P is 'grounded in a miscellany of legal foundations (human rights treaty provisions, the Genocide Convention, Geneva Conventions, International Criminal Court statute and the like),

growing state practice – and the Security Council's own practice'.[88] The statement provides some insight into why questions regarding the legal foundations of the R2P have arisen since 2005. The miscellany of legalities embodied in the R2P foundation makes it difficult to pinpoint the exact legal nature of the R2P. One is reminded of the phrase, 'throw enough mud at the wall and some of it will stick', as it seems that the ICISS raised a multitude of legalities in an attempt to justify the legality of the R2P. As Carsten Stahn's comparative legal analysis demonstrates, the precise legal nature of the R2P was made more problematic as each of the R2P drafting stages outlined above actually framed its legal foundation in a different light. As Stahn explains, each report 'embodies a slightly different vision of the responsibility to protect. This divergence explains part of its success. The notion became popular because it could be used by different bodies to promote different goals'.[89] Like the ICISS report, Stahn claims that the R2P has many legal faces yet develops this further to suggest that this may have helped the R2P gain its required level of international consensual support. Notably, in 2009, Ban Ki-moon's analysis set out to resolve the issue of legal ambiguity by restating the ICISS's claim that the R2P is grounded on existing international law.[90] In doing so, however, the UN Secretary-General seemingly accepted the view that the R2P does not contribute anything *new* to international law.

Responding to such controversy, Louise Arbour has claimed that the 'legal core' of the R2P 'rests upon an undisputed obligation of international law: the prevention and punishment of genocide'.[91] While the ICISS raises a miscellany of legal foundations, Arbour specifically focuses on the Genocide Convention to highlight the legal obligation that lies at the heart of the R2P. Essentially, Arbour explains that the R2P has not brought anything new to the table regarding international law, yet implies that the R2P is a positive step in that it may help shape international law in a way that helps prevent mass atrocity crimes such as those identified by the R2P. It is from this perspective that Arbour then considers the question of *non-compliance* through an analysis of the 2007 International Court of Justice ruling on Bosnian and Herzegovina vs. Serbia and Montenegro. Arbour, who views the ruling of the ICJ to be 'earth shattering', states that the court ruled that Serbia was responsible for the prevention of genocide in Bosnia-Herzegovina, and therefore had a responsibility to prevent genocide *outside its own territory*.[92] Accordingly, Arbour raises a series of judgements to highlight that the court invoked a notion of 'due diligence' in that states have a positive obligation to 'do their best' to prevent genocide.[93] To gauge this one

has to understand the reasoning that underpinned the court's ruling. Notably, the court raised three key aspects in analysing the capacity of a state to discharge its obligation to prevent genocide: *influence*, *proximity*, *and information*.[94] Within the Serbian case, Serbia was found to have breached its obligation because it had strong political, military, and financial links with the agents guilty of genocide (influence); it was a neighbouring state (proximity) and finally, knew of the high risk of genocide (information).[95]

The ICJ's legal ruling regarding genocide may have unintended implications for the implementation of the R2P. Arbour claims that, in principle, the ICJ ruling could hold significant legal implications for international society, and especially the P5, who often have the strongest capacity to prevent genocide.[96] Indeed, Arbour cites Jose E. Alvarez's claim that the establishment of the R2P has opened up a legal conundrum regarding the responsibility of states and the UN.[97] In theory, if the P5 use their power of veto to counter the best efforts of the UN to prevent one of the four crimes, then they could be held legally accountable. Despite the fact that this is purely theoretical at present, one would not have to look far for practical comparisons. In Ban Ki-moon's analysis, the UN Secretary-General notes that the threat of legal accountability against Cote d'Ivoire in 2004 and Kenya in 2008 (on the grounds that they were inciting hatred), saw the states stop their actions abruptly.[98] When one juxtaposes this legal threat with the ICJ's legal ruling one could be forgiven for thinking that the P5 may think twice in the future before attempting to use their veto power to prevent the prevention of an R2P crisis. Of course, one should not get too carried away.[99] No one expects the P5 will actually be 'put on trial'; however, such legal action would certainly not help their moral image on the international stage. States, therefore, may be wary of being seen in such an immoral light which feeds back into the ES belief that states operate within a normative framework that both enables and constrains their actions.

So what can be drawn from such legal analysis? Increasingly both advocates and critics seem to have adopted the view that the R2P represents a political rather than a legal commitment.[100] At the same time, this does not mean that the R2P is 'devoid of legal content' for it is underpinned by existing international law.[101] From this perspective, the R2P has not altered international law in any significant way, yet as Arbour points out; it may help shape existing international legal obligations in a way that further protects populations from genocide, war crimes, crimes against humanity, and ethnic cleansing. Despite the fact that I uphold such thinking wholeheartedly, if the debate over genocide

prevention becomes subsumed within the broader debate over whether the R2P represents a new legal development, this may see international society marginalise its legal obligation to prevent genocide. Although the reader may claim that it is foolish to think that international society could forget about its legal obligation to prevent genocide, to go back to Schabas's point in Chapter 5, it is evident that the Genocide Convention was completely marginalised in the context of the Cold War. It is therefore imperative that international society does not let the Genocide Convention once again become marginalised within the context of the R2P debate. At present, it does not seem that the R2P discourse has given enough consideration to this legal quandary and how it impacts on international society's legal obligation to prevent genocide. This is a point of criticism that can also be laid at the door of the of the R2P's requirement of a 'manifest failure'.

Manifest failure?

Paragraph 139 stipulates that collective action can only be taken when a state 'manifestly fails' in fulfilling its responsibility to protect. It is the phrase 'manifest failure' therefore that is the cause of apprehension here as the R2P offers no guidance on what exactly constitutes a 'manifest failure'.

The phrase 'manifest failure' did not appear in any of the R2P precursory documents yet it boldly appears in paragraph 139 of the 2005 Outcome Document. In an attempt to gain some clarity on where the phrase came from, this author contacted the Global Centre for the Responsibility to Protect (based at the Ralph Bunche Institute for International Studies in New York) and was subsequently informed:

> There will be no documents on this point. At the final days of negotiation, all was done very very informally with no official drafts but through discussions of a few of the key drafters. Manifest failure was a Canadian suggestion, trying to remove the subjectivity of 'unable or unwilling' that had appeared in previous drafts, and insert what they believed to be a more evidence-based standard. It was accepted without difficulty.[102]

The statement clearly sets out the case that the phrase 'manifest failure' was included to overcome the subjective problems that the drafters felt may arise over international society's ability to prove that a state is 'unable or unwilling' to prevent genocide, war crimes, crimes against

humanity, or ethnic cleansing. The phrase 'unable or unwilling' did feature throughout the precursory documents and it would seem that the term 'manifest failure' was seen as a more appropriate eleventh hour substitute. There are two problems here. The first problem is the fact that much of the R2P discourse still refers to original rhetoric regarding 'unable or unwilling' which causes understandable confusion on the subject matter. For example, the 2010 US National Security Strategy discussion of the R2P utilises the rhetoric, 'unable or unwilling', while making no reference to the idea of a 'manifest failure'.[103] Secondarily, the 'very very informal' nature of this debate, which took place in the final days, leaves one questioning whether the drafters realised that they were perhaps creating an unnecessary additional obstacle?

Quite simply, states are not going to admit that they have 'manifestly failed' to fulfil their R2P. This dictates international society has to prove this to be the case. As Carsten Stahn's legal analysis explains: 'the requirement of a manifest failure may be used as an additional means to challenge the legality and timing of collective security action'.[104] The statement logically explains that the criterion of a 'manifest failure' seemingly creates an unnecessary additional obstacle. From a R2P perspective, international society has to not only prove that one of the four crimes are being committed, but that a state has 'manifestly failed' in its responsibility to prevent these crimes from occurring. Although all genocide scholars would surely accept that the practice of genocide constitutes a 'manifest failure', one can easily imagine that genocidal regimes will exploit the *ambiguity* to be found within the term. For example, if the R2P had existed in 1999 and had been invoked over the Kosovo crisis, it does not take a great leap of imagination to envisage that the Russian ties with Serbia at the time could have led the Russian representative on the Security Council to argue that while Slobodan Milosevic had committed crimes, he had not 'manifestly failed' in his responsibility to protect. The disturbing aspect therefore is that one can easily imagine that geopolitics will lead to such an important ambiguity being exploited. Thus, as critics such as Stahn and former UN advisor Juan E. Mendez have highlighted, in certain fundamental ways the R2P may actually *hinder* the prevention of crimes such as genocide.

Moreover, it would seem that the inclusion of this term 'manifest failure' actually undermines the *victim-based* approach that underpins the R2P. As stated above, the R2P made progress through its focus on the *rights of victims* rather than the *rights of interveners*, thus turning the humanitarian intervention debate on its head. However, in placing the 'manifest failing' qualification into the R2P equation, its drafters

seem to have, unintentionally, shifted the focus back on to the rights of states rather than the rights of victims. For example, the Genocide Convention focused on the rights of groups to be protected from the intention of the state to destroy them in whole or in part. While this is problematic, the focus at least is on the *victim group* being destroyed. Thus, the Genocide Convention seemingly bypassed the rights of states and placed the focus on the rights of national, ethnic, racial, and religious groups. However, when one juxtaposes the Genocide Convention understanding with the R2P 'manifest failing' qualification, it would seem that international society has to *not* only prove that genocide is taking place but also that a state has 'manifestly failed' in its R2P. A key R2P battleground therefore may be the technicality embodied in the R2P's phrase 'manifest failure' as it undoubtedly leaves an important ambiguity embodied in the 'case-by-case' decision to implement the R2P. Again, this may have critical implications for the R2P's intention to react to these crimes in a 'timely and decisive' manner (as stated in paragraph 139).

Conclusion

To summarise, it is important to go back to the two points of concern regarding the impact of the R2P on the sovereignty-intervention dilemma and the issue of genocide prevention. This chapter highlighted that the unanimous endorsement of the R2P principle implies that the sovereignty-intervention tension had been somewhat eased as the R2P managed to distance itself from the overly simplistic humanitarian intervention dichotomy: war or nothing. To return to the norm of constitutionality, it is difficult to see how a state could appeal to the idea of absolute sovereignty in a post-R2P world as expectations surrounding the 'right of sovereignty' have been bound with the R2P. While, as discussed, the R2P restates many of the ideas embedded within the Genocide Convention (focus on prevention, threshold, rights of victims, and universal moral minimalism), the importance of re-establishing the post-Second World War consensus (1948), in a Post-Cold War world (2005), cannot be overstated. Furthermore, extending the idea of third-party responsibility beyond that of genocide to also include war crimes, crimes against humanity, and ethnic cleansing is to be welcomed.

At the same time, it is evident that one has to tread cautiously. The consensus forged did not represent some utopian shift in foreign policy-making. Fundamental issues surrounding (i) implementation, (ii) rightful authority, (iii) legality, and (iv) manifest failure remain unresolved.

With this in mind, it is difficult to see how the R2P has advanced international society's ability to prevent genocide in any substantial way. One has to remember than at the time of the Rwandan genocide it was not that states thought that the Rwandan government had the sovereign right to do what they were doing but that the P5 saw no national interest at stake. Accordingly, it was issues relating to political will and the implementation of the Genocide Convention, rather than the right of sovereignty, that was the central problem. In failing to address such issues, the R2P upheld the status quo despite the fact that this facilitated a legitimacy crisis in the aftermath of the Rwandan genocide.[105] Having surveyed the discourse one cannot help but feel disappointed and ultimately convey this to the reader as while the R2P has only existed as a concept since 2001, many of the ideas which underpin it are evident in the Genocide Convention. Thus, over 60 years on from its enforcement in 1951 it is difficult to see that international society has made any real progress on the issue of genocide prevention which brings us back to the centrality of political will. It is with this in mind that Chapter 7 turns its attention to re-engaging with the three traditions.

7
The Three Traditions Revisited

There is nothing in international relations that dictates international society will naturally progress from one generation to the next. To understand such thinking one has only to go back to the scepticism found in Martin Wight's view of progress in international relations. For Wight, the anarchical realm dictated that progress in the international sphere was inherently more problematic than in the domestic sphere.[1] As a result, the reality is that just because the R2P was unanimously endorsed in 2005, it does not mean that the R2P is here to stay. Notably some went as far as claiming that the R2P was in fact dead in February 2011 because of the perceived slow response to the atrocities in Libya,[2] only for the subsequent UN Resolutions (1970 and 1973) to lead advocates to conclude the R2P is actually 'alive and well'.[3] The relevance of this debate is that one can see that in a post-R2P world, policymakers will not only be confronted by the real life challenge of mass atrocity crimes but will also be bombarded by a variety of voices offering alternative ways for framing the R2P crimes of genocide, war crimes, crimes against humanity, and ethnic cleansing. As discussed in Chapter 1, this may lead policymakers to treat genocide as just another insoluble problem. Because of this, the chapter re-engages with the three traditions. To return to the idea of theoretical pluralism, the ES views IR as a three-way conversation between the traditions of realism, rationalism, and revolutionism.[4] As raised in Chapter 3, each tradition conceptualises the issue of genocide prevention in a different light. The aim of this chapter is to utilise the understanding that has been developed over previous chapters to re-engage with the realist, rationalist, and revolutionist perspectives regarding genocide prevention in a post-R2P world.

The realist voice

Having outlined the central tenets of realism in Chapter 2, let us move straight into assessing the classical realist position. To do this, I consider Henry Kissinger's opposition to NATO's intervention in Kosovo in 1999 for reasons to be discussed below:

> The abrupt abandonment of the concept of national sovereignty … marked the advent of a new style of foreign policy driven by domestic politics and invocation of universal moralistic slogans … Those who sneer at history obviously do not recall that the legal doctrine of national sovereignty and the principal of non-interference-enshrined in the UN Charter – emerged at the end of the devastating Thirty Years War. … Once the doctrine of universal intervention spreads and competing truths contest we risk entering a world in which, in G. K. Chesterton's phrase, 'virtue runs amok'.[5]

The statement is important for it encapsulates a number of realist concerns that relate directly to the prevention of genocide: (i) the meaning of sovereignty and its relationship with international order, (ii) the lack of moral foundations at the international level, and (iii) the threat of humanitarian intervention sparking a great war.[6] Furthermore, the fact that these issues were raised prior to the R2P allows us to analyse how the R2P may have eased or exacerbated realist fears since.

In an attempt to deconstruct this multifaceted argument let us first consider the meaning of sovereignty and its relationship with international order. From an ES perspective, the problem with Kissinger's approach is that it ties the moral value of order to a set of fixed principles: state sovereignty, territorial integrity, and non-intervention, whereas the reality of international relations is that principles such as sovereignty are not static and does in fact change over time.[7] From this perspective, it is important to consider that the R2P does not represent an 'abandonment of sovereignty' (to use Kissinger's phrase) but instead asks signatories to understand legitimate sovereignty as *conditional* rather than *absolute*.[8] Traditionally, such understanding leads realists to claim that international normative commitments such as the R2P erode state sovereignty. Yet a dialogue on this particular issue needs to emerge as one can offer the exact counter-argument. If anything, the consensus that underpins the R2P seems to provide a more informed and grounded understanding of sovereignty which is legitimated via a collective understanding of what is legitimately acceptable and unacceptable in

contemporary international relations. This underpins the shift in understanding from 'sovereignty as authority' to 'sovereignty as responsibility' but this does not mean that sovereignty is any less important.[9] To go back to Clark, a consensus has been forged at the international level, expressed via the UN General Assembly endorsement of the R2P in 2005 and re-endorsement in 2009, which suggests that states accept this contemporary interpretation of sovereignty as legitimate. It seems fair to suggest that this consensus would not have been forged if the R2P eroded the idea of sovereignty. In contrast, this consensus reflects a more learned view as states acknowledge that sovereign authority does not provide states with a carte blanche licence to commit genocide, war crimes, crimes against humanity, and ethnic cleansing.

To consider this further, let us return to Kissinger's own reflection on the Rwandan genocide (which was raised in Chapter 3) in which he states that he would have personally favoured an intervention in Rwanda even though '*It would have been a violation of what ordinarily is my principle*. … Ordinarily I feel you should not risk American lives for objectives where you cannot explain to the mothers why you did it. … [Yet] my instinct tells me we should have done it in Rwanda'.[10] From this perspective, it would seem that the crime of genocide is so profoundly immoral that it calls for extraordinary action to be taken. In essence, Kissinger invokes the ES solidarist position that humanitarian intervention can be recognised as a legitimate exception to the rules of sovereignty and non-intervention.[11] Yet as Clark rightly points out, the problem with such understanding is that 'if humanitarian intervention successfully registered its claim to be considered legitimate, it would no longer be an *exception*, as the practice would have already changed'.[12] Thus, Clark appeals to the aforementioned understanding of international legitimacy to claim that there is no such thing as a legitimate exception to the rules as legitimate exceptions highlight that the rules of the game have already changed in order to recognise the exception as legitimate. In other words, if Kissinger states that he would abandon his ordinary principle in order to favour genocide prevention in Rwanda, then is it not time for Kissinger to reformulate his principles in order to accommodate practices which he himself deems as legitimate? In sum, the meaning of sovereignty and its relationship with order is something that realists need to reconsider in a post-R2P world.

This brings us on to the second point raised in Kissinger's analysis: the lack of universal moral foundations. In a world full of competing moral claims, realists warn that 'there are no international accepted standards of morality' that states can appeal to.[13] While one can accept

that there are no universal moral standards in a scientific sense (we cannot prove their existence as we can gravity), this does not stop us from championing the idea that constructed facts are just as important as non-constructed facts.[14] While realists are right to question the level of compliance embodied in international normative agreements, this should not stop realists from acknowledging and defending the idea of a universal moral minimalism. After all, there are not many, if any, realists that genuinely uphold the idea that foreign policy has 'no moral quality'.[15] This is explicit in the recent revival of the realist tradition as scholars have sought to re-engage with the normative dimension of classical realism.[16] If anything, therefore, it would seem that the R2P has helped establish moral foundations (albeit constructed) in a world full of competing moral claims by appealing to the consensus that exists against the crimes of genocide, war crimes, crimes against humanity, and ethnic cleansing. Significantly, this has helped overcome the ambiguity that plagued the debate over humanitarian intervention in the 1990s, thereby, helping create a clearer code of rightful conduct which increases the likelihood of international stability precisely because ambiguity at the international level causes wars of interpretation.

This brings us to the third point regarding Kissinger's claim that humanitarian intervention may increase the potential for great war. Indeed, Kissinger's analysis illustrates the realist tendency to cite the empirical example of the Thirty Years War in order to justify the application of realist principles. In essence, realists hold on to the idea that times have not changed, thus, the world of 1999 is not that different from that of 1618. By which it is meant that states *still* operate within the context of anarchy as there remains no world government to constrain the power-maximising nature of humans (classical realism) or the impact of the security dilemma (neo-realism). To an extent, ES scholars accept this claim as they uphold the view that the anarchical environment remains '*undoubtedly war-conducive*'.[17] Yet even if one accepts this view, the reality of international relations is that 'foreign policy must always operate within what Edmund Burke termed "the empire of circumstances"'.[18] The statement is relevant because it is important to consider the difference between structure and circumstance. Circumstances change even if the structure does not and at times circumstances dictate that the anarchical environment is more war conducive than others. For example, in the lead up to the Thirty Years War it is claimed that 'Political disturbances exploded intermittently in an atmosphere thick with the apprehension of conflict.'[19] This would suggest that the political and religious circumstances of the time

created a highly volatile environment in which the potential for great war was ever-present. This was notably very different in 1999 which suggests that Kissinger, who notably accepts the importance of circumstance,[20] focused on the structure of international relations to the point that he ignored, or even distorted the fact that the circumstances had changed. Quite simply, the threat of great war did not loom large in 1999 as it did in 1618.

Of course, this is not to suggest that international relations may not become more volatile in the future. Realists are therefore correct to stress the prudence of risk assessment whenever the use of military force is being considered.[21] After all, the tragedy of the First World War illustrates how great wars can be sparked by relatively minor disputes. Therefore, if, and when, circumstances change, further consideration needs to be given to the potential for great war. Yet again, it feels that progress has been made on this issue as paragraph 139 of the R2P stipulates that the decision to take collective action 'in accordance with the Charter, including Chapter VII, on *a case-by-case basis*'. In other words, the fact that the UNSC has to come to an agreement over the use of force on a case-by-case basis should ease realists' fears that a great war may arise as the norm of humanitarian intervention becomes further entrenched.[22] While establishing a UNSC consensus remains highly problematic, an R2P intervention can only be enacted once UNSC authorisation has been granted which ultimately depends on the Great Powers of the permanent five making a calculated decision on a case-by-case basis.[23] Moreover, the fact that this decision is to be made in accordance with the UN Charter should also help ease realist fears of UN Charter violations. Although Kissinger appeals to the UN Charter to suggest that states have no right to interfere in one another's domestic jurisdiction, this overlooks the fact that states have recognised genocide, war crimes, crimes against humanity, and ethnic cleansing as a matter of international jurisdiction via *jus cogens* (see Chapters 4 and 5).

While realists question the capability of institutions such as the UN, it is clear that the R2P establishes a framework that reduces the potential for rogue intervention, reasserts the importance of both the UN Charter and sovereignty, and furthermore attempts to place the burden of military intervention on the collective shoulders of the 'international community'. Since no state can carry the burden of genocide prevention unilaterally, it is imperative that this burden is carried forth on the shoulders of international society as a whole. Andrew Hurrell explains this point well when he states: 'To a much greater extent than realists acknowledge, states need multilateral security institutions both to share

the material and political burdens of security management and to gain the authority and legitimacy that the possession of crude power can never on its own secure.'[24] Primarily, the statement explains that states need institutions such as the UN to help share the burden of security in an anarchical realm. For example, Morris and Wheeler juxtapose the unilateral stance taken by the US over Kosovo with that taken over Iraq to highlight that in the latter case, because the US forged such a limited coalition, the US had to carry much more of the political, economic, and military burden than it did over Kosovo.[25] Although one can equally argue that in the context of Somalia the US carried too much of the international burden,[26] the point is that in attempting to shed some of the burden, states should not revert to simply dismissing international norms and institutions. Secondarily, the statement by Hurrell brings us back to the central idea of international legitimacy, as Hurrell claims that power in itself is not enough. While states such as the US may have the power to intervene unilaterally, it does not have the authority to intervene unilaterally. Without forging a tolerable level of consensual support, the perceived abuse of such crude power will only go to add to a state's unilateral.[27] International legitimacy, it should be remembered, not only constrains power but also enables power at the international level. This is the power of legitimacy.[28]

A final point worth pausing to consider here is the age-old debate regarding the national interest, which although Kissinger did not mention explicitly, remains ever present. Upholding the classic realist approach, George F. Kennan argues that interventions are only defensible if they stop a violation of interests rather than sensibilities.[29] In essence, what Kennan justifies is geopolitical (rather than humanitarian) intervention as he rejects the idea that states should send their sons and daughters to die 'saving strangers' (to use Wheeler's phrase). Yet to return to the understanding set out in Chapters 4 and 5, realists need to consider that there is more to just preventing genocide than 'just' saving strangers. For instance, realists need to consider whether it is within the national interest of states to fight for the value of primary institutions such as international law and international morality as well as secondary institutions such as the UN and the UNSC?[30] Returning to the idea of international legitimacy, consideration needs to be given as to how such primary and secondary institutions help facilitate international legitimacy thus increase the likelihood of international order. The point is that when states allow crimes such as genocide to occur in international relations, the value of such institutions is grossly undermined. While scholars tend to focus on the need to 'save strangers',

it is important to consider that it is within the national interest of all states to try and save the value of the very ordering principles that help increase the likelihood of international order.

In sum, the decision to use force in international relations should never be taken lightly and the prudent approach embodied in realist decision making is to be welcomed on this point.[31] While the three points raised by Kissinger have been critically analysed to suggest that the R2P signifies that progress has been made since the NATO's intervention in Kosovo, this is not intended to imply that these debates have been resolved. Instead, it asks realists to reconsider these debates in light of R2P developments which on the one hand, will undoubtedly reconfirm certain realist assumptions, for instance, Russia's intervention in Georgia illustrates an abuse of power, yet on the other hand, it may highlight how progress has been made, for example, the R2P helped delegitimise Russia's intervention and it is now difficult to see how Russia can oppose R2P intervention on the grounds that the R2P does not legitimise certain types of intervention. This brings us back to the centrality of the UN which despite its limitations remains the primary facilitator of international legitimacy (Chapter 5).With this in mind; states cannot overlook the importance of confronting genocide. If international law and international institutions, such as the UN, are to have any perceived legitimate value, states have to formulate a long-term collective security strategy in order to address their legal and moral obligation to prevent genocide.

The rationalist voice

Unlike realists, ES pluralists have a more optimistic view regarding the potential for progress and cooperation at the international level. As a result, ES pluralists place more value in international institutions such as the UN and international law than is to be traditionally found in realism. However, as discussed in Chapter 3, ES pluralists unlike ES solidarists oppose the idea of humanitarian intervention in international relations as they claim international order is best served by the rules of sovereignty, non-intervention, and non-use of force. The pursuit of international justice, therefore, embodied in the principle of humanitarian intervention is seen to represent a clear violation of the ES pluralist rules. Accordingly, the Genocide Convention and the 2005 R2P remain a solidarist step too far. From this perspective, ES pluralists would tend to put forward the idea that any responsibilities and/or obligations towards humanitarian intervention should be rejected as international

society should be ordered on the fundamental rules of sovereignty and non-intervention.

The clearest endorsement of such a pluralistic doctrine can be found in Robert Jackson's publication *The Global Covenant, Human Conduct in a World of States*.[32] The work represents a groundbreaking piece of contemporary ES scholarship in that it utilises the interdisciplinary classical approach to address issues such as 'peace and security, war and intervention, human rights, failed states, territories and boundaries, and democracy' in a post-1945 world.[33] Obviously the scope of this work cannot be addressed in full here. Instead, this analysis will focus on Jackson's rejection of humanitarian intervention as a legitimate practice in international relations. Although this work was published in 2000 (prior to the endorsement of the R2P), its theoretical defence of absolute sovereignty, non-intervention, and non-use for force provides an apt framework for this analysis as it is grounded on a moral, political, and legal defence of ES pluralism. Notably this intellectually enriching text offers great insight into ES pluralism; however, when one places the crime of genocide within this pluralistic framework, the internal coherence of Jackson's book comes under intense scrutiny.

First of all, let us gauge the *moral* defence put forward as Jackson believes that the rules of sovereignty and non-intervention serve humanity. By this it is meant that sovereignty allows for 'unity in diversity', in that alternative ways of living can be constructed *within* states yet at the same time this still allows for a normative dialogue to exist *between* states.[34] The premise is neatly summed up in Jackson's commitment to *normative pluralism* as a moral basis for sovereignty:

> Normative pluralism is the morality of 'tending your own patch' and that means having a patch and being free to occupy it and cultivate it in your own way. A core human value of the global covenant is the opportunity it affords to people the world over to make of their local political independence whatever they can without having to be unduly concerned about unwarranted interference by neighbours or other outsiders. The global covenant provides a normative guarantee of political independence. However, it offers no guarantees, normative or otherwise, that international freedom will be used wisely or effectively.[35]

The statement embodies Jackson's unshakable moral commitment to normative pluralism as Jackson believes that it serves the imperfection, diversity, and commonality to be found in humanity. The highly

interesting point is that while ES solidarists advocate humanitarian intervention to prevent crimes against humanity, the understanding put forward by Jackson implies that humanitarian intervention, could in itself, constitute a crime against humanity as it violates the very rules that serve humanity best. While Jackson also shares the realist fear that humanitarian intervention may become a doctrine that is exploited by powerful states, here we see a more developed normative argument in that Jackson puts forward a normative link between sovereignty and humanity.

This commitment to normative pluralism, in the defence of humanity, also underpins Jackson's *political* defence of sovereignty and non-intervention. As Jackson boldly proclaims: 'Sovereignty is not a political arrangement only for fair weather and good times. It is an arrangement for all political seasons and for all kinds of weather.'[36] Such rationale aligns itself with the normative pluralism outlined above, for Jackson views the state as a 'framework of independence'.[37] Although this does not guarantee that state leaders will not abuse their political autonomy, this commitment to autonomy offers the only framework in which independence can prosper. Without such political independence states cannot flourish in an independent way. Fearful of outside intervention states will be constantly 'watching over their shoulder' which will ultimately hinder their ability to evolve as they would without external influence. As a result, this will hinder humanity's ability to evolve in a diverse and imperfect manner. When reading *The Global Covenant*, one cannot help but be reminded of the expression 'short-term pain for long-term gain' as sovereignty is advocated in the absolute sense, despite its flaws, for it remains the only viable option for ensuring that states *and* humanity flourish.

This brings us to the third and final dimension of *legality*. Jackson defends his position from a legal perspective by appealing to the understanding set out in Article 2 of the UN Charter. For example Jackson boldly claims: 'The most important procedural norm-*grandnorm* – of the global covenant is clearly expressed by Article 2 of the UN Charter. Article 2(4) lays down the most important principle of state sovereignty "All members shall refrain in their international relations from the threat or use of force against *territorial integrity* of *political independence*."'[38] This interpretation of the UN Charter is common among critics of humanitarian intervention. Article 2 is interpreted in an absolutist sense to infer that the UN Charter upholds the idea of absolute sovereignty. This paves the way for Article 2 (7) which as Jackson notes: 'proclaims the principle of non-intervention: "Nothing in the present

Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state"'.[39] Accordingly, the 'grandnorm' status that Jackson attributes to Article 2 of the UN Charter, seemingly overrides the legal status of alternative norms to be found in the UN Charter's commitment to inalienable rights and other such pro-interventionist legal treaties, conventions, and declarations. Although one can understand Jackson's appeal to Article 2 to defend against the ever expanding post-Cold War debate over humanitarian intervention, when it comes to genocide (for the reasons discussed in Chapter 5) the Genocide Convention sets out a clear legal framework that provides states with the right to intervene. While Jackson's book provides a thoughtful and enriching analysis of international relations, when one places the crime of genocide within this pluralistic framework, the legitimacy and internal coherence of Jackson's book becomes untenable.

Jackson defends political autonomy on the grounds that this serves the diversity of humanity. Quite simply, this could not be further from the truth when one considers the implications of genocide. Jackson claims that political independence allows states to 'tend their own patch' allowing for citizens to achieve the 'good life', yet this grossly misses the point that genocide occurs precisely because state leaders 'tend their own patch'. For example, Zygmunt Bauman refers to the genocidal process as an attempt to look after one's garden: you admire the flowers you wish to keep and eradicate the weeds that you do not wish to see in your garden.[40] Hence groups such as the Jews or Tutsi were deemed to be weeds within their own societies and their destruction was the outcome of state leaders 'tending their own patch'. It is within such circumstances that Jackson's book suffers from a striking lack of internal coherence as it is clear that genocide grossly undermines the diversity of humanity, yet this is the very thing that Jackson sets out to protect. As discussed in Chapter 2, the process of destruction that is to be found within the genocidal process acts to destroy 'the essential foundations of a group'. If one upholds a commitment to cultural diversity (as Jackson does), it is internally incoherent to suggest that bringing an end to such a destruction process (via humanitarian intervention) would somehow hinder the cultural diversity of humanity. Although Jackson hopes that non-military methods can be used to prevent human rights violations within states, in denying humanitarian intervention in all contexts, the author ultimately grants state leaders a licence to destroy groups and in doing so destroy the diversity of humanity which he himself sets out to uphold.[41]

It is also evident that the state-centric nature of Jackson's political autonomy serves the interests of state leaders *more* than it does the idea of humanity. For example, Jackson claims that 'the global covenant enables state leaders to relate to each other, to co-exist with each other, and to cooperate with each other without sacrificing the political independence and the values and life ways upheld by it'.[42] Despite the fact that such rhetoric explicitly endorses the co-existence of state leaders, Jackson qualifies this position in relation to humanity by basing his argument on the assumption that 'leaders represent humanity in its full heterogeneity'.[43] The problem with this rationale is that state leaders *do not* represent humanity: how can it be that 193 state leaders (the General Assembly) represent the seven billion plus of humanity in its full heterogeneity? The understanding, therefore, set out by Jackson seems to serve state elites rather than humanity. The state-centric assumption that is built into this claim only goes to undermine any notion of humanity which would undoubtedly be better served through a solidarist commitment to conditional sovereignty. As discussed, the legal, moral, and constitutional consensus forged over the idea of conditional sovereignty (embodied in the Genocide Convention and the R2P) represents an attempt by international society to constrain the idea of absolute power in international relations. This reflected international society's view that absolute sovereignty acted to serve the interests of leaders rather than citizens within such tyrannical contexts as genocide.

While Jackson implies that ES pluralism serves the interests of states, and the individuals within states, this perspective is built on an assumption regarding the relationship between the rulers and the ruled. It seems that Jackson has overlooked the role of power within his attempt to construct the notion of a global covenant on the grounds of international legitimacy. This defence of political autonomy is built on the notion that states will sort it out for themselves, yet as Jackson knows, the role of power within the state means that citizens do not have the power to sort it out if for themselves (when they find themselves the victim of state tyranny). When a state implements the genocidal process there is very little, or nothing, that the victims can do without outside help. They are victims not because of what they have done but because of who they are. This is critical. Quite simply it leaves the victim group with no power to compromise. This is important when one considers Jackson's opposition towards humanitarian intervention as he claims that countries do not want to be unduly concerned about outside intervention. While one can imagine this to be the case in times of 'good weather' (to use Jackson's phrase), it is more difficult to imagine

that people feel this way in times of 'bad weather'. When a regime is committing genocide, then the groups being targeted are not worried about intervention, *they are worried about non-intervention*. Despite the fact that Jackson is motivated by an obvious compassion for humanity, his book would undoubtedly find great favour with genocidal perpetrators. This raises a critical point in that such ardent pluralism may increase the frequency of genocide. If a state leader knows that he, or she, will not answer to outside interventions then what is to stop such tyranny from escalating?

The legitimate foundations of Jackson's anti-humanitarian stance, at least within the context of genocide, are indefensible. For example, Jackson draws quite extensively on Tony Blair's seminal speech regarding 'The Doctrine of The International Community', before rejecting the idea that democratic states have the moral right to invoke regime change on non-democratic states.[44] Jackson states that *if* this inference is correct, such a movement would see a transformation from a '*societas* of states into an international community (*universitas*) based on democracy and human rights'.[45] The problem is that this inference drawn from Blair's speech is not correct, as Blair's speech was *not* built on the single idea of pro-democratic regime change. Instead, Blair raised a whole host of ideas relating to sovereignty and human rights which need to be considered further:

> The most pressing foreign policy problem we face is to identify the circumstances in which we should get actively involved in other people's conflicts. Non-interference has long been considered an important principle of international order. And it is not one we would want to jettison too readily. One state should not feel it has the right to change the political system of another or foment subversion or seize pieces of territory to which it feels it should have some claim. But the principle of non-interference must be qualified in important respects. Acts of genocide can never be a purely internal matter.[46]

On reading the statement, and in the light of what occurred in Iraq, one can understandably infer that Blair advocated pro-democratic regime change. The legitimacy of such regime change is rightly brought into question as it is clear that no overall moral or legal consensus exists, within today's world, regarding pro-democratic regime change. However, the statement also raises the perfectly legitimate point regarding the fact that while sovereignty is extremely important, there are certain acts of state tyranny that cannot be considered as a domestic

issue. This is not simply a debate over pro-democratic regime change but a more profound question of where international society should draw the line between conditional and absolute sovereignty. Reaffirming the sentiment outlined in Chapter 5, Blair states that genocide can never be viewed as a purely internal matter. This latter aspect is gravely omitted in Jackson's analysis as he rejects the legitimacy of the pro-democracy norm yet fails to gauge the legitimacy of the anti-genocide norm.[47]

In sum, international legitimacy should be understood as a process rather than a property. The collective understandings that are constructed can be deconstructed. The ES pluralist commitment to absolute sovereignty, non-intervention, and non-use of force implies that on one hand states should not forge any understandings that challenge these rules and on the other hand, states should deconstruct any such understandings that have been forged in the past. At present, it is evident that the pluralist rules of absolute sovereignty, non-intervention, and non-use of force have been deemed to be outdated within the context of genocide. The conditional element embodied in the understanding of sovereignty espoused by the Genocide Convention and the 2005 R2P has ultimately been deemed as rightful conduct. State leaders have seen that such understanding is necessary for the health of international society as such mass atrocity crimes cannot be tolerated in a world that strives to become more civilised. It should be stressed here that the understanding of ES pluralism put forward by Jackson does not engage explicitly with the idea of genocide, which as discussed, places the context of such pluralism in a stark light. However, the silence on this subject matter does not deter from the fact that in upholding a commitment to such rules, Jackson's book comes under intense scrutiny within the context of genocide. Such silence is perhaps a common feature of such a pluralistic approach. As Richard Shapcott claims: 'Because of their assumptions of limited interaction, pluralists are at best silent and at worst indifferent to the extent of transnational ethical problems that face modern communities.'[48] This silence has not been helped as Jackson has produced work on sovereignty and humanitarian intervention since the endorsement of the R2P, yet failed to engage in an analysis of whether conditional sovereignty is legitimate.[49]

The revolutionist voice

The tradition of revolutionism remains the most under-theorised tradition in the ES approach. As discussed in Chapter 3, for Wight, revolutionism was a hybrid category which captured the 'soft' revolutionaries

from Kant to Nehru, as well as the 'hard' revolutionaries of Jacobins and Marxists.[50] Obviously such a 'broad church' of thought cannot be fully addressed here. Because of this, this final section re-engages with Andrew Linklater's focus on the relationship between the ES and cosmopolitanism.[51] A range of work will be drawn on here as Linklater has spent over 30 years addressing questions surrounding the problems of establishing an international community.[52] Notably, Linklater's focus on the *principle of harm* has relevance for the relationship between order, justice, and genocide and it provides insight into the potential for progress (within limits), in international relations.[53] The final section will focus on Linklater's central idea that the consensus to be found in international relations, regarding the principle of harm, provides not just a potential common ground for IR scholars, but also a basis for progress in international relations. This offers insight into how the R2P can be entrenched further as an international norm.

In an attempt to answer the question, 'what is harm?' Linklater uses the Oxford English Dictionary definition: 'evil (physical or otherwise) as done to or suffered by some person or thing: hurt, injury or mischief'.[54] Although this in itself seems quite straightforward, Linklater acknowledges that although the notion of harm is universal, the notion of what constitutes harm is not.[55] As one would expect, alternative schools of thought approach the subject matter of harm in a manner of different ways as harm could be measured on a physical, emotional, economic or even cultural level.[56] The ES focus therefore is on direct physical harm, or what Linklater refers to as 'concrete harm', by which means the intentional infliction of harm.[57] It is the issue of 'concrete harm' that is of relevance here. Placing the principle of harm within an ES framework, Linklater states:

> A pluralist society of states is concerned with reducing inter-state harm and incorporates *international harm conventions* within its institutional framework, whereas a solidarists society of states incorporates *cosmopolitan harm conventions*, designed to reduce harm done to individuals in separate political communities.[58]

The understanding put forward draws on the pluralist–solidarist divide. On the one hand, ES pluralists attempt to reduce the level of harm *between* states, yet on the other hand, ES solidarists attempt to reduce the level of harm both *between* and *within* states. As a result, Linklater claims that ES solidarists uphold *cosmopolitan harm principles*. From this perspective, both ES solidarists and cosmopolitans share a commitment

to reducing the level of harm between and within states which reflects that there is a substantial common ground between these two schools of thought.

This analysis leads Linklater to claim that attaching the revolutionist label to Kant is misleading. Instead, it is proposed that Kant should be placed within the rationalist tradition of Hugo Grotius (albeit at the revolutionist wing). The reason is that Kant attempted to build 'cosmopolitan attachments into international society', rather than offer any genuine revolutionary blueprint.[59] It is worth pausing here to gauge this 'less revolutionary' position a little further, as Linklater explains:

> Kant's vision of a world order which combines sovereignty with respect for human rights and cultural diversity is very different from the cosmopolitanism and cultural diversity which Wight described. Bull and Wight would have been closer to the mark if they regarded Kant as a dissenting voice within the Grotian tradition and one of the great exponents of a radicalized form of rationalism which envisaged the progressive application of the harm principle in international affairs- its extension, in short, from interaction between members of the same state to relations between all states, and in time, to relations involving all sections of humanity.[60]

The statement underpins Linklater's portrayal of Kant as a radical rationalist, rather than a revolutionary.[61] As is well documented, Kant did not explicitly favour the idea of humanitarian intervention which would in fact align Kant with ES pluralism if it were not for his commitment to cosmopolitan law which attempts the regulate the behaviour between and within states. Such complexity underlines the problem of categorising Kant within the ES framework, yet the focus here is not on the accuracy of the term 'revolutionary rationalism' but on Linklater's claim that one should not dismiss Kant's ideas as somewhat utopian (as often suggested by Wight and Bull). In highlighting the respect that Kant held for both sovereignty and human rights, Linklater seemingly upholds the broader view that cosmopolitanism should be understood as 'universality plus difference'.[62]

Notably, Linklater is not alone in this approach as Richard Shapcott also focuses on the principle of harm to suggest that a consensus can be struck between cosmopolitans and anti-cosmopolitans. Both scholars aim to ease the fears of 'communitarian realists' (such as Walzer), and 'international pluralists' (such as Bull), as they claim that neither a 'world state' nor a 'collective universal definition of the good'

is needed to establish a common ground over the principle of harm.[63] In acknowledging that harm can be regulated without the establishment of a world government or a universal conception of 'the good', both scholars aim to debunk the utopian myth that surrounds Kant and Kantianism. As Linklater explains, the ES's defence of rationalism, has, at least at times, been bound up with a 'crude and misleading interpretation of Kant and the larger Kantian tradition'.[64] This led Bull to portray Kant as a 'revolutionary revolutionist' who advocated a world government, yet this was not necessarily true.[65] This utopian portrayal of Kant can also be found in Wight, for as Garrett W. Brown explains, Wight portrayed Kantianism as 'inordinately demanding of a common morality and therefore so fantastically universalistic that it is rendered both untenable and extremely dangerous to a plurality of global beliefs'.[66] Such misrepresentation ultimately fuelled the belief that Kant should be *regarded* as a revolutionary, whose legacy should, therefore, be *disregarded* as utopian. This has undoubtedly contributed to the general image among critics of cosmopolitanism that Kantianism represents an 'out-of-date package of "Enlightenment" outlooks'.[67]

Of course, one should not get carried away here and it is clear that the focus on harm does not allow us to overlook the array of complexities, ambiguities, and confusion within the 'always highly problematic category of Kantianism'.[68] If Wight and Bull have misrepresented Kant, then perhaps they can be offered some form of forgiveness as it is evident that even cosmopolitans have problems grounding Kant. This point is explicitly raised in Brown's work on *Grounding Cosmopolitanism* as he illustrates that even Kantian's appeal to alternative constructions of Kant when advocating their vision of how international relations should be ordered.[69] As a result, the picture painted presents Kantianism as somewhat of a 'broad church', in which legal, political, cultural, and civic cosmopolitan conceptions of Kant sing from a different Kantian hymn sheet.[70] This illustrates that critics should not dismiss Kantianism as idealistic on the grounds that certain elements to be found within certain conceptions of Kant may be considered to be idealistic. For example, the work of Martin Wight is not dismissed as idealistic because of his commitment to the idea of a 'God-given' morality. This is despite the fact that, as Paul Guyer explains, 'In the practical sphere, few can any longer take seriously the idea that moral reasoning consists in the discovery of external norms.'[71] Essentially, Brown, Linklater, and Shapcott make the point that a more informed understanding of Kant provides a potential common ground for a three way conversation between IR scholars, and also an opportunity for progress to be made

in international relations. This is important when we begin to consider the relationship between morality and consensus in the construction of international legitimacy.

For example, Brown puts forward a 'tamed' version of Kantianism which advocates the establishment of a Kantian constitution committed to both morality and institutionalism. This two-fold commitment claims that international relations should be constructed on 'a weak form of moral cosmopolitanism' which in turn acts to underpin 'a strong form of cosmopolitan law'.[72] This constitution reflects Brown's view that there should be a universal moral order, but that we also have to be wary of an ever increasing normative agenda. Such understanding reflects the more mainstream view, that in a world full of competing moral claims, we have to tread carefully when attempting to construct a universal moral order. Any attempt to construct this universal moral foundation will be undoubtedly hindered, by what I refer to here as *moral over-reach*. To go back to our understanding of international legitimacy, legitimacy is not a product of morality alone and it is therefore imperative, if international society is to construct global standards of legitimacy that embody a universal moral commitment, that our moral expectations are anchored on what is achievable in moral, legal, and constitutional terns. What is interesting about Brown's approach is that he grounds more than just Kant, Kantianism, and cosmopolitanism, as he seeks to ground international relations itself on a 'weak form of moral cosmopolitanism'. This is of direct relevance to this analysis as this understanding of a 'weak form of moral cosmopolitanism' aligns itself with the aforementioned idea of a *universal moral minimalism*. The establishment and practice of a universal moral minimalism is imperative if international relations are to progress on such commitments as the R2P. While sceptics challenge the idea of progress within the anarchical realm, one has to question any attempt to uphold an international system that does not embody a commitment to universal moral minimalism.

This neatly brings us back to the crux of the matter regarding the principle of harm and the potential for progress in a post-R2P world. Essentially, both Linklater and Shapcott reduce the debate over a universal moral minimalism and a weak form of moral cosmopolitanism down to a specific focus on harm.[73] Acknowledging the ever problematic point (that forging a universal consensus on a universal moral order will be difficult); they claim that the consensus that already exists over the issue of harm provides an opportunity for progress in international relations. This ties in nicely with the sentiment so aptly

expressed by R. J. Vincent who claims we should 'seek to put a floor under the societies of the world and not a ceiling over them'.[74] Such understanding highlights that states should not get bogged down in idealistic debates over whether international society can, or should, establish a world government but instead focus on establishing universal moral foundations. It is with this in mind that Linklater and Shapcott's focus on harm demonstrates that progress, at least on this specific issue, does not require a utopian shift in policymaking for as Linklater explains a 'global harm narrative' *has* emerged in international relations.[75] The reality is that states *have* managed to forge a common understanding on a 'range of matters which belong to a lower moral register than visions of some supposedly universal conception of the good'.[76] In other words, although there remains a debate regarding what constitutes a 'universal good'; states have forged an understanding over what constitutes a 'universal bad'. It is here that the crime of genocide is of relevance.

The idea that 'we should seek to create a floor beneath the society of states' aptly underlines the premise of this book. While Vincent focused on the issue of starvation, this book has focused on the issue of genocide in relation to establishing global standards of legitimacy that incorporate a universal legal, moral, and constitutional foundation. Genocide provides international society with both a fundamental problem *and* opportunity: to establish a universal legitimate order that embodies both a commitment to sovereignty (in the conditional sense), and human rights (in the universal sense), through utilising its existing aversion towards genocide. Quite simply, this book has taken the consensus regarding the principle of harm one step further as it utilises the fact that genocide acts as the quintessential example of harm in international relations. Despite the fact that all societies have their views on what constitutes harm, there is a universal consensus regarding the crime of genocide. As Shapcott explains:

> It follows that the more serious or fundamental the nature of the harm, the more likely it is to be identified as such by people in diverse situations. Starvation is a clearly harmful condition that is close to being both objectively identifiable (the point at which life can no longer continue) and commanding of a near universal consensus as to its harmful status. Likewise, having one's identity, or community of belonging, removed or destroyed (harmed), is also something that might well command such a consensus. Genocide is perhaps one value that states have agreed in principle) overrides nationals sovereignty,

> thus recognising a universal crime (or harm) against communities as well as individuals.[77]

The statement reiterates much of the sentiment expressed throughout this book. Shapcott acknowledges that there are issues such as starvation that conceivably violate a cosmopolitan harm principle (or what has been referred to here as a universal moral minimalism). Both Shapcott and Linklater recognise genocide as a paradigm example of harm and claim that the Genocide Convention signifies a cosmopolitan harm convention.[78] From this perspective, the legal developments towards genocide begin to highlight how difficult it would be for international society to regress upon its commitment to prevent genocide.

As Linklater and Shapcott highlight, the Genocide Convention embodies a cosmopolitan harm principle, which has then been entrenched further via legal and normative developments such as the establishment and practice of the ICC and the R2P (this goes back to the understanding set out in Chapter 4). With this in mind, it is inherently difficult to see how international society can regress upon its cosmopolitan commitment to prevent genocide which is embodied in the Genocide Convention, the Rome Statute, and the R2P. To illustrate this let us consider the Kantian idea of a 'categorical imperative'. According to Kant, the categorical imperative stipulates that individuals should act 'only according to the maxim whereby you can at the same time will that it should become a universal law'.[79] Although such cosmopolitan ideals can seem somewhat 'lofty', the point made by Linklater is that such cosmopolitan thinking is evident in the establishment of cosmopolitan harm conventions such as the Genocide Convention. While the actors involved may not talk in cosmopolitan terms, they have willed such universal laws into existence. Therefore, it is difficult to see how international society could regress to the point that international society could collectively will the idea of harm (especially within the context of genocide) to become a universal law. This takes us back to the understanding of international legitimacy set out in Chapter 4, for as discussed, it is theoretically possible that states could construct an understanding of genocide as rightful conduct, yet when one considers that this would mean that states would have to forge a consensus that genocide is legally, morally, and constitutionally acceptable, it is practically impossible to imagine that such an outcome could be constructed.

It is here that the critical point emerges: *if international society cannot regress upon its commitment to prevent genocide, it has to do its best to try*

and fulfil it. In other words, it is simply not enough to have treaties and conventions floating around in the air in some abstract sense. If societal relations are to be guided by any sense of international law and morality (and I would argue that it is within the interests of all states to do so), then states have to do their best to uphold the commitments they forge. Hence, international society should think carefully about what it commits itself to as any attempt at legal and moral over-reach will ultimately hinder its ability to entrench a universal legitimate order. However, for the reasons discussed throughout this book, the Genocide Convention should not be seen as just another legal convention as it embodies a universal legal and moral minimalism that needs to be fulfilled if ideas such as international law and morality, as well as the institution of the UN, are to hold on to their perceived value in international relations.

To bring this engagement with revolutionism to a close, it seems clear that the idea of cosmopolitan harm principles embodied within existing cosmopolitan harm conventions restates the idea of a *universal moral minimalism*. A moral basis, if you will, for international society. As discussed in Chapter 4, genocide is internationally regarded as the 'crime of crimes' from both a moral and legal perspective. This has seen the idea of a universal moral minimalism entrenched within an attempt to construct a universal legal minimalism (*jus cogens*) from which states should not deviate. However, as discussed, genocide remains much lower down the priority list within the political context. While there remains an international expectation that genocide should be prevented, policymakers do not see its prevention to be within the national interest of states.

Quite simply, it gets to a point in international relations when policymakers are faced with a question: Kant or Won't?[80] As discussed, Linklater's questions whether international society's aversion towards human suffering provides an apt foundation for moral progress in international relations. In so doing, he reduces the debate over a universal moral order down to this one principle of harm, to highlight the fact that an international consensus *can* be forged. This is important from a legitimacy perspective for the reasons discussed in Chapter 4. Essentially, this book takes such an approach one step further as it reduces the debate over international order down to its barebones regarding what states can agree on, in the universal sense, from a legal, moral, and constitutional perspective. In essence, this approach strips away the discourse over sovereignty and human rights to the point that a central core is revealed: states have an obligation *not* to commit genocide, and international society has an

obligation to prevent genocide from occurring. Because of the relationship between genocide and international legitimacy, genocide prevention is about more than 'just' saving strangers. As discussed, genocide erodes the legitimate authority of the UN and the UNSC more than any other crime. Moreover, its relationship with international legitimacy highlights that in failing to prevent genocide, states erode the value of international law and international morality. When such ordering principles are devalued, the likelihood of international instability is increased.

Conclusion

The UN is an institution that embodies and oversees internationally agreed standards of legitimacy. These act to guide and shape international relations. As a result, the UN acts to constrain the power of states but also helps constrain the much broader misuse of power between and within states. When states act in an ad hoc manner, they undermine the value of the very rules that they themselves depend on in order to try and keep the behaviour of other states in check. It is within the national interest, therefore, of all states, to adhere to global standards of legitimacy, which they themselves help forge. Even if this means such understandings constrain their individual right to 'maintain freedom of action' (to use Martin Wight's phrase), these understandings ultimately set out what constitutes *rightful conduct* which in turn helps constrain *wrongful conduct*. The overarching point then is quite simple: if international society forges global standards of legitimacy, then states have to do their best to uphold them, for if they do not, or offer ad hoc support, what message does this send to other states?

This leads us naturally back to the insight offered by the cosmopolitan thinkers above as it is clear that international society should not commit 'moral over-reach' when attempting to construct global standards of legitimacy. While it may seem peculiar to suggest that there is scope for a common ground between realists and cosmopolitans, this is exactly what Linklater and Shapcott propose as they focus on the issue of harm. Since progress within the anarchical realm remains a fickle and fragile process, it is imperative that states do not try and run before they have learnt to walk. The idea of a universal legitimate minimalism (in the constitutional, moral, and political sense) seems to provide an apt basis on which societal relations can develop. Despite the fact that forging agreements between states is difficult, we have to start somewhere and placing a legal, moral, and constitutional floor beneath states (to use R. J. Vincent's idea) seems to provide an apt 'starting point'.

Linklater and Shapcott's focus on the issue of harm aligns itself with this approach and I would support the idea that international society's aversion towards human suffering provides a universal benchmark from which international relations can build on. Essentially, this book takes this approach one step further as it specifically focuses on the crime of genocide to claim that genocide provides international society with a problem and a opportunity: to combine an understanding of state sovereignty and universal human rights within a coherent and obtainable legitimate order.

The cosmopolitan perspective also aligns itself with the ES solidarist position in that although both schools of thought remain wary of *moral over-reach*, they also reject the idea of *moral under-reach*. It is precisely this latter point that highlights the moral deficiency of ES pluralism and the idea of normative pluralism put forward by Jackson above. Notably, none of the cosmopolitan perspectives raised above advocates the idea of a world government or supranational institution acting as some sort of 'moral busybody'. Instead, they present a sobered and realistic view of international relations in that states should not be granted a carte blanche licence to do what they want in the knowledge that they will not face external intervention. Although there may be cultural differences that shape our understanding of morality, to go back to Chapter 4, there are universal understandings of human wrongs, from which we can infer universal understandings of human rights. Reaching an acknowledgement of a universal moral minimalism is the absolute minimal position that actors should advocate, for anything less signifies 'moral under-reach'. If international society cannot establish a universal moral minimalism, then it is difficult to see how international society can have order in the anarchical realm.

In order to maintain and increase levels of international order, it is imperative that states seek cooperation on matters which occupy this universal minimalist space. As discussed throughout this book, if there is a space, and I would argue international society has constructed the understanding that there *is* a space; genocide occupies this space. If international society cannot retreat upon this commitment, it has to do its best to fulfil it. It is clear that the legal obligation to prevent genocide cannot be seen as just some abstract obligation that states do not have to fulfil, for when they do not, they undermine the value of international law, international morality, and the international institution of the UN, all of which help stabilise international relations.

8
Conclusion: Answering the 'East Tennessee Question'

The idea of the 'East Tennessee Question' is taken from Ken Booth's analysis on human rights and the proposed need for inventing humanity.[1] Booth recalls that William F. Shulz (one-time director of Amnesty International) made a speech in Knoxville on human rights and human rights violations occurring around the world. The speech aroused the following question: 'But what does this all have to do with the person in East Tennessee?'[2] The question underpins the premise of the 'East Tennessee Question' proposed by Booth. Despite the fact that the question was raised in East Tennessee it could have easily been raised in any other part of the world: why should we *here*, care about those over *there*? As Booth explains: 'One powerful response is to try and engage people's sympathies by trying to make immediate the pain and oppression some suffer.'[3] This is perhaps the most common response. However, as Booth notes, Shulz himself 'was not convinced by the effectiveness of such an approach'.[4] Essentially, Shulz questioned the impact of this approach and instead attempted to answer the 'East Tennessee Question' from a more *pragmatic* perspective. By which Schulz meant that legal and ethical issues had to be framed in the 'language of realpolitik' if they were to hold people's attention.[5]

The 'East Tennessee Question', therefore, provides an apt context for understanding this book as it takes us back to the logic embodied in the question set out at the start of Chapter 1: genocide refers to the destruction of a group, however, if I am not a member of that group, why should I care about their destruction? Accordingly, the question sits well alongside the 'East Tennessee Question' as it questions why I, or we, should care about victims of genocide. Furthermore, the two approaches identified above help illustrate the two alternative approaches that can be adopted when responding to such questioning: (i) respond by trying

to engage people's sympathies or (ii) respond by framing one's response within a more pragmatic *realpolitik* framework. As a result, I conclude this book by reflecting on these two approaches as it helps summarise what this book has and what it has not done.

Engage people's sympathies

Although this approach was *not* utilised in this book, it remains the most common approach and is used here to show what this book did do by highlighting what it did not. Quite simply, the majority of genocide scholars and human rights scholars in general, try and stir people's consciousness to provoke the idea that people should care about human suffering in other parts of the world. When assessing the question of genocide prevention, this approach is completely understandable for one would expect that most people would be stirred by the personal accounts of genocide victims. The truth is that there have been many times throughout this research when I have simply had to 'close the book'. By this I mean that one has to stop reading (at least temporarily), because of how one is so disturbed by real-life events that have occurred within the context of genocide. For instance, a UN Report into practice of mass rape in the Rwanda genocide found: 'A 45-year old Rwandan woman was raped by her 12-year-old son-with Interahamwe holding a hatchet to his throat-in front of her husband, while their five other young children were forced to hold open her thighs'.[6] I suppose every genocide scholar must be able to recall a story that has silenced them; this is (one of) mine.

From this perspective one can understand why scholars answer the 'East Tennessee Question' by appealing to the first approach raised by Booth above. Advocates of this approach attempt to engage people's sympathies by simply recalling real life events. It is hoped that the *nature of the crime* (as discussed in Chapter 2) is so morally abhorrent that this will stir the conscience of humankind thereby creating a response. This is put into context within Fergal Keane's analysis of the Rwandan genocide:

> A year before the Rwandan genocide occurred I was sitting in the BBC radio studio in Johannesburg taking part in the annual correspondents' review of the year. The subject of central Africa came up and I spoke about the increasing danger of a catastrophe in the region. … A London-based correspondent wondered aloud *why we should care about disputes in obscure countries*. I was taken aback by the

> question, believing that it reflected a narrow view of the world and issues and emotions that shape our collective history. I answered by saying – and I hold passionately to this view today – that *we should care because we belong to the same brotherhood of man as the citizens of seemingly remote African countries. It is not a political reason and some may call it naive*. That is their prerogative. For me, however, the conclusion is unavoidable: *genocide killing in Africa diminishes us all*.[7]

The statement is of direct relevance as the London-based correspondent raised the exact same sentiment to be found within 'The East Tennessee Question' when he questioned: why should we care about disputes in obscure countries? In his response, Keane upholds the first approach identified above as he appeals to the idea of a 'brotherhood of man', claiming that genocide does not only diminish the group being targeted, genocide 'diminishes us all'. The problem with this approach is not that it is wrong, or naive, as such, but that Keane presents the idea of a 'brotherhood of man' as a self-evident truth and does nothing to substantiate this claim.

This exact point is raised in William Bain's analysis of normative theory within the ES. Of specific relevance here is Bain's analysis of Nicholas J. Wheeler's seminal text, *Saving Strangers: Humanitarian Intervention in International Society*, as Bain states: 'It seems as though Wheeler merely invokes humanity as a self-evident moral truth – the authority of which requires no further explanation – which in the end cannot tell us the reasons why we should act to save strangers.'[8] The statement is significant in that it explains that in failing to justify the existence of humanity, scholars fail to explain *why* we should act to save strangers. It is important that anyone upholding this first approach considers this implication carefully. While Keane claims that genocide 'diminishes us all', one is left questioning: how exactly does it diminish us all? Again, the point here is not to dismiss this approach, for as stated in Chapter 3, this book does not reject the idea of a common humanity, yet at the same time, it is not built on the assumption that it exists. The point is that despite all the appeals made to ideas such as a common humanity, or even an international community, simply invoking such abstract ideas does not prove their existence. As Bain rightly points, if one fails to substantiate such an approach, one fails to explain *why* we should save strangers. It would seem therefore that the political will of the politically *un*willing remains unaltered because such approaches fail to explain why policymakers should prioritise genocide prevention? As Keane stated, his approach is *not* a political one, however, by focusing

on the relationship between genocide, justice, and order, this book has set out to do just that.

The political approach

The idea of *realpolitik* is a contentious one so it is important to establish some parameters in that Shulz simply raises the point that policymakers do not formulate policy on behalf of humanity but on behalf of the state. As a result, if legal and ethical issues are to hold resonance among policymakers then the case needs to be made that such issues are within the national interest of states. At this point, realists may claim that those that uphold this second approach, within the context of genocide prevention, are trying to create a link between genocide prevention and the national interest. To which the response seems obvious: yes, that is exactly what the second approach involves but this is not a bad thing. Throughout history, individuals have made the case that it is within the national interest of states to pursue things such as power, security, and survival – those that uphold the second approach are simply making the case that it is within the national interest of states to pursue other things as well, such as, the moral value of order within the anarchical realm.

Significantly, this second approach goes back to the central problem laid out in Chapter 1 regarding the relationship between genocide prevention and the national interest. Throughout this book an attempt has been made to respond to the logic embodied within the 'East Tennessee Question', from a more pragmatic political perspective. At the same time it is important to note that the two approaches are not necessarily mutually exclusive, for example, it was international society's aversion towards the suffering that occurred within the context of the Nazi genocide that acted as the catalyst for establishing the Genocide Convention. It was a direct engagement, therefore, with the sympathies of those targeted that saw the anti-genocide norm established. Yet of course, such developments do not go to prove that human beings are inextricably linked or that genocide diminishes us all, which suggests that we should not build our response on such assumptions. As a result, this book has distanced itself from more mainstream attempts to appeal to ideas such as a common humanity. Instead, this book has utilised a novel approach to tackle the more pragmatic political question: is there more to genocide prevention than 'just' saving strangers? Although it should again be stressed that there is nothing wrong with making the case that saving strangers is, in itself, enough, the premise of this book

is that a case can be made that in preventing genocide, international society saves *more* than 'just' strangers.

Now let us be clear on this: groups have been destroyed throughout history yet genocide prevention has never been deemed to be in the national interest of states, so why can this claim be made now? In response to this question I propose that although the *act of genocide may be ancient, international society is new*.[9] By this it is meant that international society is not a static reality, it develops in many different ways over time.[10] Therefore, our contemporary understanding of international society is indebted to the legitimacy framework that was constructed in the post-Second World War era. At the time, an attempt was made to steer international relations away from the scourge of Great War and towards an alternative international society. The collective understandings that underpinned the norms of morality, legality, and constitutionality were altered to the point that a new legitimacy framework was constructed, which as discussed, acts to increase the likelihood of international stability in international relations. At the heart of this legitimacy framework stands the institution of the United Nations. With the shadow of the Second World War, a failed League of Nations experiment, and the Holocaust looming large, a state-led collective understanding of *order* and *justice* was institutionalised into the fabric of the UN. Despite the fact that these collective understandings have changed over time, the durability of the order embodied within this organisation is quite remarkable. As discussed in Chapters 5 and 6, states are aware that there exists 'two UN tables': the UNGA and the P5, yet they accept that it is better to sit around an unequal table than to have no table at all. States are more willing to accept a decision, or indeed the failure to make a decision, because they feel as though they are part of the legitimacy process. This reality helps illustrate the ES's belief that states perceive that it is within their national interest to uphold the moral value of order in international relations.

Of course this does not mean that a more legitimate supranational organisation cannot be developed. Although at present, the complexities of international legitimacy dictate that such a task has not been achieved. As discussed in Chapters 2, 4, and 5, international legitimacy should be thought of as a process rather than a property. Since international legitimacy is not a property, no institution can claim to own it, produce it, or safeguard it. However, to utilise Hedley Bull's logic on institutions raised in Chapters 3 and 5, it is clear that the UN contributes more than any other secondary institution to the workings of international legitimacy in international relations. At the same time, if the

UN is to maintain its position as the primary facilitator of international legitimacy and the UNSC is to maintain its position as the stabilising force in international relations, then it is difficult to see how they can survive if they are perceived to be *ill*egitimate.

It is here that the crime of genocide is of relevance and it is here that one can begin to see why there is more to preventing genocide than 'just' saving strangers. Quite simply, there are many laws within this world, yet the law to prevent genocide is not the same as any other law because as Chapter 4 demonstrated: genocide is internationally regarded as the 'crime of crimes' from both a legal and moral perspective. As discussed, complexities arise as genocide is not viewed in the same light from a political perspective. It would seem that crimes such as drug trafficking have been prioritised over that of genocide prevention as genocide is not perceived to pose an international threat to states. The understanding, therefore, set out in Chapters 4 and 5 challenges such mainstream thinking. Utilising the concept of international legitimacy, it was claimed that genocide should be understood as an international threat because it erodes the legitimate authority of the UN (which acts as the primary facilitator of international legitimacy) and the UNSC (which acts as the stabilising function in international relations) more than any other crime, thereby aiding the likelihood of international *in*stability. While the bi-polar 'balance of terror' paralysed the UN within the context of the Cold War and the threat of omnicide saw the threat of genocide marginalised, it is evident that in the aftermath of the Rwandan genocide, international society became re-sensitised to the horror of genocide which paved the way for the 2005 Responsibility to Protect.

To understand genocide as an international threat, is important to consider that in acknowledging that the UN only contributes to international legitimacy, the UN acts as somewhat of a red herring. It is the special relationship between genocide and international legitimacy that is of relevance. For example, let us contemplate the idea that international society decided to abandon the UN. Although this may seem highly unlikely, it is nevertheless feasible. However, what is less feasible is the thought that international society could then go on to forge an alternative understanding of order and justice in a post-UN world without having a commitment to genocide prevention embodied within it. As discussed in Chapters 4 and 7, while this is theoretically possible, in practice, such an outcome would mean international society constructing a legal, moral, and constitutional world so alien to the present that it is practically impossible to comprehend. In other words, it is extremely difficult to conceive that in a post-Holocaust era, international society

could construct a collective understanding of order and justice that does not embody a commitment to genocide prevention. In this sense, genocide prevention is about more than 'just' saving strangers; it is about saving the perceived value of international law, morality, and politics. This is something that policymakers need to consider carefully.

A final point worth considering here is that in appealing to policymakers, those that uphold the second approach identified above, help legitimise the current state of international society, which, itself, may be morally bankrupt. As touched on in Chapter 6, R2P advocates may celebrate the fact that international society endorsed the R2P principle in 2005. However, it is important to pause and consider: what exactly, is being celebrated? In 2005 state leaders agreed that they have a responsibility not to commit genocide, war crimes, crimes against humanity, and ethnic cleansing. While this seems progressive, it is important to question: what sort of world do we live in when we have to get state leaders to agree to the fact that they have a responsibility not to commit these four crimes? To go back to the work of Ken Booth and his self-titled 'emancipatory realist' position, Booth has basically come to the conclusion that the state system cannot sustain international relations in the twenty-first century. From this perspective human beings need to start thinking in terms of a world society, ordered on securing and protecting the needs of human society, both at the local and global level.[11] This is in sharp contrast to the more state-centric ES approach which accepts that although states may be a part of the problem they remain an unavoidable part of the solution.[12] As an ES scholar, I stand in the latter camp; however, it is extremely important to question how international relations will develop if political decision-making becomes increasingly detached from the pressing legal and moral issue of genocide prevention. If international society is to be constructed on an appeal to the value of international law and morality (I would argue that it is within every states' national interest to do so), then states have to engage with, rather than overlook, their obligation to prevent genocide. If they cannot, then I would have to question whether the society of states can be part of the solution. To go back to Martin Wight's three traditions, if one accepts that genocide cannot be prevented within the present society of states framework then it seems that one is left with the choice of adopting (i) a more Booth-like revolutionary approach, or (ii) the realist view that genocide is just another insoluble problem. However, as discussed in Chapters 4 and 7, it is hard to see how this latter position could become a legitimate position to adopt.

It is evident that further research needs to be done as the obvious question arises, if the prevention of genocide is in the interest of international society, then how do states go about preventing genocide? At present, the discipline of Genocide Studies has produced a host of selective chapters and a small number of books dedicated to genocide prevention strategies. That said, one cannot help but feel that these approaches are built on the assumption that an 'international community' exists. It is here that the discipline of IR offers potential insight by highlighting the reality of the *security dilemma*. In an anarchical realm plagued by fear and mistrust how can international society strengthen its cooperative links to the point that a functioning collective security system is established?[13] It is here that the idea of genocide prevention within the context of the *security dilemma* needs to be explored. To go back to the relationship between genocide and a universal moral minimalism, surely the case can be made that if greater bonds of trust in international society are to be established then it is imperative that international society establishes universal moral foundations. The consensus therefore felt towards genocide may act as the key that enables a functioning collective security system to be developed, thereby, aiding genocide prevention. In other words, the universal consensus regarding the anti-genocide norm may provide the key for unlocking the door of political will.

To bring this book to an end, I would like to raise Hedley's Bull's analysis of apartheid in South Africa.[14] Writing in 1982, Bull claimed that a 'world consensus' existed on this particular issue.[15] In other words, the consensus that existed against this particular human rights violation outstripped the consensus to be found over any other human right violation at the time. Crucially, Bull's point was not that other human rights violations should be ignored, but that the 'world consensus' that existed regarding this issue, provided international society with an opportunity to unite against this specific human right violation. It is with such rationale in mind, that this author proposes that the 'world consensus' that now exists over genocide prohibition provides international society with both a problem and an opportunity to do something: *prevent genocide*. In doing so international society will not 'just' save those being targeted, but also help fix the justice deficiency within the present legitimacy framework that helps order international relations. By which I mean, genocide prevention helps save the perceived value of international law, morality, and politics. This is critical and it is within the national interest of each and every state.

Notes

1 Introduction

1. A. Herzen, *My Past and Thoughts* translated by C. Garnett (London: University of California Press, 1982), 523.
2. A. Alvarez, *Governments, Citizens, and Genocide, a Comparative and Interdisciplinary Approach* (Indiana: Indiana University Press, 2001), 137.
3. Ibid. Alvarez accredits this to M. Jardine, *East Timor: Genocide in Paradise* (Tuscon: Odonian Press, 1995), 8.
4. Alvarez, *Governments, Citizens, and Genocide*, 137. Alvarez accredits this to *Frontline*, 'The Triumph of Evil', transcript posted on the web at http://www.pbs.org/wgbh/pages/frontline/shows/evil/etc/script.html, accessed by Alvarez on 8 April 2000.
5. Alvarez, *Governments, Citizens, and Genocide*, 141. Alvarez accredits this to Dusko Doder and Louise Branson, *Milosevic: Portrait of a Tyrant* (New York: Free Press, 1999), 105.
6. N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), 301.
7. The idea that genocide constitutes the 'crime of crimes' is taken from the ruling set out by the International Criminal Tribunal for Rwanda in 1998. This will be discussed in Chapter 4.
8. For an overview see B. Jones, P. Carlos and S. J. Stedman, *Power and Responsibility, Building International Order in an Era of Transnational Threat* (Washington: Brookings Institution, 2009).
9. Four reports which stand out are D. Raymond (ed.), *Mass Atrocity: Prevention and Response* (Report on the PKSOI-Harvard Kennedy School MARO Workshop, 8–9 December 2010, 2011). Report of the Secretary-General B. Ki-moon, 'Implementing the Responsibility to Protect' (A/63/677, 12 January 2009). Genocide Prevention Task Force, *Preventing Genocide: A Blueprint for U.S. Policymakers* (United States Holocaust Memorial Museum, 2008). The UN Secretary-General, K. Annan, 'Action Plan to Prevent Genocide' (07 April 2004).
10. Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), 1. G. Prunier, *From Genocide to Continental War, The 'Congolese' Conflict and the Crisis in Contemporary Africa* (London: Hurst & Company, 2009). R. Cohen and F. M. Deng, 'Mass Displacement Caused by Conflicts and One Sided Violence: National and International Responses', *SIPRI Yearbook, 2009: Armaments, Disarmaments and International Security* http://www.brookings.edu/~/media/Files/rc/articles/2009/0608_internal_displacement_cohen/0608_internal_displacement_cohen.pdf. Accessed 25 May 2010.
11. A. Hurrell, *On Global Order, Power, Values, and the Constitution of International Society* (Oxford: Oxford University Press, 2007), Chapter 7.

12. Ibid., 190.
13. K. J. Campbell, *Genocide and the Global Village* (New York: Palgrave Macmillan, 2001), 107.
14. L. Kuper, *Genocide and its Political Use in the Twentieth Century* (New Haven: Yale University Press, 1982), Chapter 9. Also, E. D. Weitz, *A Century of Genocide, Utopias of Race and Nation* (Princeton: Princeton University Press, 2003). B. A. Valentino, *Final Solutions, Mass Killing and Genocide in the 20th Century* (New York: Cornell University Press, 2004).
15. This is taken from the subsequent review piece by M. Shaw, 'Strategy and Slaughter', *Review of International Studies* (29, 2, 2003, 269–77), 269.
16. T. Dunne and D. Kroslak, 'Genocide: Knowing What It Is That We Want to Remember, or Forget, or Forgive' in K. Booth (ed.), *The Kosovo Tragedy, Human Rights Dimensions* (London: Frank Cass, 2001), 43.
17. K. E. Smith, *Genocide and the Europeans* (New York: Cambridge University Press, 2010), 1, emphasis added.
18. On the relationship between genocide and war, M. Shaw, *War and Genocide* (Cambridge: Polity Press, 2003); genocide and the state, I. L. Horowitz, *Taking Lives, Genocide and State Power* (London: Transaction, 2002). Also, A. Weiss-Wendt, 'The State and Genocide', in D. Bloxham and A. D. Moses (eds), *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010), Chapter 4.
19. R. J. Rummel, *Death By Government* (New Jersey: Transaction, 2008).
20. For example, Adam Jones presents an overview on 'Political Science and International Relations' contributions to Genocide Studies. Primarily however, the analysis is grounded on the empirical investigations that have been carried out by political scientists such as Rummel, Harff, and Gurr, which, although important, do not compensate for the lack of IR analysis on genocide. A. Jones, *Genocide, A Comprehensive Introduction* (New York: Routledge, 2006), 307–21. This is perhaps reflected in a more accurately entitled overview, S. Straus, 'Political Science and Genocide', in Bloxham and Moses (eds), *The Oxford Handbook of Genocide Studies*, Chapter 8.
21. R. Falk, *Achieving Human Rights* (London: Routledge, 2009), Chapter 6.
22. M. Kaldor, *New and Old Wars, Organised Violence in a Global Era* (Oxford: Polity, 2000). For a critical analysis, S. Kalyvas, '"New" and "Old" Civil Wars: A Valid Distinction?'" *World Politics* (54, 1, 2001, 99–118). C. Kennedy-Pipe, 'From Cold Wars to New Wars', in C. Jones and C. Kennedy-Pipe, *International Security in a Global Age: Securing The Twenty-First Century* (London: Frank Cass, 2000), 9–27.
23. Campbell, *Genocide and the Global Village*, 107.
24. Ibid.
25. S. Smith, 'Singing Our World Into Existence: International Relations Theory and September 11th', *International Studies Quarterly* (48, 3, 2004, 499–515), 506.
26. Ibid., 504.
27. The term 'the English School' was first coined by a critic, Roy Jones, 'The English School of International Relations: A Case for Closure', *Review of International Studies* (7, 1, 1981, 1–13). However, despite criticisms the English School has risen to prominence over the last decade, B. Buzan, 'The

English school: An Underexploited Resource in IR', *Review of International Studies* (27, 3, 2001, 471–88).

28. A. Linklater and H. Suganami, *The English School of International Relations, A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006), 42.
29. International society is regarded as the 'flagship idea' of the English School, B. Buzan, *From International Society to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2006), 1. For an analysis on international society as an 'ideal type', E. Keene, 'The Development of the Concept of International Society: An Essay on Political Argument in International Theory', in M. Ebata and B. Neufeld, *Confronting the Political in International Relations* (New York: St. Martin's Press, 2000), Chapter 2.
30. H. Bull, *The Anarchical Society, A Study of World Order Politics, third edition* (London: Palgrave Macmillan, 2002).
31. B. Buzan 'The English school and International Security' in M. D. Cavelty and V. Mauer (eds), *The Routledge Handbook of Security Studies* (New York: Routledge, 2010), 34.
32. Ibid.
33. B. Buzan and L. Hansen, *The Evolution of International Security Studies* (Cambridge: Cambridge University Press, 2009).
34. T. Dunne, 'Mythology or Methodlogy? Traditions in International Theory', *Review of International Studies* (19, 3, 1993, 305–18), 318.

2 Words Matter: Genocide and the Definitional Debate

1. T. Dunne, and D. Kroslak, 'Genocide: Knowing what it is that we want to Remember, or Forget, or Forgive' in K. Booth (ed.), *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001), 41.
2. For example B. V. Schaack, 'The Crime of Political Genocide: Repairing the Genocide Convention's Blind Spot', *The Yale Law Journal* (106, 7, 1997, 2259–91).
3. R. Lemkin, *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (New Jersey: Lawbook Exchange Ltd, 2005), Chapter 9. Also, D. Moses, 'Raphael Lemkin, Culture, and the Concept of Genocide', in A. D. Moses and D. Bloxham, *The Oxford Handbook of Genocide Studies* (New York: Oxford University Press, 2010), Chapter 1. J. Cooper, *Raphael Lemkin and the Struggle for the Genocide Convention* (New York: Palgrave Macmillan, 2008). D. J. Schaller, and J. Zimmerrer (eds), 'Raphael Lemkin: The "Founder of the Genocide Convention" As a Historian of Mass Violence', *Journal of Genocide Research* (7, 4, 2005). T. Elder, 'What You See Before your Eyes: Documenting Raphael Lemkin's Life by Exploring his Archival Papers 1990–1959', *Journal of Genocide Research* (7, 4, 2005, 25–55). S. L. Jacobs, 'The Papers of Raphael Lemkin: A First Look', *Journal of Genocide Research* (1, 1, 1999, 105–14).
4. M. Shaw, *What is Genocide?* (Cambridge: Polity Press, 2007), 3.
5. *UN Convention on the Prevention and Punishment of the Crime of Genocide* (A, RES/260 (III), 09/12/1948). Article III notably goes on to stipulate which acts are punishable: (a) Genocide; (b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide; (d) Attempt to commit genocide; (e) Complicity in genocide.

6. J. Semelin, *Purify and Destroy, the Political uses of Massacre and Genocide* translated from the French by C. Schoch (London: Hurst and Thompson, 2007), 21.
7. Ibid.
8. E. D. Weitz, *A Century of Genocide, Utopias of Race and Nation* (Princeton: Princeton University Press, 2003), 10.
9. Schabas, *Genocide in International Law*, 7.
10. Ibid., 9.
11. Ibid., 4.
12. F. Chalk, 'Redefining Genocide', in G. J. Andreopoulos (ed.), *Genocide, Conceptual and Historical Dimensions* (Philadelphia: University of Pennsylvania Press, 1997), 47.
13. L. May. *Crimes Against Humanity, A Normative Account* (Cambridge: Cambridge University Press, 2005), esp. 5–8.
14. K. J. Campbell, *Genocide and the Global Village* (New York: Palgrave Macmillan, 2001) 21.
15. Ibid.
16. Ibid., 33.
17. IR scholars should be all too familiar with the 'problem of other minds' regarding the complexity of deconstructing decision-making in an anarchical realm, M. Hollis and S. Smith, *Explaining and Understanding International Relations* (Oxford: Clarendon Press, 1990), 171–6.
18. United Nations. 'Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General' (25 January 2005), 4, http://www.un.org/News/dh/sudan/com_inq_darfur.pdf. Accessed 12 November 2007. For an overview, Scot Straus, 'Darfur and the Genocide Debate', *Foreign Affairs* (84, 1, 2005, 124–34). Also, Prunier's case study analysis which claims that the events fulfil the 1948 definition of genocide, even though it did not fulfil his own definition, G. Prunier *Darfur, Ambiguous Genocide* (London: Hurst and Company, 2005). For the opposing stance, A. D. Waal, *Famine that kills: Darfur, Sudan* (Oxford: Oxford University Press, 2005).
19. B. B. Green, 'Stalinist Terror and the Question of Genocide: The Great Famine', in Alan S. Rosenbaum (ed.), *Is the Holocaust Unique? Perspectives on Comparative Genocide?* (Oxford: Westview Press, 2001), Chapter 9.
20. Ibid., 169.
21. Ibid., 169–70.
22. Ibid., 170.
23. Ibid., 188.
24. L. Kuper, *Genocide: Its Political Use in the Twentieth Century* (London: Yale University Press, 1982), 32. Emphasis in the original.
25. Power, *Problem From Hell*, 33.
26. See B. Valentino, *Final Solutions, Mass Killing and Genocide in the Twentieth Century* (New York: Cornell University Press, 2004), 12. R. Gellately and B. Kiernan (eds), *The Spectre of Genocide, Mass Murder in a Historical Perspective* (Cambridge: Cambridge University Press, 2003), 15–16.
27. H. Fein, 'Genocide, Terror, Life Integrity and War Crimes: The Care for Discrimination', in G. J. Andreopoulos (ed.), *Genocide, Conceptual and Historical Dimensions*, 97.

28. Ibid.
29. Ibid.
30. A. Jones, *Genocide, A Comprehensive Introduction* (New York: Routledge, 2006), 21.
31. Ibid.
32. Ibid.
33. Ibid. The debate has also recently been raised in the context of the International Criminal Tribunal for Former Yugoslavia, 'The Prosecutor v. Enver Hadzihasanovic'. See UN General Assembly, 'Annual Report of the United Nations High Commissioner for Human Rights and Reports of the Office of the High Commissioner and the Secretary-General', *Fundamental Standards of Humanity* (A/HRC/8/14, 3 June 2008), 9.
34. H. Hirsch, *Anti-Genocide, Building An American Movement to Prevent Genocide* (London: Praeger, 2002), 6.
35. Ibid.
36. Schabas, *Genocide in International Law*, Chapter 5,
37. Ibid. Knowledge was outlined in the Rome Statute, 207 while the definition of intent is taken from *The International Criminal Tribunal for Rwanda*, 213.
38. W. Schabas, 'Whither Genocide? The International Court of Justice Finally Pronounces', *Journal of Genocide Research* (9, 2, 2007, 183–92), 188.
39. Ibid.
40. Ibid., 190.
41. Schabas, *Genocide in International Law*, 79.
42. L. May, *Crimes Against Humanity, A Normative Account* (Cambridge: Cambridge University Press, 2005), 146.
43. I. L. Horowitz, *Taking Lives, Genocide and State Power* (London: Transaction, 2002).
44. M. Levene, *Genocide in the Age of the Nation State, I: The Meaning of Genocide* (London: I. B. Tauris, 2005), 77. Levene acknowledges that he takes this understanding from Scot Straus.
45. Jones, *Genocide, A Comprehensive Introduction*, 21.
46. Lemkin, *Axis Rule in Occupied Europe*, 79.
47. Ibid., xi–xii
48. The rationale that underpinned Lemkin's approach can be traced back to his 1933 proposal to the Madrid Conference which stipulated that 'barbarism' the physical destruction of a group and 'vandalism' the non-physical destruction of a group should be codified as crimes in international law. Power, *A Problem From Hell*, 20. On how these two concepts link to the concept of genocide, Levene, *Genocide in the Age of the Nation State, I*, 20.
49. Ibid., 47.
50. Kuper, *Genocide*, 61.
51. B. Harff and T. R. Gurr, 'Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases since 1945', *International Studies Quarterly* (32, 3, 1988, 359–71).
52. Ibid. 360.
53. Jones, *Genocide, A Comprehensive Introduction*, 21.
54. Chalk and Jonassohn, *The History and Sociology of Genocide*, 23.
55. Ibid.
56. Lemkin, *Axis Rule in Occupied Europe*, 79, fn.1.
57. Shaw, *What is Genocide*, 65–7.

58. Ibid., Chapter 2. Shaw's discussion of genocide as a form of warfare is central within his work and extends on his earlier work, *War and Genocide* (Cambridge: Polity Press, 2003).
59. Shaw, *What is Genocide*,154. Emphasis in the original.
60. For an analysis of alternative terms, H. Huttenbach, 'Towards a Conceptual Definition of Genocide', *The Journal of Genocide Research* (4, 2, 2002, 167–76).
61. Shaw, *What is Genocide*, 33. Emphasis in the original.
62. Ibid., 34.
63. Levene, *Genocide in the Age of the Nation State, I*, 46–7.
64. Ibid., 47.
65. Ibid.
66. Ibid., 104.
67. Schabas, *Genocide in International Law*, 230–40.
68. This is not to suggest that human suffering can be quantified.
69. S. Katz, *The Holocaust in Historical Context, 1, The Holocaust and Mass Death before the Modern Age* (New York: Oxford University Press, 1994), 131. Emphasis added.
70. Ibid., 129–37. One should note that his work was published in 1994 prior to Rwanda which one may argue would fit within Katz definition.
71. See Shaw's discussion of the Holocaust as the Maximal Standard, *What is Genocide*, 37–45. Also Huttenbach's analysis which brings into question Katz research objective, 'Towards A Conceptual'.
72. For a broad discussion on this debate, A. S. Rosenbaum, *Is the Holocaust Unique?* (Oxford: Westview Press, 2001).
73. Levene, *Genocide in the Age of the Nation State, I*, 39.
74. O. Bartov, *Mirrors of Destruction, War, Genocide and Modern Identity* (Oxford: Oxford University Press: 2000), 6.
75. Kuper, *Genocide*, 32.
76. Ibid.
77. Valentino, *Final Solutions*, 11–12.
78. Ibid., 12.
79. Ibid., 13.
80. Jones, *Genocide, A Comprehensive Introduction*, 22–3.
81. Quoted in Schabas, *Genocide in International Law*, 238.
82. For an analysis on the relationship between genocide and crimes against humanity see Schabas, *Genocide in International Law*, Chapter 3.
83. Kuper, *Genocide*, 24–5.
84. Ibid.
85. Ibid., 25–6.
86. A. Hinton, (ed.), *Genocide, an Anthropological Reader* (Oxford: Blackwell Publishing, 2002), 5.
87. See Schabas' discussion, *Genocide in International Law*, 109.
88. Ibid., 110.
89. Kuper, *Genocide*, 26.
90. Chalk and Jonassohn, *The History and Sociology of Genocide*, part II.
91. Ibid., 28.
92. I am drawing on two works by Hinton as I make this point. For a discussion on the Manufacture of Difference see Hinton's introduction in *Genocide,*

an Anthropological Reader, esp. 9–12. For a discussion on Annihilating Difference see A. L. Hinton (ed.), *Annihilating Difference, The Anthropology of Genocide* (London: University of California Press, 2002).
93. K. J. Roth, 'Genocide and the "Logic" of Racism', in J, K. Roth (ed.), *Genocide and Human Rights, a Philosophical Guide* (New York: Palgrave Macmillan, 2005), esp. 255.
94. Shaw, *What is Genocide,* Chapter 5.
95. Ibid., 76.
96. Ibid., 78. Emphasis in the original.
97. B. Harff and T. R. Gurr, 'Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases since 1945', *International Studies Quarterly* (vol. 32, 3, 1988, 359–71).
98. Chalk and Jonassohn, *The History and Sociology of Genocide*, 23.
99. This understanding of group identity is evident in the aforementioned Katz definition.
100. Levene, *Genocide in the Age of the Nation State, I*, 88.
101. Schabas, *Genocide in International Law*, 110.

3 Genocide and the Three Traditions

1. A. Linklater and H. Suganami, *The English School of International Relations, A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006), Chapter 4.
2. For example, K. Booth and N. J. Wheeler, *The Security Dilemma: Fear, Cooperation, and Trust in World Politics* (New York: Palgrave Macmillan, 2008). B. Buzan, *From International Society to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2006). Alex J. Bellamy, 'Humanitarian Intervention and the Three Traditions', *Global Society* (17, 1, 2003, 3–20). R. Little, 'The English School's Contribution to the Study of International Relations', *European Journal of International Relations* (6, 3, 2000, 395–422). T. Dunne, 'Mythology or Methodlogy? Traditions in International Theory', *Review of International Studies* (19, 3 1993, 305–18).
3. Bellamy, 'Humanitarian Intervention'.
4. M. Wight, *International Theory, The Three Traditions*, G. Wight and B. Porter (eds), (New York: Holmes and Meier, 1992), 260.
5. The idea of a three-way conversation is taken from T. Dunne *Inventing International Society: History of the English School* (New York: Palgrave Macmillan, 1998), xiii.
6. A. J. Bellamy (ed.), *International Society and its Critics* (Oxford: Oxford University Press, 2005), 11.
7. Wight was obviously influenced by the idealist-realist framework presented by E. H. Carr, *The Twenty Year Crisis 1919–1939* (London: Macmillan, 2001).
8. A. Linklater, 'The English School', in S. Burchill, A. Linklater, et al., *Theories of International Relations, fourth edition* (New York: Palgrave Macmillan, 2009), 87.
9. Wight's view of international theory was famously captured in M. Wight, 'Why is there no International Theory?' in H. Butterfield and M. Wight (eds),

Diplomatic Investigations: Essays in the Theory of International Politics (London: Allen and Unwin, 1966).

10. Linklater and Suganami, *The English School of International Relations*, Chapter 4.
11. The dotted lines between the three traditions aim to represent the idea of blurred boundaries.
12. See Hedley Bull's introductory essay in Wight, *International Theory, The Three Traditions*, esp. xiii.
13. This is taken from D. Boucher, *The Limits of Ethic in International Relations, Natural Law, Natural Rights and Human Rights in Transition* (Oxford: Oxford University Press, 2009), 7.
14. E. M. Blanchard, 'Why is there No Gender in the English School?', *Review of International Studies* (37, 2, 2011, 855–79). Also, J. True, 'Feminism', in Bellamy (ed.), *International Society and its Critics*, Chapter 8.
15. Linklater and Suganami, *The English School of International Relations* 117.
16. For the neo-realist view, K. Waltz, *Theory of International Politics* (New York: McGraw-Hill, 1979). For the realist view, H. Morgenthau, revised by K. W. Thompson, *Politics Amongst Nations, The Struggle for Power and Peace* (New York: McGraw-Hill, 1985). For an analysis on the relationship between the two theories, K.Waltz, *Realism and International Politics* (New York: Routledge, 2008), Chapter 5.
17. For a relevant overview, M. J. Smith, *Realist Thought From Weber to Kissinger* (Baton Rouge: Louisiana State University Press, 1987).
18. J. M. Grieco, 'Anarchy and The Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism', *International Organisation* (42, 3, 1988, 485–507), 485.
19. See H. Butterfield, *History and Human Relations* (London: Collis, 1951). J. Herz, *Political Realism and Political Idealism: A Study in Theories and Realities* (Chicago: University of Chicago Press, 1951). Booth and Wheeler, *The Security Dilemma*.
20. Morgenthau, *Politics Amongst Nations*, 9.
21. Thucydides, *History of the Peloponnesian War*, translated by R. Warner (New York: Penguin, 1972), 405.
22. This phrase will be utilised throughout this book.
23. Morgenthau, *Politics Amongst Nations*, 12.
24. The phrase 'saving strangers' is taken from N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).
25. The idea of a Trojan horse is taken from G. Evans, *Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All* (Washington: Brookings, 2008), 54.
26. This has been challenged however, C. Brown, 'Selective Humanitarianism: in Defence of Inconsistency', in D. K. Chatterjee and D. E. Scheid (eds), *Ethics and Foreign Intervention in International Society* (Cambridge: Cambridge University Press, 2003).
27. See Wight, *International Theory, The Three Traditions* Chapter 6. Also, S. Burchill, *The National Interest in International Relations Theory* (New York: Palgrave Macmillan, 2005). For a neo-realist analysis of cooperation, Grieco, 'Anarchy and the Limits of Cooperation'.

28. See J. M. Grieco, R. Powell, and D. Snidal, 'The Relative-Gains Problem for International Cooperation', *The American Political Science Review* (87, 3, 1993, 727–43).
29. H. Kissinger cited in J. G. Heidenrich, *How to Prevent Genocide, A Guide for Policymakers, Scholars, and the Concerned Citizen* (London: Praeger, 2001), 142.
30. It should be noted here that offensive neo-realists such as J. J. Mearsheimer would not be so willing to abandon his principles in favour of any such intervention, *The Tragedy of Great Power Politics* (London: Norton, 2001).
31. See N. Rengger, 'Realism, tragedy, and anti-Pelagian Imagination in International Political Thought', in M. Williams (ed.), *Realism Reconsidered* (Oxford: Oxford University Press, 2007), 118–36.
32. Rationalism is used here as a shorthand for international society and does not refer to rationalism in the US IR sense of the word which is synonymous with rational choice theory. See P. Keal *European Conquest and the Rights of Indigenous Peoples, The Moral Backwardness of International Society* (Cambridge University Press, 2003), introduction, esp. 4–5.
33. The idea that the English School is realism in drag is taken from R. Gilpin, 'The Global Political System' in J. D. B. Miller and R. J. Vincent (eds), *Order and Violence: Hedley Bull and International Relations* (Oxford: Clarendon, 1990), 112.
34. Linklater and Suganami, *The English School of International Relations*, 117–18.
35. A. Linklater 'Rationalism' in S. Burchill and A. Linklater et al., *Theories of International Relations* (London: Macmillan, 1996), 95.
36. It should be noted that in appealing to the idea of communicative dialogue between states Linklater rejects the idea of natural law. While Wight upheld a commitment to 'a system of eternal and immutable principles radiating from a moral source that transcends earthly power (either God or nature)' *International Theory, The Three Traditions*, 14, contemporary English School scholars have tended to reject such an approach. For further analysis on Wight's Chritsiantity, I. Hall, *The International Political Thought of Martin Wight* (New York: Palgrave Macmillan, 2006), Chapter 2.
37. A. Linklater, *The Problem of Harm in World Politics* (New York: Oxford University Press, 2011).
38. J. J. Mearsheimer, 'Why is Europe Peaceful Today?' *European Political Science* (9, 2010, 387–97).
39. A. Linklater, 'Pacifying Europe: A Reply to Mearsheimer', *Leviathan* (1, 2010, 31–8).
40. Evans, *The Responsibility to Protect*, 15–19.
41. For a chronological analysis, see E. Luard *The International Protection of Human Rights* (London: Thames and Hudson 1967). For a contemporary analysis on humanitarian intervention see G. J. Baas, *Freedom's Battle: The Origins of Humanitarian Intervention* (London: Knopf, 2008).
42. R. Falk, *Achieving Human Rights* (London: Routledge, 2009), Chapter 6. For its impact on racial equality, R. J. Vincent, 'Racial Equality', in H. Bull and A. Watson, *The Expansion of International Society* (Oxford: Clarendon Press, 1984).
43. For example, Jackson explains that for positivists, norms simply refer to 'reoccurring patterns of behaviour', whereas English School scholars view

norms as 'a standard of conduct by which to judge the rightness or wrongness, the goodness and badness of human activity', R. Jackson, 'International Relations as a Craft Discipline', in C. Navari (ed.), *Theorising International Society, English School Methods* (Basingstoke: Palgrave Macmillan, 2009), 22.

44. I am drawing here on two works, H. Bull, *The Anarchical Society, A Study of World Order Politics, third edition* (London: Palgrave Macmillan, 2002), esp. xxxv and 74. Also, Buzan's analysis on the 'the primary institutions of international society' in which Buzan differentiates between *primary* and *secondary institutions*, see *From International to World Society*, Chapter 6.
45. H. Bull, 'The Grotian Conception of International Society' in H. Butterfield and M. Wight, (eds.), *Diplomatic Investigations: Essays in the Theory of International Politics*. (London: Allen and Unwin, 1966).
46. R. Jackson, *The Global Covenant, Human Conduct in a World of States* (Oxford: Oxford University Press, 2000). This will be discussed in further detail in Chapter 7.
47. Wheeler, *Saving Strangers*, 11.
48. Ibid.
49. See Clark's discussion of Dunne, *Legitimacy in International Society*, 23–4.
50. Buzan *From International Society to World Society?* 181.
51. Clark, *Legitimacy in International Society*, 24.
52. Mayall originally claimed that international law is the 'bedrock institution on which international society stands or falls'. Mayall, cited in Buzan, *From International to World Society*, 170.
53. A. J. P. Taylor, cited in Wight, *International Theory, The Three Traditions*, 29.
54. Wight, *International Theory, The Three Traditions*, 28.
55. A. Wendt, 'Anarchy is what states make of it: The Social Construction of Power Politics'. *International Organization* (46, 2, 1992, 391–425). Notably, English School scholars do not uphold the positivism within Wendt, see C. Reus-Smit, 'The Constructivist Challenger after September 11', in A. J. Bellamy, (ed.), *International Society and its Critics* (Oxford: Oxford University Press, 2005).
56. T. Dunne, 'Sociological Investigations: Instrumental, Legitimist and Coercive Interpretations of International Society', *Millennium* (30, 1, 2001, 67–91).
57. Wight, *International Theory, The Three Traditions*, 267.
58. Ibid., 159–60. Wight also experimented with other sub-divisions within realism and rationalism.
59. This thinking is taken from A. Linklater, *Beyond Realism and Marxism, Critical Theory in International Relations* (Hampshire: Macmillan Press, 1990), 8.
60. Linklater and Suganami, *The English School of International Relations*, 117.
61. G. W. Brown, 'State Sovereignty, Federation and Kantian Cosmopolitanism', *European Journal of International Relations* (11, 4, 2005, 495–522).
62. See Booth, *Theory of World Security*.
63. M. Shaw, *Global Society and International Relations, Sociological Concepts and Political Perspectives* (Cambridge: Polity Press, 1994), 126.
64. Ibid., this is a theme developed throughout the book.
65. To go back to Figure 3.1, there is further work needed to be done the relationship between concepts such as international society, international community, world society, and human society. See, I. Clark, *International Legitimacy and World Society* (New York: Oxford University Press, 2007). K. Booth, *Theory of World Security* (Cambridge: Cambridge University Press, 2007). Buzan, *From*

International Society to World Society? I. B. Neumann, 'The English School and the Practices of World Society', *Review of International Studies* (27, 3, 2001, 503–7).

66. W. Bain, 'One Order, Two Laws: Recovering the "Normative" in English School Theory', *Review of International Studies* (33, 4, 2007, 557–75), 561.
67. N. Geras, 'Genocide and Crimes Against Humanity', in J. K. Roth, (ed.), *Genocide and Human Rights, A Philosophical Guide* (New York: Palgrave Macmillan, 2005), Chapter fourteen. Also, N. Geras, *The Contract of Mutual Indifference, Political Philosophy After the Holocaust* (London: Verso, 1999).
68. R. Rorty, *Contingency, Irony and Solidarity* (Cambridge: Cambridge University Press, 1989). Also, Boucher, *The Limits of Ethics in International Relations* Chapter 9.
69. See C. Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (London: Penguin, 2001).
70. See D. Moses, 'The Holocaust and Genocide', in D. Stone, (ed.), *The Historiography of the Holocaust* (New York: Palgrave Macmillan, 2004, 533–51).
71. J. Reilly, *Belsen: The Liberation of a Concentration Camp* (London: Routledge, 1998), 69.
72. See R. L. Schweller, 'Fantasy Theory', *Review of International Studies* (25, 1, 1999, 147–50).
73. Immanuel Kant cited in G. W. Brown, *Grounding Cosmopolitanism, From Kant to the Idea of a Cosmopolitan Constitution* (Edinburgh: Edinburgh University Press, 2009), 1. Emphasis in original.
74. Keal, *European Conquest and the Rights of Indigenous Peoples*. Somewhat bizarrely the author does not engage with Zygmunt Bauman's seminal thesis *Modernity and the Holocaust* (Cambridge: Polity, 1989).
75. Obviously, this is adapted from the title of Keal's book.
76. This of course can be questioned and I feel that there is fascinating research to be done on this thesis and how it relates to M. Levene, *Genocide in the Age of the Nation State, I: The Meaning of Genocide* (London: I. B. Tauris, 2005). Also, M. Levene, 'From Past to Future: Prospects for Genocide and Its Avoidance in the Twenty-First Century', in D. Bloxham and A. D. Moses (eds), *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010), 638–59.
77. Hurrell, *On Global Order*, 27.
78. Ken Booth claims that we should invent humanity, see Booth, *Theory of World Security*, 379–80.
79. I draw on D. Marsh and P. Furlong, 'A Skin, not a Sweater: Ontology and Epistemology in Political Science' in D. Marsh and G. Stoker (eds), *Theory and Methods in Political Science* (Hampshire: Palgrave Macmillan, 2002).

4 Genocide and International Legitimacy

1. H. Charlesworth and J. M. Coicaud (eds), *Fault Lines of International Legitimacy* (Cambridge: Cambridge University Press, 2010), introduction.
2. I. Clark, *Legitimacy in International Society* (New York: Oxford University Press, 2005), 2.

3. A. Hurrelmann, S. Schneider and J. Steffek (eds), *Legitimacy in an Age of Global Politics* (New York: Palgrave Macmillan, 2007), 229–32.
4. J. M. Coicaud, 'Deconstructing International Legitimacy', in Charlesworth and Coicaud (eds), *Fault Lines of International Legitimacy*, Chapter 2.
5. Hurrelmann, Schneider and Steffek (eds.), *Legitimacy in an Age of Global Politics*, 229.
6. R. Kagan, 'America's Crisis of Legitimacy', *Foreign Affairs* (83, 2, 2004, 65–87). R. W. Tucker and D. C. Hendrickson, 'The Sources of American Legitimacy', *Foreign Affairs* (83, 6, 2004, 18–32). See also, their responses, R. Kagan, 'A Matter of Record', *Foreign Affairs* (84, 2, 2005, 170–4). R. W. Tucker and D. C. Hendrickson, 'The Flip Side of The Record', *Foreign Affairs* (84, 2, 2005), 139–41.
7. See Review of International Studies, 'Force and Legitimacy in World Politics', *Review of International Studies*, special edition (31, supplement S1, 2005).
8. Independent International Commission on Kosovo, *Kosovo Report* (Oxford: Oxford University Press, 2000), 4.
9. D. Armstrong and T. Farrell, 'Force and Legitimacy in World Politics', *Review of International Studies* (31, supplement S1, 2005, 3–13).
10. C. Bjola, 'Legitimacy and the Use of Force: Bridging the Analytical-Normative Divide', *Review of International Studies* (34, 4, 2008, 627–44).
11. Ibid., 629.
12. Ibid.
13. I. Clark, *International Legitimacy and World Society* (New York: Oxford University Press, 2007), 17.
14. I am thinking here of B. Cronin and I. Hurd (eds), *The UN Security Council and the Politics of International Authority* (New York: Routledge, 2008) in which a variety of perspectives on legitimacy are put forward including the idea of *purposive* legitimacy.
15. D. Beetham and C. Lord, *Legitimacy and the EU* (New York: Longman, 1998), 5.
16. I. Clark, *Legitimacy in International Society*.
17. Ibid., 18.
18. The idea of international legitimacy being a multi-faceted concept is taken from A. Hurrell, 'Legitimacy and the Use of Force; can the Circle be Squared?' *Review of International Studies* (31, supplement S1, 2005, 15–32), 18.
19. The brief overview here draws extensively on Clark *Legitimacy in International Society*; certain issues will then be addressed in more detail below.
20. Ibid., Chapter 11.
21. Ibid., 26–9.
22. H. L. A. Hart *The Concept of Law* (Oxford: Oxford University Press, 1997).
23. Ibid., 56. For a relevant analysis of Hart's position within the broader context of international legitimacy see, T. M. Franck, *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990), Chapter 11.
24. D. Armstrong and T. Farrell, 'Force and Legitimacy in World Politics', *Review of International Studies* (31, supplement S1, 2005, 3–13), 5
25. Clark, *Legitimacy in International Society*, 211. Emphasis in original.
26. J. T. Johnson, *Morality and Contemporary Warfare* (London: Yale University Press, 2001), 76–96.
27. M. Walzer, *Arguing about War* (London: Yale University Press, 2004), 160.

28. Clark, *Legitimacy in International Society*, 209.
29. C. Bjola, 'Legitimating the Use of Force in International Politics: A Communicative Action Perspective', *European Journal of International Relations* (11, 2, 2005, 266–303), 270. For an overview on the current state of just war theory see A. J. Bellamy, *Just Wars, From Cicero to Iraq* (Cambridge: Polity, 2008), esp. 117–35.
30. Clark, *Legitimacy in International Society*, 220.
31. Ibid., 221.
32. R. Jackson, *The Global Covenant, Human Conduct in a World of States,* (Oxford: Oxford University Press, 2000), 20.
33. Clark, *Legitimacy in International Society*, 19–20.
34. R. Falk, *Achieving Human Rights* (London: Routledge, 2009), 17. For further such analysis see, J. S. Dryzek, *Deliberative Democracy And Beyond, Liberals, Critics, Contestations* (New York: Oxford, University Press, 2000), esp. Chapter 4.
35. See J. M. Coicaud, 'Deconstructing International Legitimacy', in Charlesworth and Coicaud (eds), *Fault Lines of International Legitimacy*, 53.
36. Clark has produced an entire volume dedicated to this latter aspect and in doing so highlights that international society does not necessarily exercise full control over its own legitimacy agenda, see I. Clark *International Legitimacy and World Society*
37. V. K. Fouskas and B. Gokay, *The New American Imperialism: Bush's War on Terror and Blood for Oil* (London: Praeger Security International, 2005), 13. Also, A. Hurrell, *On Global Order, Power, Values and the Constitution of International Society* (Oxford: Oxford University Press, 2007), 39.
38. B. Obama, *Audacity of Hope: Thoughts on Reclaiming the American Dream* (Edinburgh: Cannongate Books, 2007), 371.
39. J. Habermas, *Legitimation Crisis* translated by T. McCarthy (London: Heinemann, 1976). 95–102. C. Brown and K. Ainley, 'Power and Security', in Brown with Ainley, *Understanding International Relations, third edition* (New York: Palgrave Macmillan, 2005), Chapter 5. Andrew Hurrell, 'Legitimacy and the use of Force', 22.
40. N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), 4.
41. Clark, *Legitimacy in International*, 3.
42. Ibid., 192.
43. Ibid., 191–2.
44. Ibid., 194.
45. Ibid., 191.
46. As discussed in Chapter 3, the English School does not focus on the causal power of norms.
47. For an analysis which highlights the relationship between international and world society see, Clark, *International Legitimacy and World Society*, Chapter 2.
48. Clark, *Legitimacy in International Society*, 27
49. J. Glover, *Humanity, A Moral History of the Twentieth Century* (London: Pimlico, 2001).
50. E. Hobsbawm, *The Age of Extremes, The Short Twentieth Century, 1914–1991* (London: Michael Joseph, 1994).

51. Glover *Humanity*, 41.
52. Obviously the idea of recreating an understanding of morality is nothing new. J. L. Mackie, *Ethics: Inventing Right and Wrong* (London: Penguin, 1977).
53. Glover, *Humanity*, 398.
54. Ibid.
55. M. Gilbert, *The Holocaust, The Jewish Tragedy* (Glasgow: William Collins, 1987), 419.
56. P. Levi, *If This is A Man* (London: Abacus, 2009), 32–3.
57. J. W. Cook, *Morality and Cultural Differences* (Oxford: Oxford University Press, 1999), 3.
58. Ibid., Chapter 8.
59. Cook draws on the seminal work of Melville Herskovits to claim that the empirical knowledge claims made by cultural relativists underpins the 'Fully Developed Argument' of moral relativism, see ibid., 11.
60. It would seem here that Cook is adopting what Steven Lukes would describe as an internal approach, S. Lukes, *Moral Relativism* (London: Profile Books, 2008), 17–19.
61. Ibid., 165–6.
62. Ibid.
63. M. Walzer, *Just and Unjust Wars, a moral argument with historical illustrations* (New York: Basic Books, 2000), xii.
64. See Wheeler, *Saving Strangers*, 50.
65. The idea of human wrongs is put forward by K. Booth, 'Human Wrongs and International Relations', *International Affairs* (71. 1. 1995, 103–26).
66. Walzer, *Just and Unjust Wars*, Chapter 16. esp. 253.
67. The idea of moral minimalism is adapted from M. Walzer, *Thick and Thin, Moral Argument at Home and Abroad* (Notra Dame: University of Notra Dame Press, 1994).
68. In an analysis of Melville Herskovits, James Fernandez explains that while the Nazi atrocities towards the Jews did not cause Herskovits (who was a Jew) to abandon his intent to 'psychologically distance' himself from judging other civilisations, Herskovits never condoned Nazism and denounced it on many occasions. See J. W. Fernandez, 'Tolerance in a Repugnant World and Other Dilemmas in the Cultural Relativism of Melville J. Herskovitz', *Ethos* (18. 2. 1990, 140–64), 148.
69. Cook, *Morality and Cultural Differences*, 184, fn. 2.
70. S. T. Davies, 'Genocide, Despair and Religious Hope', in John K. Roth (ed.), *Genocide and Human Rights, A Philosophical Guide* (New York: Palgrave Macmillan, 2005), 41.
71. Ibid. Emphasis in original.
72. R. Hilberg, *The Destruction of the European Jews* (Chicago: Quadrangle Books, 1961), 621–4. Also, Shmuel Spector, 'Aktion 1005 – Effacing the Murder of Millions', *Holocaust and Genocide Studies* (5, 2, 1990, 157–73).
73. Davies, 'Genocide, Despair and Religious Hope', 41.
74. J. Donnelly, *Universal Human Rights, In Theory and Practice* (London: Cornell University Press, 2003), 251.
75. Ibid.
76. Ibid., 252.

77. J. S. Morton and N. V. Singh, 'The International Legal Regime on Genocide', *Journal of Genocide Research* (5, 1, 2003, 47–69).
78. United Nations General Assembly Resolution 96 (I), 'The Crime of Genocide', (12 November 1946), http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/033/47/IMG/NR003347.pdf?OpenElement. Accessed 15 August 2008.
79. See M. Lippman, 'A Road Map to the 1948 Genocide Convention', *Journal of Genocide Research* (4, 2, 2002, 177–95), esp. 178–9.
80. C. Fournet, 'The Universality of the Prohibition of Genocide, 1948–2008', *International Criminal Justice Review* (19, 2, 2009, 132–49), 139, emphasis by Fournet.
81. Ibid., 137–41.
82. See C. Tomuschat and J. M. Thouvenin (eds), *The Fundamental Rules of the International Legal Order: Jus Cogens and obligations Erga Omnes* (Leiden: Boston: Martinus Nijhoff, 2006). A. Orakhelashvili, *Peremptory Norms in International Law* (Oxford: Oxford University Press, 2006).
83. Fournet, 'The Universality of the Prohibition of Genocide', 134.
84. D. Shelton, Normative Hierarchy in International Law, '*American Journal of International Law* (100, 2, 2006, 291–323. See also, L. M. Caplan, 'State Immunity, Human Rights, and Jus Cogens: A critique of the Normative Hierarchy Theory', *The American Journal of International Law* (97, 4, 2003, 741–81).
85. M. C. Bassiouni, 'International Crimes: *Jus Cogens* and *Obligatio Erga Omnes*', *Law and Contemporary Problems* (59, 4, 1996, 63–75), 68.
86. UN Doc, 'Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994', (A/54/315S/1999/943, 07/09/1999), http://www.ictr.org/ENGLISH/annualreports/a54/9925571e.htm. Accessed 23 August 2009.
87. W. A. Schabas, *Genocide and International Law* (Cambridge: Cambridge University Press, 2000), 9.
88. UN Doc, SC/8191, 'Security Council declares Intention to Consider Sanctions to Obtain Sudan's Full Compliance with Security, Disarmament Obligations on Darfur' (18 September 2004), http://www.un.org/News/Press/docs/2004/sc8191.doc.htm. Accessed 21 November 2009.
89. W. A. Schabas, 'Has Genocide Been Committed in Darfur? The State Plan or Policy Element in the Crime of Genocide', in R. Henham and P. Behrens (eds), *The Criminal Law of Genocide, International Comparative and Contextual Aspects* (Surrey: Ashgate, 2007), 39.
90. Ibid.
91. Ibid., 3.
92. Ibid.
93. T. W. Simon, *The Laws of Genocide, Prescriptions for a Just World* (Westport: Praeger Security International, 2007), 32.
94. S. Power, 'Never Again: The World's Most Unfulfilled Promise', *Frontline Magazine, online* (no date of publication given), http://www.pbs.org/wgbh/pages/frontline/shows/karadzic/genocide/neveragain.html. Accessed 1 April 2010.
95. See the preamble, *UN Convention on the Prevention and Punishment of the Crime of Genocide* (A, RES/260 (III), 09/12/1948).

96. Power, 'Never Again: The World's Most Unfulfilled Promise'.
97. Cited in N. Ferguson, *Colossus: The Rise and Fall of the American Empire* (London: Penguin, 2005), 142.
98. The seminal work on this topic remains Samantha Power's, *A Problem From Hell*. Also, E. Mayroz, 'Ever again? The United States, Genocide suppression, and the crisis in Darfur', *The Journal of Genocide Research* (10, 3, 2008, 359–88).
99. This is taken from Power, 'Never Again: The World's Unfulfilled Promise'.
100. J. Hagan and W. Rymond-Richmond, *Darfur and the Crime of Genocide* (Cambridge: Cambridge University Press, 2009).
101. American National Committee of America, 'Bush Reaffirms Genocide Pledge', (27 March 2001), http://www.anca.org/press_releases/press_releases.php?prid=60. Accessed 12 April 2010.
102. Ibid., see the Prologue, which is aptly entitled, 'On Our Watch'.
103. Organizing for America, 'Barack Obama on the Importance of US-Armenia Relations' (19 January 2008), http://www.barackobama.com/2008/01/19/barack_obama_on_the_importance.php. Accessed 22 April 2010.
104. The White House, office of the press secretary, 'Statement made by President Obama on the 16th Anniversary of the Genocide in Rwanda', (07 April 2010), http://www.whitehouse.gov/the-press-office/statement-president-16th-anniversary-genocide-rwanda. This sentiment was reiterated by President Obama four days later on the Holocaust Remembrance Day, see The White House, office of the press secretary, 'Statement by the President on Holocaust Remembrance Day', (11 April 2010), http://www.whitehouse.gov/the-press-office/statement-president-holocaust-remembrance-day Both. Accessed 23 May 2010. For an excellent analysis see D. Bloxham, *The Great Game of Genocide* (Oxford: Oxford University Press, 2005).
105. D. Raymond (ed.), *Mass Atrocity: Prevention and Response* (Report on the PKSOI-Harvard Kennedy School MARO Workshop, 8–9 December 2010, 2011). Genocide Prevention Task Force, *Preventing Genocide: A Blueprint for U.S. Policymakers* (United States Holocaust Memorial Museum, 2008).
106. Obama stated, 'As a senator, I strongly support passage of the Armenian Genocide Resolution (H.Res.106 and S.Res.106), and as President I will recognize the Armenian Genocide', Organizing for America, 'Barack Obama on the Importance of US-Armenia Relations' (19 January 2008).
107. Power, *Problem from Hell*, xxi.
108. UN Secretary-General, Kofi Annan. Keynote speech to The Stockholm International Forum (26 January 2004), http://www.preventgenocide.org/prevent/UNdocs/KofiAnnanStockholmGenocideProposals26Jan2004.htm. Accessed 2 June 2008.
109. J. K. Roth, 'Genocide and the Logic of Racism', in J. K. Roth (ed). *Genocide and Human Rights*, 262. Also, B. Lang, 'The Evil in Genocide', in J. K. Roth (ed.), *Genocide and Human Rights*, Chapter1.

5 The Impact of Genocide on International Order

1. The idea that the UN Security Council acts as the stabilising function in international relations is taken from The Independent International Commission on Kosovo, *The Kosovo Report* (Oxford: Oxford University Press, 2000), 174.

The idea that the UN is the primary facilitator of international legitimacy is not taken from anything specifically yet one can find such understanding evident within the discourse itself, for example, R. Thakur, *International Peacekeeping in Lebanon: United Nations Authority and Multinational Force* (Colorado: Westview Press, 1987), 259. It should be noted however that Thakur implies that the UN dispenses legitimacy but I believe that it is better to understand it as an institution in the second-order sense that contributes more than any other institution to the process and practice of international legitimacy.

2. Cited in the International Commission on Intervention and State Sovereignty, *Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), paragraph 1.6, http://www.iciss.ca/report2-en.asp#dilemma. Accessed 9 May 2009.
3. K. Booth, 'Three Tyrannies', in T. Dunne and N. J. Wheeler, *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999), 33.
4. For an overview of the relevant debates, see T. G. Weiss, *Humanitarian Intervention* (Cambridge: Polity Press, 2007). J. Welsh (ed.), *Humanitarian Intervention in International Relations* (Oxford: Oxford University Press, 2006). D. K. Chatterjee and D. E. Scheid (eds), *Ethics and Foreign Intervention in International Society* (Cambridge: Cambridge University Press, 2003). J. L. Holzgrefe and R. O. Keohane, *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).
5. J. Mayall (ed.), *The New Interventionism 1991–1994* (Cambridge: Cambridge University Press, 1994).
6. UN Doc, *Charter of the United Nations and Statute of the International Court of Justice*, http://www.un.org/en/documents/charter/index.shtml. Accessed 9 May 2009. S. Chesterman aptly demonstrates that the preamble alone highlights all the basic inconsistencies of the present debate, see *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2003), Chapter 2.
7. See H. Bull, *The Anarchical Society, A Study of World Order Politics, third edition*, (London: Palgrave Macmillan, 2002), 83–90.
8. See, E. C. Luck., 'A Council For All Seasons: The Creation of the Security Council and its Relevance Today', and C. Gray, 'Charter Limitations on the Use of Force' in V. Lowe, A. Roberts, J. Welsh and D. Zaum, *The Unite Nations Security Council and War, The Evolution of Thought and Practice Since 1945* (Oxford: Oxford University Press, 2008), chs. 2 and 3. Also, A. Roberts and B. Kingsbury (eds), *United Nations, Divided World, The UN's Roles in International Relations* (New York: Oxford University Press, 2007).
9. I. Clark, *Legitimacy in International Society* (New York: Oxford University Press, 2005), 138.
10. One has to qualify this point in that one would expect at least some consistency in interpretation. States cannot oppose humanitarian intervention one day and favour it the next.
11. K. Annan, 'Two Concepts of Sovereignty', *The Economist* (18 September 1999), http://www.un.org/News/ossg/sg/stroies/kaecon.html. Accessed 12 June 2008.
12. Ibid.

13. G. Evans, *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All* (Washington: Brookings Institution Press, 2008), 38.
14. Ibid.
15. United Nations Archive, S – 0544 – 0004 – 12. Human Rights Commissions Defence. 28 1946–28 October 1947. Interoffice Memorandum from J. P. Humphrey, Director of Division of Human Rights to M. Henri Laugier, Assistant Secretary-General in charge of Social Affairs. 30 August 1946.
16. Ibid.
17. Ibid., emphasis added.
18. The Independent International Commission on Kosovo, *The Kosovo Report* (Oxford: Oxford University Press, 2000), 168.
19. This is cited in M. Lippman, 'A Road Map to the 1948 Genocide Convention', *Journal of Genocide Research* (4, 2, 2002, 177–95), 179.
20. See D. Janssen, 'Humanitarian Intervention and the Prevention of Genocide', *Journal of Genocide Research* (10, 2, 2008, 289–306). S. Totten and P. R. Bartrop, 'The Complexities of the Prevention and Intervention of Genocide', in Totten and Bartrop, *The Genocide Studies Reader* (New York: Routledge, 2009), part IV. N. Riemer, *Protection Against Genocide, Mission Impossible?* (London: Praeger, 2000).
21. United Nations General Assembly Resolution 96 (I). 'The Crime of Genocide'. (A/RES/96(I), adopted at the 55th plenary meeting, 11 December 1946). This can be found using the United Nations Bibliographic Information System, http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/033/47/IMG/NR003347.pdf?OpenElement. Accessed 9 June 2009.
22. Ibid.
23. This is cited in Lippman, 'A Road Map to the 1948 Genocide Convention', 78.
24. Ibid.
25. This idea of sovereign immunity is taken from Henry T. King Jr., 'Genocide and Nuremburg', in R. Henham and P. Behrens, *The Criminal Law of Genocide, International, Comparative and Contextual Aspects* (Surrey: Ashgate, 2006), Chapter 3. Also B. D. Meltzer, 'The Nuremburg Trial: A Prosecutor's Perspective', *Journal of Genocide Research* (4, 4, 2002, 561–8).
26. Evans, *The Responsibility to* Protect, 15–19.
27. B. Cronin 'The Tension between Sovereignty and Intervention in the Prevention of Genocide', in S. Totten (ed.), *The Prevention and Intervention of Genocide, Genocide: A Critical Bibliographic Review* (London: Transaction Publishers, 2008), esp. 147.
28. This will be discussed further in Chapter 6.
29. UN GAOR 42nd meeting, 'Discussion on the Draft Convention on the Crime of Genocide', UN Doc's, A/362, A/401, A/401.Add.1, A/C.6/147, A/C.6/149. A/C.6/151, A/C.6/155, A/C.6/159 and A/C.6/160. (1947). This can be found using the United Nations Bibliographic Information System, http://daccess-dds-ny.un.org/doc/UNDOC/GEN/NL4/700/98/PDF/NL470098.pdf?OpenElement. Accessed 9 June 2009.
30. Ibid.
31. Ibid.
32. UN News Centre, 'ICC Issues Arrest Warrant for Sudanese President for War Crimes in Darfur' (4 March 2009), http://www.un.org/apps/news/story.asp?NewsID=30081&Cr=darfur&Cr1=icc. Accessed 3 November 2009. The ICC

did not include the charge of genocide in its initial 2009 warrant; however, a second warrant in July 2010 included the charge of genocide.

33. UN GAOR 42nd meeting, 'Discussion on the Draft Convention on the Crime of Genocide'.
34. G. A. Finch, 'The Genocide Convention', *The American Journal of International Law* (43, 4, 1949, 732–38).
35. Ibid., 733.
36. Ibid., 734.
37. Ibid.
38. Ibid., 737.
39. Ibid.
40. W. A. Schabas, *Genocide In International Law* (Cambridge: Cambridge University Press, 2000), 491–502.
41. Ibid., 498.
42. Ibid., 496.
43. UN General Assembly, 'The Crime of Genocide', (A/RES/96(I), adopted at the 55th plenary meeting, 11 December 1946). This can be found using the United Nations Bibliographic Information System, http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/033/47/IMG/NR003347.pdf?OpenElement. Accessed 9 June 2009.
44. UN General Assembly, 'UN Convention on the Prevention and Punishment of the Crime of Genocide', (A, RES/260 (III), 9 December 1948).
45. See, J. Quigley, *The Genocide Convention, An International Law Analysis* (Hampshire: Ashgate, 2006), 86. It should also be remembered, as Kennedy explains, that the term *may*, was used throughout the drafting of the UN Charter instead of the word *shall*, as this is less obligatory in nature, see P. Kennedy *The Parliament of Man: The Past, Present and Future of the United Nations* (London: Random House, 2006), 34.
46. H. Shue, 'Limiting Sovereignty', in J. Welsh (ed.), *Humanitarian Intervention in International Relations*, Chapter 2.
47. Ibid., 19.
48. UN General Assembly, 'UN Convention on the Prevention and Punishment of the Crime of Genocide'.
49. T. G. Weiss, *What is Wrong with the United Nations and How to Fix It* (Cambridge: Polity, 2009), 6–11. Also T. G. Weiss, 'How United Nations Ideas Change History', *Review of International Studies* (36, S1, 2010, 3–23).
50. B. Cronin and I. Hurd (eds), *The UN Security Council and the Politics of International Authority* (New York: Routledge, 2008), 3. R. Thakur, *The Responsibility to Protect, Norms, Laws, and the Use of Force in International Politics* (New York: Routledge, 2011), 82.
51. M. N. Barnett, *Eyewitness to a Genocide: The United Nations and Rwanda* (London: Cornell University Press, 2003).
52. This draws on the statement made by George Orwell in his analysis of communism among the animals of Manor Farm: 'All animals are equal but some animals are more equal than others', see G. Orwell, *Animal Farm* (London: Penguin, 1987), 90.
53. See Clark, *Legitimacy in International Society*, Chapter 7. A. Hurrell, *On Global Order, Power, Values and the Constitution of International Society* (Oxford: Oxford University Press, 2007), Chapter 7.

54. J. C. Plano and R. E. Riggs, *Forging World Order, The Politics of International Organisation* (New York: The Macmillan Company, 1967), 46.
55. G. Simpson, *Great Powers and Outlaw States, Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004).
56. Clark, *Legitimacy in International Society*, 148. Equally, Paul Kennedy notes that when a Mexican representative questioned the inequality the UN, they were told that they could have an unequal UN or no UN at all, *The Parliament of Man*, 27.
57. J. G. Ikenberry, *After Victory, Institutions, Strategic Restrain, and the Rebuilding of Order and Major Wars* (Princeton: Princeton University Press, 2001).
58. T. G. Weiss, 'The Illusion of UN Security Council Reform', *The Washington Quarterly* (26, 4, 2003, 147–61).
59. The Independent International Commission on Kosovo, *The Kosovo Report*, 174.
60. Bull, *The Anarchical Society*, 200.
61. Ibid., 200–1.
62. For a thorough analysis on this theme see R. Thakur, *The United Nations, Peace and Security, from Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006).
63. D. D. Caron, 'The Legitimacy of the Collective Authority of the Security Council', *The American Journal of International Law* (87, no 4. 1993, 552–88).
64. Ibid., 560.
65. Ibid., 8.
66. Notably the US Senate did not consent to ratification until 1988, which actually resulted from Senator Proxmire making a personal plea on the floor of the Senate every day for 19 years! For an overview of ratification see ibid., 505–8.
67. J. Donnelly, *Universal Human Rights, In Theory and Practice* (London: Cornwell University Press, 2003). 248.
68. Cited in M. Wight, *International Theory, The Three Traditions* edited by G. Wight and B. Porter (New York: Holmes ad Meir, 1992), 164–5. Pearson made this statement on 24 June, 1955.
69. P. J. Kuznick, 'Prophets of Doom or Voices of Sanity? The Evolving Discourse of Annihilation in the First Decade and a Half of the Nuclear Age', *Journal of Genocide Research* (9, 3, 2007, 411–41), 414.
70. Ibid.
71. Ibid.
72. Ibid., 420.
73. See A. W. Knight, 'The Future of the UN Security Council: Questions of Legitimacy and Representation in Multilateral Governance', in A. F. Cooper, J. English and R. Thakur (eds), *Enhancing Global Governance: Towards a New Diplomacy?* (Tokyo: United Nations University Press. 2002), 20.
74. Donnelly, *Universal Human Rights*, 248. Emphasis in the original.
75. As Gellately and Kiernan rightly point out, much more research needs to be done into the role of great power support for genocidal regimes in the Cold War era. See Gellately and Kiernan, 'Investigating Genocide,' in R. Gellately and B. Kiernan (eds), *The Spectre of Genocide, Mass Murder in a Historical Perspective* (Cambridge: Cambridge University Press, 2003), Chapter 18.

76. For an authoritative analysis of UN Security Council interventions in the Cold War and post-Cold War era see Lowe, Roberts, Welsh, and Zaum, *The United Nations Security Council and War*, 265–515.
77. The Declaration can be read at http://www.unhchr.ch/html/menu3/b/c_coloni.htm. Accessed 26 July 2008. For an analysis on UN membership see, United Nations, 'Growth in United Nations Membership: 1945 to present', http://www.un.org/en/members/growth.shtml#2000. Accessed 26 March 2010.
78. For example, in the Organisation for African Unity's Charter, the overwhelming sentiment to be found in the Charter's principles is the inalienable right of sovereignty. See http://www.africa-union.org/root/au/Documents/Treaties/text/OAU_Charter_1963.pdf. Accessed 4 June 2008.
79. UN General Assembly Declaration on the 'Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty', (A/RES/20/2131, 21/12/1965), http://www.un-documents.net/a20r2131.htm. Accessed 21 November 2008.
80. Obviously, one could also add the point that many of the political elites within these countries were responsible for grave human rights violations such as genocide and therefore opposed any measure that would make them accountable for their actions.
81. In R. J. Rummel's quantitative comparative analysis, the author argues that, 'In proportion to its population. Cambodia underwent a human catastrophe unparalleled in this century.' Rummel goes on to detail that an estimated 2,035,000 were murdered out of a population of around 7,100,000. *Death By Government, sixth edition* (London: Transaction Publishers, 2008), Chapter 9. While debates continue over whether the term 'genocide' can be applied to the entire destruction, Ben Kiernan's seminal study underscores the point that within this broad destruction, certain groups such as the Cham were destroyed with specific intent; see B. Kiernan, *The Pol Pot Regime, Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79* (London: Yale University Press, 1995), esp. 460–5.
82. N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University press, 2000), 78–110, esp. 89–100.
83. L. Kuper, *Genocide and its Political Use in the Twentieth Century* (New Haven: Yale University Press, 1982), 173.
84. Ibid., Chapter 9.
85. Ibid., 183. .
86. B. B. Ghali, 'Peacemaking and Peacekeeping for the New Century' in Olara, A. Otunnu, and Michael Doyle (eds), *Peacemaking and Peacekeeping for the New Century* (Oxford: Rowman and Littlefield, 1998), Chapter 1. There has been much written on the post-Cold War 'new world order', for a relevant overview of the debates involved see M. Barnett's review essay, 'Bringing in the New World Order, Liberalism, Legitimacy and the United Nations', *World Politics* (49, 4, 1997, 526–51).
87. It is worth stressing here that Ian Clark provides a detailed analysis of international legitimacy in contemporary international society and in doing so addresses many aspects that go beyond the parameters of this analysis, see Clark, *Legitimacy in International Society*, 155–256.

88. A. Bellamy, 'Humanitarian Responsibilities and Interventionist Claims in International Society', *Review of International Studies* (29, 3, 2003, 321–40), 325. Emphasis added.
89. Wheeler, *Saving Strangers*, 154–5.
90. For a highly relevant analysis of the Chinese and Russian perspectives on this matter, see S. N. MacFarlane, 'Russian Perspectives on Order and Justice' and R. Mitter, 'An Uneasy Engagement: Chinese Ideas of Global Order and Justice in Historical Perspective', in R. Foot et al. (ed.), *Order and Justice in International Relations* (Oxford: Oxford University Press, 2003), Chapters 7 and 8.
91. See K. Nicolaidis and J. Lacroix, 'Order and Justice Beyond The Nation-State: Europe's Competing Paradigms' and J. L. Gaddis, 'Order versus Justice: An American Foreign Policy', both in R. Foot et al. (eds), *Order and Justice in International Relations*, Chapters 5 and 6.
92. Ibid., 182–8.
93. T. G. Weiss, *Military – Civilian Interactions* (Oxford: Rowman & Littlefield, 2005), 198.
94. Ibid.
95. T. M. Franck, *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990), 71.
96. Weiss, *Military – Civilian Interactions*, 198–9.
97. Within the legal definition the Kurds would be considered an ethnic group and the intentional extermination of between 50,000 and 100,000 would surely qualify as 'in whole or in part'. Human Rights Watch, 'The Anfal Campaign against the Kurds', (New York: Human Rights Watch, 1993), http://hrw.org/reports/1993/anfal/anfalint.htm. Accessed 28 May 2008. This would also fit within Chapter 3's understanding of genocide as 50,000 would certainly fall within the remit of what constitutes a substantial part.
98. This was put into explicit context as the link between democracy and international stability was put forward in an attempt to justify the UN authorised, US-led intervention in Haiti. For a comprehensive overview, see J. R. Ballard, *Upholding Democracy: The United States Military Campaign in Haiti, 1994–1997* (Westport: Praeger, 1998).
99. M. Barnett and M. Finnemore, *Rules For The World, International Organizations in Global Politics* (London: Cornell University Press, 2004), Chapter 5.
100. Ibid., 131.
101. Ibid., 133.
102. R. Falk, 'International Law and the Future', *Third World Quarterly* (27, 5. 2006, 727–37), 731.
103. For a critical take on the US motives for intervening in Kosovo, see V. K. Fouskas, *Zones of Conflict, US Foreign Policy in the Balkans and the Greater Middle East* (London: Pluto Press, 2003).
104. For a discussion on the level of consensual support over Kosovo, see Wheeler, *Saving Strangers*, Chapter 8 and conclusion. Obviously the NATO members at the time appealed to existing Resolutions to try and authorise the intervention.
105. Organisation of African Unity, 'OAU Report Regarding Rwandan Genocide', *The American Journal of International Law* (94, 4, 2000, 692–5), 693. See also,

UN Doc., *Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda* (S/1999/1257, 15 December 1999), http://www.un.org/Docs/journal/asp/ws.asp?m=S/1999/1257. Accessed 29 October 2008.

106. The Rwandan state is widely accepted to have orchestrated the genocide, in Michael Mann's seminal work, Mann identifies six levels of perpetrator, five of which made up the state which then utilised their position to mobilise the last level of perpetrator – the majority of Hutu. M. Mann, *The Dark Side of Democracy, Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005), 449.
107. Thomas Hobbes, *Leviathan* (Oxford: Oxford University Press, 1998), 84.
108. Such statistics are obviously very difficult to calculate, for a discussion see Linda Melvern's analysis on 'the world's worst statistics', in L. Melvern, *Conspiracy to Murder: The Rwandan Genocide* (London: Verso, 2004), 250–3.
109. As part of Operation Joint Endeavour, Srebrenica was declared a 'safe area' by the UN in 1993 in Resolution 819. United Nations Security Council Resolution 819, S/RES/819, (16 April 1993), http://www.nato.int/ifor/un/u930416a.htm. This promise was then extended to towns of Tuzla, Zepa, Sarajevo, Gorzade and Bihac in May 1993. See United Nations Security Council Resolution 824, S/RES/824 (6 May 1993). United Nations Security Council Resolution 819, S/RES/819 (6 May 1993), http://www.nato.int/ifor/un/u930506a.htm. Both accessed 2 September 2008.
110. UN Doc., Report of the Secretary-General pursuant to General Assembly Resolution 53/55, 'The Fall of Srebrenica', UN Doc. A/54/549 (15 November 1999), 107. http://daccess-ods.un.org/TMP/7822729.34913635.html. Accessed 02 September 2008.
111. For Barnett's most recent views on his experiences, see M. N. Barnett, *The International Humanitarian Order* (New York: Routledge, 2010), esp. 117–21.
112. D. Reiff, 'Overhaul the U.N. or Retire It', *Los Angeles Times* (22/087/1995), B9.
113. Reiff, 'Overhaul the U.N.'
114. Cited in Evans, *Responsibility to Protect*, 175.
115. Cited in E. Neuffer, *Key to My Neighbours House, Seeking Justice in Bosnia and Rwanda,* (London: Bloomsbury, 2002), 4. Also, Roméo Dallaire, *Shake Hands With The Devil: The Failure of Humanity in Rwanda* (New York: Carroll & Graf, 2004).
116. L. Melvern, *A People Betrayed, The Role of the West in Rwanda's Genocide* (London: Zed Books, 2009). With regard to France see A. Wallis, *Silent Accomplice, The Untold Story of France's Role in Rwandan Genocide* (London: I.B. Tauris, 2006). With regard to the US see, S. Power, *A Problem From Hell, America and the Age of Genocide* (London: Flamingo, 2003). Also, J, E., Alvarez, 'Judging the Security Council', *American Journal of International Law* (90, 1, 1996, 1–39). A. Lebor, *"Complicity with Evil", The United Nations in the Age of Modern Genocide* (London: Yale University Press, 2006).
117. Caron, 'The Legitimacy of the Collective Authority of the Security Council', 566.
118. Ibid.
119. Ibid., 559.

120. K. Annan, 'Two Concepts of Sovereignty', *The Economist* (18 September 1999), http://www.un.org/News/ossg/sg/stroies/kaecon.html. Accessed 12 June 2009.
121. T. Blair, 'The Doctrine of the International Community' (24 September 1999), http://www.number10.gov.uk/Page1297. Accessed 23 July 2008.
122. Cited in Gareth Evans, *The Responsibility to Protect*, 31.
123. African Union, 'African Union in a Nutshell'. Emphasis added, http://www.africaunion.org/root/au/AboutAu/au_in_a_nutshell_en.htm. Accessed 26 June 2006. See F. Cheru, *African Renaissance, Roadmaps to the Challenge of Globalization* (London: Zed Books, 2002), 203–4. Also, The Centre for Conflict Resolution, *Building an African Union for the 21st Century* (Policy Seminar Report, August 2005).
124. For a relevant overview that places this development within the context of the R2P, see A. Brown, 'Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?' *House of Commons Research Paper* (17 June 2008), http://www.parliament.uk/commons/lib/research/rp2008/rp08-055.pdf. Accessed 10 December 2009.
125. African Union Constitutive Act, Article 4, principle (h), http://www.africa-union.org/root/au/Aboutau/Constitutive_Act_en.htm. Accessed 21 May 2010.
126. See E. Baimu and K. Sturman, 'Amendment to the African Union's Right to Intervene', *African Security Review* (12, no. 2, 2003), http://www.iss.co.za/pubs/ASR/12No2/AfWat.html. Accessed 14 June 2006.
127. T. G. Weiss, *Humanitarian Intervention*, 97. For a specific overview from a 'developing' perspective, see R. Thakur, 'Developing Countries and the Intervention-Sovereignty Debate', in R. M. Price, and M. W. Zacher, *The United Nations and Global Security* (New York: Palgrave Macmillan, 2004), Chapter 12.
128. See a discussion of Baroness Symons claim in T. Dunne and N. J. Wheeler, 'Blair's Retain: A Force for Good in the World?' in K. E. Smith, and M. Light (eds), *Ethics and Foreign Policy* (Cambridge: Cambridge University Press, 2001), 176.
129. V. K. Fouskas and B. Gokay, *The New American Imperialism, Bush's War on Terror and Blood for Oil* (London: Praeger Security International, 2005), 174.
130. It is to be reminded here that when I speak of a crisis within the principle of rightful membership I mean that the legal rules underpinning the elite membership status of the P5 within the UN came under intense moral and constitutional scrutiny.
131. This is a central concern discussed within, Review of International Studies, 'Force and Legitimacy in World Politics', *Review of International Studies*, special edition, (31, supplement S1. 2005).
132. Independent International Commission for Kosovo, *Kosovo Report*, 4.
133. Clark, *Legitimacy in International Society*, 212.
134. Independent International Commission for Kosovo, *Kosovo Report*, 4.
135. See Wheeler, *Saving Strangers*, 41. Of course it is not just English School scholars who uphold such as view, see J. T. Johnson. *Morality and Contemporary Warfare* (London: Yale University Press, 1999), 117.
136. Independent International Commission for Kosovo, *The Kosovo Report*, 174. Emphasis added.

137. Winston Churchill is said to have stated, 'Democracy is the worst form of government, except for all those other forms that have been tried from time to time' (From a House of Commons speech on 11 November 1947). This was taken from http://wais.stanford.edu/Democracy/democracy_DemocracyAndChurchill(090503).html. Accessed 6 June 2009.
138. Cited in the International Commission on Intervention and State Sovereignty, *Responsibility to Protect*, 2.

6 The Responsibility to Protect

1. Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), http://www.iciss.ca/report-en.asp. Accessed 23 September 2009. Here after, ICISS report, *Responsibility to Protect*.
2. '2005 World Summit Outcome Document', UNGA Res. 60/1, 16 September 2005, paragraph, 139.
3. For an apt analysis which places Kosovo within the general transition into the R2P, see Ramesh Thakur's collection of essays in R. Thakur, *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (New York: Routledge, 2011).
4. The phrase 'R2P lite' was coined by T. G. Weiss in an email to A. J. Bellamy, see A. J. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocity Crimes* (Cambridge: Polity, 2009), 206, footnote 2.
5. For an analysis which advocates this latter position while explaining the overall controversy, see P. Cunliffe (ed.), *Critical Perspectives on The Responsibility To Protect* (New York: Routledge, 2011), esp. introduction.
6. This is taken from a panel set up by the Council on Foreign Relations, 'Preventing Mass Atrocities' (12 June 2007) in which Louise Arbour, the then UN Commissioner for Human Rights, answers questions from specialists such as Lee Feinstein and Roberta Cohen, http://www.cfr.org/publication/13580/preventing_mass_atrocities_rush_transcript_federal_news_service.html?breadcrumb=%2Fmedia%2Ftranscripts. Accessed 10 January 2009. Emphasis added.
7. Ibid.
8. C. G. Badescu, *Humanitarian Intervention and the Responsibility to Protect* (New York: Routledge, 2011), 9.
9. ICISS Report, *The Responsibility to Protect*.
10. Report of the UN Secretary-General's High Level Panel on Threats, Challenges and Change, *A More Secure World, Our Shared Responsibility* (United Nations Foundation, 2004) http://www.un.org/secureworld/ Report of the Secretary-General, *In Larger Freedom, Towards Security, Human Rights and Development* (United Nations, 2005), http://www.un.org/largerfreedom/. Both accessed 23 September 2009.
11. '2005, World Summit Outcome Document', 30.
12. This five-point plan was released on 7 April 2004 to mark the tenth anniversary of the Rwandan genocide. Also, A. Hehir, 'The Special Adviser on the Prevention of Genocide: Adding Value to the UN's Mechanisms for Preventing Intra-State Crises?' *Journal of Genocide Research* (13, 3. 2011, 271–86).

13. Bellamy, *Responsibility to Protect*, 113–18.
14. Increasingly, the phrase mass atrocity crimes is being used to frame the four crimes identified by the R2P, see D. Scheffer, 'Atrocity Crimes Framing the Responsibility to Protect', in R. H. Cooper and J. V. Kohler (eds), *The Responsibility to Protect: The Global Moral Compact for the 21st Century* (New York: Palgrave Macmillan, 2009), Chapter 5.
15. UN Security Council Resolution 1674, 'Protection of civilians in armed conflict' (S/RES/1674, August 2006). UN Security Council Resolution 1706, 'Reports of the Secretary-General on the Sudan' (S/RES/1706, August 2006). Both can be accessed at http://www.un.org/Docs/sc/unsc_resolutions06.htm. Both accessed 9 February 2009. UN Security Council Resolution 1894, S/RES/1894, November 2009, http://unispal.un.org/UNISPAL.NSF/0/A4E2352BFDF75FF08525766C00588264. Accessed 11 May 2010.
16. For an insight into Luck's views, see E. C. Luck, 'Sovereignty, Choice and the Responsibility to Protect', *Global Responsibility to Protect* (1, 1, 2009, 10–21).
17. Responsibility to Protect Engaging Civil Society Interim Report, 'Global Consultative Roundtables on the Responsibility to Protect: Civil Society Perspectives and Recommendations For Action' (New York: World Federalist Movement-Institute for Global Policy, 2008), 2.
18. The centre can be found at http://globalr2p.org/. See also, the Asia-Pacific Centre for the Responsibility to Protect', http://www.r2pasiapacific.org/index.php?option=com_content&task=view&id=1&Itemid=6. Both accessed 12 February 2009.
19. The International Coalition For The Responsibility to Protect, 'R2P Crises' http://www.responsibilitytoprotect.org/index.php/crises. Accessed 23 June 2011.
20. G. Evans, *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All* (Washington: Brookings Institution Press, 2008), 52.
21. M. Serrano, 'Responsibility to Protect – True Consensus, False Controversy', *Development Dialogue* (55, 2011, 101–12).
22. K. P. Apuuli, 'The Ambivalence of the African Union Leaders to Punish Impunity', paper presented at the International Network of Genocide Scholars, Second Global Conference on Genocide at the University of Sussex, England, 28 June–1 July 2010. The panel was chaired by Nigel Eltringham.
23. See Badescu, *Humanitarian Intervention*, and J. Pattison, *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (New York: Oxford University Press, 2010).
24. These three dimensions were discussed extensively in the 2001 report, see ICISS, *Responsibility to Protect*, sections three, four, and five.
25. Report of the Secretary-General B. Ki-moon, 'Implementing the Responsibility to Protect' (A/63/677, 12 January 2009).
26. See Bellamy, *Responsibility to Protect*, 199.
27. Evans, *The Responsibility to Protect, Ending Mass Atrocity Crimes*, 56–9. Notably, the commitment to rebuild in the original ICISS report has been tragically stripped out of the 2005 consensus.
28. Ibid., 56.
29. Evans, *The Responsibility to Protect, Ending Mass Atrocity Crimes*, 4.
30. G. Evans, 'The Responsibility to Protect: An Idea Whose Time Has Come … and Gone?' *International Relations* (22, 3, 2008, 283–98), 286.

31. For a legal discussion on the 'Right of Pro-Democratic Intervention', see C. Gray, *International Law and the Use of Force* (New York: Oxford University Press, 2008), 55–9.
32. L. Arbour, 'The Responsibility to Protect as a Duty of Care in International Law & Practice', *Review of International Studies* (34, 3, 2008, 445–58), 450. Also, C. B. Walling, 'The History and Politics of Ethnic Cleansing', K. Booth (ed.), *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001).
33. See Article II of the UN Convention on the Prevention and Punishment of the Crime of Genocide.
34. A. L. Bannon, 'The Responsibility to Protect: The U.N. World Summit and the Question of Unilateralism', *Yale Law Journal* (115, 5, 2006, 1157–65), 1162.
35. N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000), 12. Emphasis in original.
36. This concern has been evident since the R2P's endorsement in 2005, see R. J. Hamilton, 'The Responsibility to Protect: From Document to Doctrine-But What of Implementation?' *Harvard Human Rights Journal* (19, 2006, 289–97).
37. Ki-moon, 'Implementing the Responsibility to Protect'. Also, A. J. Bellamy, *Global Politics and The Responsibility to Protect* (New York: Routledge, 2011), 26–50.
38. Global Centre for the Responsibility to Protect, *Implementing the Responsibility to Protect. The 2009 General Assembly Debate: An Assessment* (August 2009), http://globalr2p.org/media/pdf/GCR2P_General_Assembly_Debate_Assessment.pdf. Accessed 1 October 2009.
39. D. Raymond (ed.), *Mass Atrocity: Prevention and Response* (Report on the PKSOI-Harvard Kennedy School MARO Workshop, 8–9 December 2010, 2011). Hereafter, MARO report. Notably the report raises the idea of 'The incoherent middle ground between prevention and response' which captures the fact that real problems of implementation still needs to be addressed.
40. '2005, World Summit Outcome Document', 30.
41. These are the words of Ngũgĩ wa Thiong'o who spoke as part of the UN General Assembly 63rd session which discussed the idea of implementing the Responsibility to Protect. Global Centre for the Responsibility to Protect, *Implementing the Responsibility to Protect*, 3.
42. MARO report, 5.
43. United Nations, *UN Convention on the Prevention and Punishment of the Crime of Genocide* (A, RES/260 (III), 09/12/1948), Article III.
44. Notably there has been two further UN Secretary-General Reports and General Assembly deliberations, see Report of the UN Secretary-General, *Early Warning, Assessment and the Responsibility to Protect* (A/64/864, 14 July 2010), http://globalr2p.org/media/pdf/2010_A.64.864.pdf. Accessed 25 July 2010. This was followed by an informal interactive dialogue within the UN General Assembly on 9 August 2010. Notably, 2011 Report of the Secretary-General, *The Role of Regional and Sub-Regional Organisations in Implementing the Responsibility to Protect* (A/65/877-S2011/93). This was followed by a UN General Assembly informal interactive dialogue on 12 July 2011.

45. A. J. Bellamy, 'Libya and the Responsibility to Protect: The Exception to the Norm', *Ethics and International Affairs* (25, 3, 2011, 263–9), 266.
46. See Bellamy, *The Responsibility to Protect*, 131.
47. '2005, World Summit Outcome Document', 30. Emphasis added.
48. UN General Assembly, 'The Crime of Genocide' (A/RES/96(I), adopted at the 55th plenary meeting, 11 December 1946).
49. Ki-moon, 'Implementing the Responsibility to Protect'.
50. The idea of a R2P-Plus approach is taken here from M. C. Anthony and B. Chng, 'Cyclones and Humanitarian Crises: Pushing the Limits of R2P in Southeast Asia', *Global Responsibility to Protect* (1, 2, 2009, 135–55), 145–6.
51. Ki-moon, 'Implementing the Responsibility to Protect', 9.
52. UN General Assembly, 'The Responsibility to Protect' (A/Res/63/308, October 2009), 1.
53. G. Evans, 'Preventing Mass Atrocities: Making the Responsibility to Protect a Reality', *Keynote address to the UN University and International Crisis Group Conference* 10/10/2007, http://www.crisisgroup.org/home/index.cfm?id=5116&l=1. Accessed 1 April 2008.
54. ICISS Report, *Responsibility to Protect*, 47–68.
55. Ibid., 32. Emphasis in the original.
56. Ibid., 50.
57. Ibid.
58. Ibid., 51. Emphasis added.
59. Ibid.
60. Ibid.
61. See J. Brunne and S. Toope, 'Norms, Institutions and UN Reform: The Responsibility to Protect', *Journal of International Law and International Relations* (2, 2006, 121–37).
62. ICISS Report, *Responsibility to Protect*, 49.
63. Report of the Secretary-General's High Level Panel on Threat, Challenges and Change, *A More Secure World*, 61.
64. ICISS, *The Responsibility to Protect*, 48.
65. E. H. Carr, *The Twenty Years Crisis, 1919–1939* (London: Macmillan, 2001), 8.
66. Ibid.
67. N. J. Wheeler, 'A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit', a paper presented to a conference on the 'The UN at Sixty: Celebration or Wake?' at the University of Toronto in October 2005, 12, http://cadair.aber.ac.uk/dspace/bitstream/2160/1971/1/a%20victory%20for%20common%20humanity,%20Wheeler.pdf Accessed 19/01/09. Also, A. Hurrell 'Legitimacy and the use of Force; can the circle be squared?' *Review of International Studies*, special edition, (31, supplement S1, 2005, 15–32), 30.
68. ICISS, *Responsibility to Protect*, 53.
69. Bellamy, 'Libya and the Responsibility to Protect', 266.
70. Ibid.
71. ICISS Report, *The Responsibility to Protect*, 48. Also, see D. Zaum, 'The Security Council, The General Assembly, and War: The Uniting For Peace Resolution', in V. Lowe, A. Roberts, J. Welsh and D. Zaum, *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008), Chapter 6.

72. J. Krasno and M. Das, 'The Uniting For Peace Resolution and Other Ways of Circumventing the Authority of the Security Council', in B. Cronin and I. Hurd, *The United Nations Security Council and the Politics of Authority* (New York: Routledge, 2008).
73. See L. H. Woosley, 'Uniting For Peace Resolution of the United Nations', *American Society of International Law* (45, 1, 1951, 129–37).
74. ICISS Report, *The Responsibility to Protect*, 48.
75. Ibid., 173–4. For a brief general overview see M. Billington, 'UN "Uniting for Peace" Resolution Could Demand an End to U.S. War in Iraq', *Executive Intelligence Review* (11 April 2003), http://www.larouchepub.com/other/2003/3014un_res_377.html. Accessed 22 February 2009.
76. H. Charlesworth and J. Coicaud (eds), *Fault Lines of International Legitimacy* (New York: Cambridge University Press, 2010).
77. Ibid., 4.
78. K. Annan, 'Two Concepts of Sovereignty', *The Economist* (18 September 1999), http://www.un.org/News/ossg/sg/stroies/kaecon.html. Accessed 12 June 2009.
79. The idea that fault lines can lead to more of a systemic breakdown is taken from Charlesworth and Coicaud*, Fault Lines of International Legitimacy*, 4.
80. Fernando Tesón, 'The Vexing Problem of Authority', *Wisconsin International Law Journal* (24, 3, 2006, 761–72).
81. Ibid., 771.
82. Juan. E. Mendez, 'The United Nations and the Prevention of Genocide', in Ralph Henham and Paul Behrens (eds), *The Criminal Law of Genocide, International, Comparative and Contextual Aspects* (Surrey: Ashgate, 2007), 228.
83. House of Commons. 'Darfur, Sudan: the Responsibility to Protect'. Minutes of Evidence taken before International Development Committee (08/10/05). Question 47. (From now on IDC. *Minutes of Evidence*), http://www.publications.parliament.uk/pa/cm/200506/cmselect/cm/intdev/uc657-i/uc65. It is noted that this is taken from an uncorrected transcript and permission is granted on the basis that and use makes clear that neither witnesses nor members have had an opportunity to correct the transcript. Accessed 1 December 2005.
84. Ibid.
85. Triesman's view does not even represent the UK's view as it is evident that alternative UK perspectives have been raised. See Adele Brown, 'Reinventing Humanitarian Intervention, Two Cheers for the Responsibility to Protect?' *House of Commons Research Paper*, (17 June 2008), 52. http://www.parliament.uk/documents/commons/lib/research/rp2008/rp08-055.pdf. Accessed 17 January 2009.
86. The letter can be read at http://www.responsibilitytoprotect.org/files/US_Boltonletter_R2P_30Aug05%5B1%5D.pdf. Accessed 10 January 2009.
87. Bain raises two theories of obligation, natural and conventional, which seem to align themselves with the substantive and procedural approaches to legitimacy raised above. See W. Bain, 'Responsibility and Obligation in the 'Responsibility to Protect', *Review of International Studies* (36, S1, 2010, 25–46).
88. ICISS Report, 'Responsibility to Protect', 50.

89. C. Stahn, 'Responsibility to Protect, Political Rhetoric or Emerging Legal Norm?' *American Journal of International Law* (101. 1 2007, 99–120), 118.
90. See Moon, 'Implementing the Responsibility to Protect', esp., paragraph 55. A similar sentiment is also found in E. Strauss, 'A Bird in the Hand is Worth Two in the Bush-On the Assumed Legal Nature of the Responsibility to Protect', *Global Responsibility To Protect* (1, 3, 2009, 291–323).
91. Arbour, 'The Responsibility to Protect as a Duty of Care', 450.
92. Ibid., 452.
93. Ibid., 451–2.
94. Ibid., 452–5.
95. Ibid., 453–5.
96. Ibid., 453.
97. Ibid., 454, see footnote.
98. Moon, 'Implementing the Responsibility to Protect'.
99. See see S. Carvin, 'A Responsibility to Reality: A Reply to Louise Arbour', *Review of International Studies* (36, S1, 2010, 47–54).
100. In Aidan Hehir's critical assessment of the R2P from a legal perspective, he upholds the idea that the R2P does not represent anything new, see Hehir, 'The Responsibility to Protect and International Law', in Cunliffe (ed.), *Critical Perspectives on The Responsibility To Protect*.
101. A. Bellamy and R. Reike, 'The Responsibility to Protect and International Law', *Global Responsibility to Protect* (2, 3, 2010, 267–86). Also, L. Glanville, The International Community's, Responsibility to Protect, *Global Responsibility to Protect* (2, 3, 2010, 286–306). Notably, both of these articles use the Genocide Convention to help ground the legal foundations of the R2P.
102. Personal email correspondence with the Global Centre for the Responsibility to Protect based at the Ralph Bunche Institute for International Studies in New York. 25 May 2009.
103. United States, 'National Security Strategy' (May 2010), 48, http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf. Accessed 24 June 2010.
104. Stahn, 'Responsibility to Protect', 117.
105. Theresa Reinold captures this sentiment when she claims that 'the vast majority of states states simply does not want to be legally bound to save strangers', Reinold, 'The Responsibility to Protect-Much ado about Nothing?'*Review of International Studies* (32, S1, 2010, 55–78), 55.

7 The Three Traditions Revisited

1. M. Wight, *International Theory, The Three Traditions*, G. Wight and B. Porter (eds), (New York: Holmes and Meier, 1992), esp. 5–6.
2. M. Continetti, 'Whatever Happened to the Responsibility to Protect? Another Fashionable Foreign Policy Doctrine Bites the Dust', *Weekly Standard* (23 February 2011), http://www.weeklystandard.com/blogs/whatever-happened-responsibility-protect_552381.html. Accessed 25 April 2011.
3. See the roundtable discussion with contributions from J. Pattison, A. Bellamy, J. Welsh, S. Chesterman, and T. G. Weiss, 'Libya, RtoP, and Humanitarian

Intervention' in *Ethics and International Affairs* (25, 3, 2011, 251–85). The phrase 'Alive and Well' is taken from Weiss, 287.

4. The idea of a theoretical pluralism representing a conversation is taken from T. Dunne, *Inventing International Society, History of the English School* (New York: Palgrave Macmillan, 1998), xiii.
5. Kissinger cited in R. Cooper *The Breaking of Nations, Order and Chaos in the Twenty First Century* (London: Atlantic Book 2004), 59–60.
6. H. Kissinger, *Does America Need a Foreign Policy?* (New York: Simon & Schuster, 2002), 251–82. Also, J. M. Welsh, 'Taking Consequences Seriously: Objections to Humanitarian Intervention', in J. M. Welsh (ed.), *Humanitarian Intervention and International Relations* (New York: Oxford University Press, 2006), Chapter 4.
7. R. Jackson, *Sovereignty* (Cambridge: Polity, 2007), 2–5.
8. Bellamy highlights that historically the limits of absolutism have always been evident, A. Bellamy, *Responsibility to Protect* (Cambridge: Polity Press, 2009), 13.
9. This can be traced back to F. M. Deng, S. Kimaro, T. Lyons, D. Rothchild, and I. W. Zartman (eds), *Sovereignty as Responsibility: Conflict Management in Africa* (Washington DC: Brookings Institution, 1996).
10. Kissinger cited in J. G. Heidenrich, *How to Prevent Genocide, A Guide for Policymakers, Scholars, and the Concerned Citizen* (London: Praeger, 2001), 142, emphasis added.
11. N. J. Wheeler, *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).
12. See Clark's discussion of Wheeler in Clark, *Legitimacy in International Society*, 24.
13. See G. F. Kennan, 'Morality and Foreign Policy', *Foreign Affairs* (64, 2, 1985, 205–18), 207.
14. See K. Booth, *Theory of World Security* (Cambridge: Cambridge University Press, 2007), esp. 378–92.
15. Kennan, 'Morality and Foreign Policy', 206.
16. M. Williams (ed.), *Realism Reconsidered* (Oxford: Oxford University Press, 2007).
17. H. Suganami, 'Understanding Man, The State, and War' *International Relations* (23, 3, 2009, 72–388), 378. Emphasis in original.
18. This is taken from R. Jackson, *The Global Covenant, Human Conduct in a World of States* (Oxford: Oxford University Press, 2000), 20.
19. C. V. Wedgwood, *The Thirty Years War* (London: The Bedford Historical Series, 1944), 11.
20. Kissinger himself stipulates that 'Foreign policy is bounded by circumstance'; see Kissinger, *Does America Need a Foreign Policy*, 258.
21. This theme of prudence is taken from Hendrickson *In Defense of Realism*, esp. 41–7.
22. See N. J. Wheeler 'The Humanitarian Responsibility of Sovereignty: Explaining the Development of a New Norm of Military Intervention for Humanitarian Purposes in International Society', in J. Welsh (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2006), 29–51.
23. This is not to suggest that the question of unilateralism has been answered; A. L. Bannon, 'The Responsibility to Protect: The UN World Summit and the Question of Unilateralism', *Yale Law Journal* (115, 2006, 1157–65).

24. A. Hurrell, *On Global Order, Power, Values and the Constitution of International Society* (Oxford: Oxford University Press, 2007), 192.
25. J. Morris and N. J. Wheeler, 'The Security Council's Crisis of Legitimacy and the Use of Force', *International Politics* (44, 2–3, 2007, 214–31).
26. Although a Neoconservative rather than a realist, John McCain aptly summarised this point when he stated, 'the lesson of Somalia is simple: it is clearly not in the interests of the US to subject US decision making on grave matters of state or the lives of American soldiers to the frequently vacillating, frequently contradictory, and frequently reckless collective impulses of the United Nations'. Cited in O. Ramsbotham and T. Woodhouse, *Humanitarian Intervention in Contemporary Conflict* (Cambridge: Polity, 1996), 213.
27. Obviously such thinking can be traced back to J. Nye., *The Paradox of American Power: Why the World's Only Superpower Can't Go it Alone* (Oxford: Oxford University Press, 2003).
28. See N. J. Wheeler's take on Inis Claude original statement, *Saving Strangers*, 4.
29. Kennan, 'Morality and Foreign Policy', 209.
30. While critics often dismiss realism on the grounds that it ignores international law, it is clear that there is real scope for engagement on this issue, see Morgenthau, *Politics Among Nations*, Chapter 16.
31. I am drawing here on Hendrickson, 'In Defence of Realism'.
32. Jackson, *The Global Covenant*.
33. Ibid., vii.
34. Ibid., Chapter 1.
35. Ibid., 410.
36. Ibid., 308.
37. Ibid. The idea that sovereignty acts as a 'framework of independence' is taken from 308.
38. Ibid., 18.
39. Ibid.
40. I'm drawing here on the keynote lecture given by Zygmunt Bauman, 'Done to Humans, Done by Humans', presented at the 1st Global Conference on Genocide by the International Network of Genocide Scholars, at the Centre for the Study of Genocide and Mass Violence, The University of Sheffield (9 January 2009). This understanding can also be found in Z. Bauman, *Modernity and the Holocaust* (Cambridge: Polity, 1989), esp. 18.
41. For Jackson's discussion on this point, see *The Global Covenant*, 414.
42. Ibid., 23.
43. Ibid., 22.
44. Ibid., 355–65.
45. Ibid., 360.
46. T. Blair, 'The Doctrine of the International Community' (24 September 1999), http://www.number10.gov.uk/Page1297. Accessed 23 July 2008.
47. Such understanding creates the basis for Jack Donnelly's analysis of the 'anti-genocide norm' which was raised in Chapter 4.
48. R. Shapcott, 'Anti-Cosmopolitanism, Pluralism and the Cosmopolitan Harm Principle', *Review of International Studies* (34, 2 2008, 185–205), 192.
49. See R. Jackson, *Sovereignty* (Cambridge: Polity, 2007), esp. Chapter 5. Also, Jackson, 'Human Rights Protection in a World of Sovereign States',

in R. Tinnevelt and G. Verschraegen (eds), *Between Cosmopolitan Ideals and State Sovereignty, Studies in Global Justice* (New York: Palgrave Macmillan, 2006, 135–47).

50. Wight, *International Theory*, 267.
51. Although a critical theorist, Linklater's engagement with the English School has seen him go 'from being the official dissident of the School to becoming the principle advocate of its Kantian wing', see I. B. Neumann, 'The English school and the Practices of World Society', *Review of International Relations* (27, 3. 2001, 503–7), 503.
52. A collection of Linklater's essays on these themes has now been published, A. Linklater, *Critical Theory and World Politics, Citizenship, Sovereignty and Humanity* (London: Routledge, 2007).
53. The focus here on justice does not seek to engage in cosmopolitan debates regarding citizenship, humanity, identity, and deliberative democracy.
54. A. Linklater, 'Cosmopolitan Harm Conventions', in S. Vertovec and R. Cohen (eds), *Conceiving Cosmopolitanism, Theory, Context, and Practice* (Oxford: Oxford University Press, 2002), 255.
55. Ibid.
56. For example, the English School's focus on harm within the context of seeking justice differs substantially from the cosmopolitan debates over harm within the context of global distributive justice.
57. Linklater, 'Cosmopolitan Harm Conventions', 260.
58. A. Linklater and H. Suganami, *The English School of International Relations, A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006), 8. Emphasis added.
59. Ibid., 180.
60. Ibid., 163.
61. Ibid. See Linklater discussion of 'Kant's radicalized rationalism', 160–9.
62. This is taken from K. A. Appiah, *Cosmopolitanism: Ethics in a World of Strangers* (New York: WW. Norton & Co., 2006), 51.
63. Shapcott. 'Anti-Cosmopolitanism', 196.
64. Ibid., 159.
65. Linklater and Suganami, *The English School of International*, 161.
66. G. W. Brown, *Grounding Cosmopolitanism, From Kant to the Idea of a Cosmopolitan Constitution* (Edinburgh, Edinburgh University Press, 2009), 66.
67. This is taken from K. Booth, T. Dunne and M. Cox, *How Might We Live? Global Ethics in a New Century* (Cambridge: Cambridge University Press, 2001), 7.
68. A. Hurrell, 'Keeping History, Law and Political Philosophy Firmly within the English School', *Review of International Relations* (27, 3. 2001, 489–94), 490.
69. Brown, *Grounding Cosmopolitanism*.
70. Ibid., 12–14. Brown draws on the work of Gerald Delantly here for these four distinctions.
71. P. Guyer (ed.), *Kant and Modern Philosophy* (Cambridge: Cambridge University Press, 2006), 3.
72. Brown, *Grounding Cosmopolitanism*, 14.
73. See the first of an ongoing three-volume study, A. Linklater, *The Problem of Harm in World Politics* (New York, Oxford University Press, 2011).

74. R. J. Vincent, *Human Rights in International Relations* (London: Cambridge University Press, 1986), 126.
75. A. Linklater, Human Interconnectedness', *International Relations* (23, 3, 2009, 481–97), 491.
76. Linklater, 177.
77. Shapcott, 'Ant-Cosmopolitanism', 198.
78. For Linklater's position, *The English School, A Contemporary Reassessment*, 181. Also, Chapter 6.
79. Cited in Brown, *Grounding Cosmopolitanism*, 1.
80. P. Allot, 'Kant or Won't: Theory and Moral Responsibility', *Review of International Studies* (23, 2, 1997, 33957).

8 Conclusion: Answering the 'East Tennessee Question'

1. K. Booth, *Theory of World Security* (Cambridge: Cambridge University Press, 2007), 379–80.
2. Ibid., 380.
3. Ibid.
4. Ibid.
5. Ibid.
6. Cited in P. Zimbardo, *The Lucifer Effect, How Good People Turn Evil* (London: Ryder, 2007), 14.
7. F. Keane, *Season of Blood, A Rwandan Journey* (London: Penguin, 1995), 30. Emphasis added.
8. W. Bain, 'One Order, Two Laws: Recovering the 'Normative' in English School theory', *Review of International Studies* (33, 4, 2007, 557–75), 561.
9. The idea plays on Leo Kuper's seminal claim that the 'The word is new, the crime is ancient', see L. Kuper, *Genocide, Its Political Use in the Twentieth Century* (London: Yale University Press, 1982), 11.
10. Such thinking is evident in seminal English School texts such as, H. Bull and A. Watson, *The Expansion of International Society* (Oxford: Clarendon Press, 1984). I. Clark, *Legitimacy in International Society* (New York: Oxford University Press, 2005). A. Watson, *The Evolution of International Society, A Comparative Historical Analysis* (New York: Routledge, 2009).
11. Booth, *Theory of World Security,* For an analysis on how Booth distances himself from the English School approach of Bull, see 4–5. For an explanation of the term 'emancipatory realism', see 87–91.
12. See A. Hurrell, *On Global Order, Power, Values and the Constitution of International Society* (Oxford: Oxford University Press, 2007).
13. See K. Booth and N. J. Wheeler, *The Security Dilemma, Fear, Cooperation and Trust in World Politics* (Hampshire: Palgrave Macmillan, 2008).
14. H. Bull, 'The West and South Africa', *Daedalus* (111, 2, 1982, 255–70).
15. Ibid., 266.

Bibliography

Alvarez, J. E., 'Judging the Security Council', *American Journal of International Law* (90, 1, 1996, 1–39).

Alvarez, A., *Governments, Citizens, and Genocide, a Comparative and Interdisciplinary Approach* (Indiana: Indiana University Press, 2001).

American National Committee of America, 'Bush Reaffirms Genocide Pledge' (27 March 2001), http://www.anca.org/press_releases/press_releases.php?prid=60. Accessed (12 April 2010).

Annan, K., 'Two Concepts of Sovereignty'. *The Economist* (18 September 1999), http://www.un.org/News/ossg/sg/stroies/kaecon.html. Accessed (12 April 2010).

Annan, K., '"In Larger Freedom": Decision Time at the UN', *Foreign Affairs* (84, 3, 2005, 63–74).

Annan, K., Keynote Speech to the Stockholm International Forum on Preventing Genocide (26 January 2004), http://www.preventgenocide.org/prevent/UNdocs/KofiAnnanStockholmGenocideProposals26Jan2004.htm. Accessed 2 October 2007

Annan, K., 'Action Plan to Prevent Genocide' (7 April 2004), http://www.preventgenocide.org/prevent/UNdocs/KofiAnnansActionPlantoPreventGenocide7Apr2004.htm. Accessed 2 October 2007

Anthony, M. C. and Chng, B., 'Cyclones and Humanitarian Crises: Pushing the Limits of R2P in Southeast Asia', *Global Responsibility to Protect* (1, 2, 2009, 135–55).

Arbour, L., 'Preventing Mass Atrocities', Council on Foreign Relations (12 June 2007), http://www.cfr.org/publication/13580/preventing_mass_atrocities_rush_transcript_federal_news_service.html?breadcrumb=%2Fmedia%2Ftranscripts. Accessed 10 January 2009.

Arbour, L., 'The Responsibility to Protect as a Duty of Care in International Law & Practice', *Review of International Studies* (34, 3, 2008, 445–58).

Armstrong, D. and Farrell, T., 'Force and Legitimacy in World Politics', *Review of International Studies, Special Edition* (31, supplement 1, 2005).

Armstrong, D., Farrell, T., and Maiguashca, B., *Force and Legitimacy in World Politics* (Cambridge: Cambridge University Press, 2006).

Allot, P., 'Kant or Won't: Theory and Moral Responsibility', *Review of International Studies* (23, no.2, 1997, 339–57).

Appiah, K. A., *Cosmopolitanism: Ethics in a World of Strangers* (New York: WW. Norton & Co., 2006).

Baas, G. J., *Freedom's Battle: The Origins of Humanitarian Intervention* (London: Knopf, 2008).

Badescu, C. G., *Humanitarian Intervention and the Responsibility to Protect* (New York: Routledge, 2011).

Ballard, J. R., *Upholding Democracy: The United States Military Campaign in Haiti, 1994–1997* (Westport: Praeger, 1998).

Bain, W., 'Responsibility and Obligation in the 'Responsibility to Protect', *Review of International Studies*, (36, S1, 2010, 25–46).

Bain, W., 'One Order, Two Laws: Recovering the 'Normative' in English School Theory', *Review of International Studies* (33, 4, 2007, 557–75).
Bannon, A. L., 'The Responsibility to Protect: The UN World Summit and the Question of Unilateralism', *Yale Law Journal* (115, 2006, 1157–65).
Barnett, M., 'Bringing in the New World Order, Liberalism, Legitimacy and the United Nations', *World Politics* (49, 4, 1997, 526–51).
Barnett, M. N., *Eyewitness to a Genocide: The United Nations and Rwanda* (London: Cornell University Press, 2003).
Barnett, M. and Finnemore, M., *Rules for the World: The International Organisations in Global Politics* (London: Cornell University, 2004).
Barnett, M. N., *The International Humanitarian Order* (New York: Routledge, 2010).
Bartov, O., *Mirrors of Destruction, War, Genocide and Modern Identity* (Oxford: Oxford University Press, 2000).
Bassiouni, M. C., 'International Crimes: *Jus Cogens* and *Obligatio Erga Omnes'*, *Law and Contemporary Problems*, (59, 4, 1996, 63–75).
Bauman, Z., *Modernity and the Holocaust* (Cambridge: Polity, 1989).
Bauman, Z., 'Done to Humans, Done by Humans', presented at the 1st Global Conference on Genocide by the International Network of Genocide Scholars, at the Centre for the Study of Genocide and Mass Violence, The University of Sheffield (9 January 2009).
BBC News Report, 'DR Congo Killings May Be Genocide' – UN Report", (27/08/2010), http://www.bbc.co.uk/news/world-africa-11105289. Accessed 27 August 2010.
Beetham, D. and Lord, C., *Legitimacy and the EU* (New York: Longman, 1998).
Bellamy, A. J., 'Humanitarian Intervention and the Three Traditions', *Global Society* (17, 1, 2003, 3–20).
Bellamy, A. J., 'Humanitarian Responsibilities and Interventionist Claims in International Society', *Review of International Studies* (29, 3, 2003, 321–40).
Bellamy, A. J. (ed.), *International Society and its Critics* (Oxford: Oxford University Press, 2005).
Bellamy, A. J., *Just Wars, From Cicero to Iraq* (Cambridge: Polity, 2008).
Bellamy, A. J., 'The Responsibility to Protect and the Problem of Military Intervention', *International Affairs* (84, 4, 2008, 615–39).
Bellamy, A. J., *Responsibility to Protect* (Cambridge: Polity Press, 2009).
Bellamy, A. and Reike, R., 'The Responsibility to Protect and International Law', *Global Responsibility to Protect* (2, 3, 2010, 267–86).
Bellamy, A. J., *Global Politics and The Responsibility to Protect* (New York: Routledge, 2011).
Bellamy, A. J., 'Libya and the Responsibility to Protect: The Exception to the Norm', *Ethics and International Affairs* (25, 3, 2011, 263–9).
Billington, M., 'UN "Uniting for Peace" Resolution could demand an end to US War in Iraq', *Executive Intelligence Review* (11 April 2003), http://www.larouchepub.com/other/2003/3014un_res_377.html. Accessed 22 February 2009.
Bjola, C., 'Legitimating the Use of Force in International Politics: A Communicative Action Perspective', *European Journal of International Relations* (11, 2, 2005, 266–303).
Bjola, C., 'Legitimacy and the Use of Force: Bridging the Analytical-Normative Divide', *Review of International Studies* (34, 4, 2008, 627–44).

Blair, T., 'The Doctrine of the International Community' (24 September 1999), http://www.number10.gov.uk/Page1297. Accessed 23 July 2008.

Blanchard, E. M., 'Why is there no Gender in the English School?', *Review of International Studies* (37, 2, 2011, 855–79).

Booth, K., 'Human Wrongs and International Relations', *International Affairs* (71, 1, 1995, 103–26).

Booth, K., 'Three Tyrannies', in T. Dunne and N. J. Wheeler, *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999).

Booth, K. (ed.), *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001).

Booth, K., Dunne, T., and Cox, M., *How Might We Live?* (Cambridge: Cambridge University Press, 2001).

Booth, K. and Wheeler, N., *The Security Dilemma: Anarchy, Society and Community in World Politics* (London: Palgrave Macmillan, 2006).

Booth, K., *Theory of World Security* (Cambridge: Cambridge University Press, 2007).

Boucher, D., *The Limits of Ethics in International Relations, Natural Law, Natural Rights, and Human Rights in Transition* (Oxford: Oxford University Press, 2009).

Brown, A., 'Reinventing Humanitarian Intervention: Two Cheers for the Responsibility to Protect?', *House of Commons Research Paper* (17 June 2008), http://www.parliament.uk/documents/commons/lib/research/rp2008/rp08-055.pdf. Accessed 17 January 2009.

Brown, C., 'Selective Humanitarianism: in Defence of Inconsistency', in D. K. Chatterjee and D. E. Scheid (eds), *Ethics and Foreign Intervention in International Society* (Cambridge: Cambridge University Press, 2003).

Brown, C., with Ainley, K., *Understanding International Relations, third edition* (New York: Palgrave Macmillan, 2005).

Brown, G. W., 'State Sovereignty, Federation and Kantian Cosmopolitanism', *European Journal of International Relations* (11, 4, 2005, 495–522).

Brown, G. W., *Grounding Cosmopolitanism* (Edinburgh: Edinburgh University Press, 2009).

Browning, C. *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (London: Penguin, 2001).

Brunne, J. and Toope, S., 'Norms, Institutions and UN Reform: The Responsibility to Protect', *Journal of International Law and International Relations* (2, 2006, 121–37).

Bull, H., 'The Grotian Conception of International Society' in H. Butterfield and M. Wight (eds), *Diplomatic Investigations: Essays in the Theory of International Politics* (London: Allen and Unwin, 1966).

Bull, H., 'The West and South Africa', *Daedalus* (111, 2. 1982, 255–70).

Bull, H., *The Anarchical Society, A Study of World Order Politics, third edition* (London: Palgrave Macmillan, 2002).

Burchill, S., *The National Interest in International Relations Theory* (New York: Palgrave Macmillan, 2005).

Butterfield, H., *History and Human Relations* (London: Collis, 1951).

Buzan, B., 'The English School: An Underexploited Resource in IR', *Review of International Studies* (27, 3, 2001, 471–88).

Buzan, B., *From International Society to World Society? English School Theory and the Social Structure of Globalisation* (Cambridge: Cambridge University Press, 2006).

Buzan, B. and Hansen, L., *The Evolution of International Security Studies* (Cambridge: Cambridge University Press, 2009).
Buzan B., 'The English School and International Security', in M. D. Cavelty and V. Mauer (eds), *The Routledge Handbook of Security Studies* (New York: Routledge, 2010).
Caplan, L. M., 'State Immunity, Human Rights, and *Jus Cogens*: A Critique of the Normative Hierarchy Theory', *The American Journal of International Law* (97, 4, 2003, 741–81).
Campbell, K. J., *Genocide and the Global Village* (New York: Palgrave Macmillan, 2001).
Carr, E. H., *The Twenty Year Crisis 1919–1939* (London: Macmillan, 2001).
Caron, D. D., 'The Legitimacy of the Collective Authority of the Security Council', *The American Journal of International Law* (87, no 4, 1993, 552–88).
Carvin, S., 'A Responsibility to Reality: A Reply to Louise Arbour', *Review of International Studies* (36, S1, 2010, 47–54).
Chalk, F. and Jonassohn, K., *The History and Sociology of Genocide, Analyses and Case Studies* (London: Yale University Press, 1990).
Chalk, F., 'Redefining Genocide', in G. J. Andreopoulos (ed.), *Genocide, Conceptual and Historical Dimensions* (Philadelphia: University of Pennsylvania Press, 1997).
Charlesworth, H. and Coicaud, J. M. (eds), *Fault Lines of International Legitimacy* (Cambridge: Cambridge University Press, 2009).
Cheru, F., *African Renaissance, Roadmaps to the Challenge of Globalization* (London: Zed Books, 2002).
Chesterman, S. *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2003).
Clark, I., *Legitimacy in International Society* (New York: Oxford University Press, 2005).
Clark, I., *International Legitimacy and World Society* (New York: Oxford University Press, 2007).
Cohen, R. and Deng, F. M., 'Mass Displacement Caused by Conflicts and One Sided Violence: National and International Responses', *SIPRI Yearbook, 2009: Armaments, Disarmaments and International Security*, http://www.brookings.edu/~/media/Files/rc/articles/2009/0608_internal_displacement_cohen/0608_internal_displacement_cohen.pdf. Accessed 25 May 2010.
Coicaud, J. M., 'Deconstructing International Legitimacy', in Hilary Charlesworth and Jean-Marc Coicaud (eds), *Fault Lines of International Legitimacy* (Cambridge: Cambridge University Press, 2010).
Continetti, M., 'Whatever Happened to the Responsibility to Protect? Another Fashionable Foreign Policy Doctrine Bites the Dust', *Weekly Standard* (23 February 2011), http://www.weeklystandard.com/blogs/whatever-happened-responsibility-protect_552381.html. Accessed 25 April 2011.
Cook, J. W., *Morality and Cultural Differences* (Oxford: Oxford University Press, 1999).
Cooper, J., *Raphael Lemkin and the Struggle for the Genocide Convention* (New York: Palgrave Macmillan, 2008).
Cooper, R., *The Breaking of Nations, Order and Chaos in the Twenty First Century* (London: Atlantic Books, 2004).
Cronin, B., 'The Tension between Sovereignty and Intervention in the Prevention of Genocide', in S. Totten (ed.), *The Prevention and Intervention of Genocide,*

Genocide: A Critical Bibliographic Review, volume six (London: Transaction Publishers, 2008).
Cronin, B. and Hurd, I. (eds), *The UN Security Council and the Politics of International Authority* (New York: Routledge, 2008).
Cunliffe, P. (ed.), *Critical Perspectives on The Responsibility To Protect* (New York: Routledge, 2011).
Dallaire, R., *Shake Hands With The Devil* (London: Arrow Books, 2004).
Davies, S. T., 'Genocide, Despair and Religious Hope', in John K. Roth (ed.), *Genocide and Human Rights: A Philosophical Guide* (New York: Palgrave Macmillan, 2005).
Deng, F. M., Kimaro., S. Lyons T., Rothchild D., and Zartman I. W. (eds), *Sovereignty as Responsibility: Conflict Management in Africa* (Washington DC: Brookings Institution, 1996).
Donnelly, J., *Universal Human Rights, In Theory and Practice* (London: Cornwell University Press, 2003).
Dryzek, J. S., *Deliberative Democracy and Beyond, Liberals, Critics, Contestations* (New York: Oxford University Press, 2000).
Drost, P. N., *Genocide, United Nations Legislation on International Criminal Law* (Leyden: Sythoff, 1959).
Dunne, T., 'Mythology or Methodlogy? Traditions in International Theory', *Review of International Studies* (19, 3, 1993, 305–18).
Dunne, T., 'International Society: Theoretical Promises Fulfilled?' *Cooperation and Conflict* (30, 2, 1995, 125–54).
Dunne, T. and Wheeler, N., 'Hedley Bull's Pluralism of the Intellect and Solidarism of the Will', *International Affairs* (72, 1, 1996, 91–107).
Dunne, T., *Inventing International Society: History of the English School* (New York: Palgrave Macmillan, 1998).
Dunne, T. and Wheeler, N. J., 'Blair's Retain: A Force for Good in the World?' in K. E. Smith and M. Light (eds), *Ethics and Foreign Policy* (Cambridge: Cambridge University Press, 2001).
Dunne, T. and Kroslak, D., 'Genocide: Knowing what it is that we want to Remember, or Forget, or Forgive' in K. Booth (ed.), *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001).
Dunne, T., 'Sociological Investigations: Instrumental, Legitimist and Coercive Interpretations of International Society', *Millennium* (30, 1, 2001, 67–91).
Elder, T., 'What You See Before your Eyes: Documenting Raphael Lemkin's Life by Exploring his Archival Papers 1990–1959', *Journal of Genocide Research* (7, 4, 2005, 25–55).
Evans, G., 'Preventing Mass Atrocities: Making the Responsibility to Protect a Reality', keynote address to the UN University and International Crisis Group Conference, 10 October 2007, http://www.gevans.org/speeches/speech241.html. Accessed 21 April 2008.
Evans, G., 'The Responsibility to Protect: An Idea Whose Time Has Come … and Gone?' *International Relations* (22, 3, 2008, 283–98).
Evans, G., *The Responsibility to Protect, Ending Mass Atrocity Crimes Once and For All* (Washington: Brookings Institution Press, 2008).
Evans, G., 'Implementing the Responsibility to Protect: The Need to Build on the 2005 Consensus', statement made to the United Nations General Assembly Interactive Dialogue on the Responsibility to Protect, New York, 23 July 2009, http://www.gevans.org/speeches/speech405.html. Accessed 3 January 2010.

Falk, R., 'The Challenge of Genocide and Genocidal Politics in an era of Globalisation', in Dunne and Nicholas J. Wheeler (eds), *Human Rights in Global Politics* (Cambridge: Cambridge University Press, 1999).
Falk, R., 'International Law and the Future', *Third World Quarterly* (27, 5, 2006, 727–37).
Falk, R., *Achieving Human Rights* (London: Routledge, 2009).
Fein, H., 'Genocide, Terror, Life Integrity and War Crimes: The Care for Discrimination', in G. J. Andreopoulos (ed.), *Genocide, Conceptual and Historical Dimensions* (Philadelphia: University of Pennsylvania Press, 1997).
Ferguson, N., *Colossus: The Rise and Fall of the American Empire* (London: Penguin, 2005).
Fernandez, J. W., 'Tolerance in a Repugnant World and Other Dilemmas in the Cultural Relativism of Melville J. Herskovitz', *Ethos* (18.2. 1990, 140–64).
Finch, G. A., 'The Genocide Convention', *The American Journal of International Law* (43, 4, 1949, 732–8).
Fournet, C., 'The Universality of the Prohibition of Genocide, 1948–2008', *International Criminal Justice Review* (19, 2, 2009, 132–49).
Fouskas, V. K., *Zones of Conflict: US Foreign Policy in the Balkans and the Greater Middle East* (London: Pluto, 2003).
Fouskas V. K. and Gokay, B., *The New American Imperialism: Bush's War on Terror and Blood for Oil* (London: Praeger Security International, 2005).
Franck, T. M., *The Power of Legitimacy Among Nations* (New York: Oxford University Press, 1990).
Fukuyama, F., 'After Neoconservatism', *New York Times* (19 February 2006).
Gaddis, J. L., 'Order versus Justice: An American Foreign Policy', in R. Foot, J. L. Gaddis, and A. Hurrell, *Order and Justice in international relations* (Oxford: Oxford University Press, 2003).
Gardner, J. P., *Human Rights as General Norms and a States Right to Opt Out* (London: British Institute for International and Comparative Law, 1997).
Gellately, R. and Kiernan, B., 'Investigating Genocide', in R. Gellately and B. Kiernan (eds), *The Spectre of Genocide, Mass Murder in Historical Perspective* (Cambridge: Cambridge University Press, 2003).
Geras, N., *The Contract of Mutual Indifference, Political Philosophy After the Holocaust* (London: Verso, 1999).
Geras, N., 'Genocide and Crimes Against Humanity', in J. K. Roth (ed.), *Genocide and Human Rights, A Philosophical Guide* (New York: Palgrave Macmillan, 2005).
Genocide Prevention Task Force, *Preventing Genocide: A Blueprint for U.S. Policymakers* (United States Holocaust Memorial Museum, 2008).
Ghali, B. B., 'Peacemaking and Peacekeeping for the New Century' in O. A. Otunnu and M. Doyle (eds), *Peacemaking and Peacekeeping for the New Century* (Oxford: Rowman and Littlefield, 1998).
Gilbert, M., *The Holocaust, The Jewish Tragedy* (Glasgow: William Collins, 1987).
Gilpin, R. 'The Global Political System' in J. D. B. Miller and R. J. Vincent (eds), *Order and Violence: Hedley Bull and International Relations* (Oxford: Clarendon, 1990).
Glanville, L., 'The International Community's, Responsibility to Protect, *Global Responsibility to Protect* (2, 3, 2010, 286–306).
Global Centre for the Responsibility to Protect, 'The Georgia Russia Crisis', http://globalr2p.org/pdf/related/GeorgiaRussia.pdf. Accessed 19 January 2009.

Global Centre for the Responsibility to Protect, *Implementing the Responsibility to Protect. The 2009 General Assembly Debate: An Assessment* (August 2009).

Glover, J., *Humanity, A Moral History of the Twentieth Century* (London: Pimlico, 2001).

Gray, C., 'The Charter Limitations on the Use of Force: Theory and Practice', in V. Lowe, A. Roberts, J. Welsh, and D. Zaum, *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).

Gray, C., *International Law and the Use of Force* (New York: Oxford University Press, 2008).

Green, B. B., 'Stalinist Terror and the Question of Genocide: The Great Famine', in A. S. Rosenbaum (ed.), *Is the Holocaust Unique? Perspectives on Comparative Genocide?* (Oxford: Westview Press, 2001).

Grieco, J. M., 'Anarchy and the Limits of Cooperation: A Realist Critique of the Newest Liberal Institutionalism', *International Organisation* (42, 3, 1988, 485–507).

Grieco, J., Powell, R., Snidal, D., 'The Relative-Gains Problem for International Cooperation', *The American Political Science Review* (87, 3, 1993, 727–43).

Habermas, J., *Legitimation Crisis* translated by T. McCarthy (London: Heinemann, 1976).

Hagan, J and Rymond-Richmond, W., *Darfur and the Crime of Genocide* (Cambridge: Cambridge University Press, 2008).

Hall, I., *The International Thought of Martin Wight* (New York: Palgrave Macmillan, 2006).

Hamilton, R. J., 'The Responsibility to Protect: From Document to Doctrine-But What of Implementation?' *Harvard Human Rights Journal* (19, 2006, 289–97).

Hart, H. L. A., *The Concept of Law* (Oxford: Oxford University Press, 1997).

Harff, B. and Gurr, T. R., 'Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases since 1945', *International Studies Quarterly* (32, 2, 1988, 359–71).

Heidenrich, J. G., *How to Prevent Genocide, A Guide for Policymakers, Scholars, and the Concerned Citizen* (London: Praeger, 2001).

Hehir, A., 'The Responsibility to Protect: "Sound and Fury Signifying Nothing?"' *International Relations* (24, 2, 2010, 218–39).

Hehir, A., 'The Special Adviser on the Prevention of Genocide: Adding Value to the UN's Mechanisms for Preventing Intra-State Crises?' *Journal of Genocide Research* (13, 3, 2011, 271–86).

Hehir, A., 'The Responsibility to Protect and International Law', in P. Cunliffe (ed.), *Critical Perspectives on The Responsibility To Protect* (New York: Routledge, 2011).

Held, D., *Democracy and Global Order* (Cambridge: Polity Press, 1995).

Henham, R. and Behrens, P., *The Criminal Law of Genocide, International, Comparative and Contextual Analysis* (Surrey: Ashgate, 2007).

Herz, J., *Political Realism and Political Idealism: A Study in Theories and Realities* (Chicago: University of Chicago Press, 1951).

Herzen, A., *My Past and Thoughts* translated by Constance Garnett (London: University of California Press, 1982).

Hilberg, R., *The Destruction of the European Jews* (Chicago: Quadrangle Books, 1961).

Hinton, A. L. (ed.), *Genocide: An Anthropological Reader* (Oxford: Blackwell Publishing, 2002).
Hinton, A. L. (ed), *Annihilating Difference: The Anthropology of Genocide* (London: University of California Press, 2002).
Hirsch, H., *Anti-Genocide, Building An American Movement to Prevent Genocide* (London: Praeger, 2002).
Hobbes, T., *Leviathan* (Oxford: Oxford University Press, 1998).
Hobsbawm, E., *The Age of Extremes, The Short Twentieth Century, 1914–1991* (London: Michael Joseph, 1994).
Hollis, M. and Smith, S., *Explaining and Understanding International Relations* (Oxford: Clarendon Press, 2003).
Holzgrefe, J. L. and Keohane, R. O., *Humanitarian Intervention: Ethical, Legal and Political Dilemmas* (Cambridge: Cambridge University Press, 2003).
Horowitz, I. L., *Taking Lives, Genocide and State Power* (London: Transaction, 2002).
House of Commons, 'Darfur, Sudan: the Responsibility to Protect'. Minutes of Evidence taken before International Development Committee (08 October 2005), http://www.publications.parliament.uk/pa/cm/200506/cmselect/cm/intdev/uc657-i/uc65. Accessed 21 May 2006.
Human Rights Watch, 'The Anfal Campaign against the Kurds' (New York: Human Rights Watch, 1993).
Huttenbach, H., 'Towards a Conceptual Definition of Genocide', *The Journal of Genocide Research* (4, 2, 2002, 167–76), http://thehuttenbachgenocideforum.org/WordPress/?p=16. Accessed 15 November 2007.
Hurrell, A., 'Keeping History, Law and Political Philosophy Firmly within the English School', *Review of International Relations* (27, 3. 2001, 489–94).
Hurrell, A., 'Legitimacy and the Use of Force', *Review of International Studies, Special Edition* (31, supplement 1, 2005).
Hurrell, A., *On Global Order, Power, Values and the Constitution of International Society* (Oxford: Oxford University Press, 2007).
Hurrelmann, A., Schneider, S. and Steffek, J. (eds), *Legitimacy in an Age of Global Politics* (New York: Palgrave Macmillan, 2007).
Ignatieff, M., *Human Rights as Politics and Idolatry*, A. Gutmman (ed.) (New Jersey: Princeton University Press, 2001).
Ikenberry, J. G., *After Victory, Institutions, Strategic Restrain, and the Rebuilding of Order and Major Wars* (Princeton: Princeton University Press, 2001).
Independent International Commission on Kosovo, *The Kosovo Report* (Oxford: Oxford University Press, 2000).
Jackson, R., *The Global Covenant, Human Conduct in a World of States* (Oxford: Oxford University Press, 2000).
Jackson, R., 'Human Rights Protection in a World of Sovereign States', in R. Tinnevelt and G. Verschraegen (eds), *Between Cosmopolitan Ideals and State Sovereignty, Studies in Global Justice* (New York: Palgrave Macmillan, 2006).
Jackson, R., *Sovereignty* (Cambridge: Polity, 2007).
Jackson, J., 'International Relations as a Craft Discipline', in C. Navari (ed.), *Theorising International Society, English School Methods* (New York: Palgrave Macmillan, 2009).
Jacobs, S. L., 'The Papers of Raphael Lemkin: A First Look', *Journal of Genocide Research* (1, 1, 1999, 105–14).

Janssen, D., 'Humanitarian Intervention and the Prevention of Genocide', *Journal of Genocide Research* (10 2, 2008, 289–306).

Johnson, J. T., *Morality and Contemporary Warfare* (London: Yale University Press, 1999).

Jones, A., *Genocide: A Comprehensive Introduction* (New York: Routledge, 2006).

Jones, B., Carlos, P., and Stedman, S. J., *Power and Responsibility: Building International Order in an Era of Transnational Threat* (Washington: Brookings Institution, 2009).

Jones, R., 'The English School of International Relations: A Case for Closure', *Review of International Studies* (7, 1, 1981, 1–13).

Kagan, R., 'America's Crisis of Legitimacy', *Foreign Affairs* (83, 2, 2004, 65–87).

Kagan, R., 'A Matter of Record', *Foreign Affairs* (84, 2, 2005, 170–4).

Kaldor, M., *New and Old Wars, Organised Violence in a Global Era* (Cambridge: Polity Press, Blackwell Publishers, 2000).

Kalyvas, S. N., '"New" and "Old" Civil Wars: A Valid Distinction?' *World Politics* (54, no.1, 2001, 99–118).

Katz, S., *The Holocaust in Historical Context, 1, The Holocaust and Mass Death before the Modern Age* (Oxford: Oxford University Press, 1994).

Keal, P. *European Conquest and the Rights of Indigenous Peoples, The Moral Backwardness of International Society* (Cambridge University Press, 2003).

Keane, F., *Season of Blood, A Rwandan Journey* (London: Penguin, 1995).

Keene, E., 'The Development of the Concept of International Society: An Essay on Political Argument in International Theory', in M. Ebata and B. Neufeld (eds), *Confronting the Political in International Relations* (New York: St. Martin's Press, 2000).

Kennan, G. F., 'Morality and Foreign Policy', *Foreign Affairs* (64, 2, 1985, 205–18).

Kennedy-Pipe, C., 'From Cold Wars to New Wars', in C. Jones and C. Kennedy-Pipe, *International Security in a Global Age: Securing the Twenty-First Century* (London: Frank Cass, 2000).

Kennedy, P., *The Parliament of Man: The Past, Present and Future of the United Nations* (London: Random House, 2006).

Kiernan, B., *The Pol Pot Regime, Race, Power, and Genocide in Cambodia under the Khmer Rouge, 1975–79* (London: Yale University Press, 1995).

Ki-moon, B., 'Implementing the Responsibility to Protect' (A/63/67, 2009), http://www.responsibilitytoprotect.org/index.php?module=uploads&func=download&fileId=655. Accessed 13 February 2009.

Kissinger, H., *Does America Need a Foreign Policy?* (New York: Simon & Schuster, 2002).

Knight, A. W., 'The Future of the UN Security Council and Representation in Multilateral Governance' in A. F. Cooper, J. English, and R. Thakur, *Enhancing Global Governance* (Tokyo: United Nations University Press. 2002).

Krasno, J. and Das, M., 'The Uniting For Peace Resolution and Other Ways of Circumventing the Authority of the Security Council', in B. Cronin and I. Hurd (eds), *The UN Security Council and the Politics of International Authority* (New York: Routledge, 2008).

Krisch, N., 'The Security Council and the Great Powers', in V. Lowe, A. Roberts, J. Welsh, and D. Zaum (eds), *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).

Kuper, L., *Genocide and its Political Use in the Twentieth Century* (New Haven: Yale University Press, 1982).

Kuznick, P. J., 'Prophets of Doom or Voices of Sanity? The Evolving Discourse of Annihilation in the First Decade and a Half of the Nuclear Age', *Journal of Genocide Research* (9, 3, 2007, 411–41).

Lang, B., 'The Evil in Genocide', in J. K. Roth (ed.), *Genocide and Human Rights, A Philosophical Guide* (New York: Palgrave Macmillan, 2005).

Layne, C., 'Kant or Cant: The Myth of Democratic Peace', *International Security* (19, 2, 1994, 5–49).

Lemkin, R., *Axis Rule in Occupied Europe: Laws of Occupation, Analysis of Government, Proposals for Redress* (New Jersey: Lawbook Exchange Ltd, 2005).

Lemkin, R., 'Genocide as a Crime Under International Law', *American Journal of International Law* (41, 1, 1947, 145–51).

Levene, M., 'From Past to Future: Prospects for Genocide and Its Avoidance in the Twenty-First Century', in D. Bloxham and A. D. Moses (eds), *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010).

Levene, M., *Genocide in the Age of the Nation State, I: The Meaning of Genocide* (London: I. B. Tauris, 2005).

Levene, M., *Genocide in the Age of the Nation State, II: The Rise of the West and the Coming of Genocide* (London: I. B. Tauris, 2005).

Linklater, A., *Beyond Realism and Marxism, Critical Theory in International Relations* (Hampshire: Macmillan Press, 1990).

Linklater, A., 'Citizenship, Humanity, and Cosmopolitan Harm Convention', *International Political Science Review* (22, 3, 1998, 261–77).

Linklater, A., 'The Problem of Harm in World Politics: Implications for the Sociology of States-Systems', *International Affairs* (78, 2, 2002, 319–38).

Linklater, A. 'Cosmopolitan Harm Conventions', in Steven Vertovec and Robert Cohen (eds), *Conceiving Cosmopolitanism, Theory, Context, and Practice* (Oxford: Oxford University Press, 2002).

Linklater, A. and Suganami, H., *The English School of International Relations: A Contemporary Reassessment* (Cambridge: Cambridge University Press, 2006).

Linklater, A. *Critical Theory and World Politics, Citizenship, Sovereignty and Humanity* (London: Routledge, 2007).

Linklater, A., 'The English School', in S. Burchill, A. Linklater, R. Devetak, J. Donnelly, T. Nardin, M. Paterson, C. Reus-Smit and J. True, *Theories of International Relations, fourth edition* (New York: Palgrave Macmillan, 2009).

Linklater, A., 'Pacifying Europe: A Reply to Mearsheimer', *Leviathan* (1, 2010, 31–8).

Linklater, A., *The Problem of Harm in World Politics* (New York: Oxford University Press, 2011).

Little, R., 'The English School's Contribution to the Study of International Relations', *European Journal of International Relations* (6, 3, 2000, 395–422).

Lippman, M., 'A Road Map to the 1948 Genocide Convention', *Journal of Genocide Research* (4, 2, 2002, 177–95).

Lowe, V., Roberts, A., Welsh, J., and Zaum, D., *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).

Luard, E., *The International Protection of Human Rights* (London: Thames and Hudson, 1967).

Luck, E. C., 'A Council for All Seasons: The Creation of the Security Council and its Relevance Today', in V. Lowe, A. Roberts, J. Welsh, and D. Zaum, *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).

Luck, E. C., 'Sovereignty, Choice and the Responsibility to Protect', *Global Responsibility to Protect* (1, 1, 2009, 10–21).
Lukes, S., *Moral Relativism* (London: Profile Books, 2008).
MacFarlane, S. N., Russian Perspectives on Order and Justice', in R. Foot, J. L. Gaddis, and A. Hurrell, *Order and Justice in international relations* (Oxford: Oxford University Press, 2003).
Mann, M., *The Dark Side of Democracy, Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005).
Mackie, J. L., *Ethics: Inventing Right and Wrong* (New York: Penguin, 1977).
Marsh, D. and Furlong, P., 'A Skin, not a Sweater: Ontology and Epistemology in Political Science' in D. Marsh and G. Stoker (eds), *Theory and Methods in Political Science* (Hampshire: Palgrave Macmillan, 2002).
May, L., *Crimes Against Humanity, A Normative Account* (Cambridge: Cambridge University Press, 2005).
Mayall, J., (ed.), *The New Interventionism 1991–1994* (Cambridge: Cambridge University Press, 1994).
Mayall, J., *World Politics: Progress and its Limits* (Cambridge: Polity, 2000).
Mayroz, E., 'Ever again? The United States, Genocide Suppression, and the Crisis in Darfur', *The Journal of Genocide Research* (10, 3, 2008, 359–88).
Mearsheimer, J. M. *The Tragedy of Great Power Politics* (London: Norton, 2001).
Mearsheimer, J., M., 'Why is Europe Peaceful Today?' *European Political Science* (vol. 9, 2010, 387–97).
Meltzer, B. D., 'The Nuremburg Trial: A Prosecutor's Perspective', *Journal of Genocide Research* (4, 4, 2002, 561–8).
Melvern, L., *A People Betrayed: The Role of the West in Rwanda's Genocide* (London: Zed, 2000).
Melvern, L., *Conspiracy to Murder: The Rwandan Genocide* (London: Verso, 2004).
Melvern, L., 'The Role of The West in the Rwandan Genocide', paper presented as part of the Postgraduate Academy Series at the Centre for the Study of Genocide and Mass Violence at the University of Sheffield. 21 May 2010.
Millennium, 'Forum: Barry Buzan's From International to World Society?' *Millennium* (34, no. 1, 2005, 156–99).
Mitter, R., 'An Uneasy Engagement: Chinese Ideas of Global Order and Justice in Historical Perspective', R. Foot, J. L. Gaddis, and A. Hurrell, *Order and Justice in International Relations* (Oxford: Oxford University Press, 2003).
Morgenthau, H., *Politics amongst Nations: The Struggle for Power and Peace* (New York: Alfred A. Knopf, 1985).
Morris, J. and Wheeler, N. J., 'The Security Council's Crisis of Legitimacy and the Use of Force', *International Politics* (44, 2–3, 2007, 214–31).
Morton, J. S. and Singh N. V., 'The International Legal Regime on Genocide', *Journal of Genocide Research* (5, 1, 2003, 47–69).
Moses, D. A. and Bloxham, D., *The Oxford Handbook of Genocide Studies* (New York: Oxford University Press, 2010).
Moses, D. A., 'Raphael Lemkin, Culture, and the Concept of Genocide', in D. A. Moses and D. Bloxham, *The Oxford Handbook of Genocide Studies* (New York: Oxford University Press, 2010).
Moses, D. A., 'The Holocaust and Genocide', in D. Stone (ed.), *The Historiography of the Holocaust* (New York: Palgrave Macmillan, 2004, 533–51).

Navari, C. (ed.), *Theorising International Society, English School Methods* (Basingstoke: Palgrave Macmillan, 2009).
Neuffer, E., *Key to My Neighbours House, Seeking Justice in Bosnia and Rwanda* (London: Bloomsbury, 2001).
Neumann, I. B., 'The English School and the Practices of World Society', *Review of International Studies* (27, 3, 2001, 503–7).
Nicolaidis, K. and Lacroix, J., 'Order and Justice Beyond The Nation-State: Europe's Competing Paradigms' in R. Foot, J. L. Gaddis, and A. Hurrell, *Order and Justice in International Relations* (Oxford: Oxford University Press, 2003).
Nye J., T*he Paradox of American Power: Why the World's Only Superpower Can't Go it Alone* (Oxford: Oxford University Press, 2003).
Obama, B., 'Renewing American Leadership', *Foreign Affairs* (July/August, 2007, 1–16).
Obama, B., *Audacity of Hope: Thoughts on Reclaiming the American Dream* (Edinburgh: Cannongate Books, 2007).
Orakhelashvili, A., *Peremptory Norms in International Law* (Oxford: Oxford University Press, 2006).
Organisation of African Union, Organisation of African Union Charter (25 May 1963), http://www.africa-union.org/root/au/Documents/Treaties/text/OAU_Charter_1963.pdf. Accessed 4 June 2008.
Organisation of African Unity, 'OAU Report Regarding Rwandan Genocide', *The American Journal of International Law* (94, No. 4. 2000, 692–5).
Orwell, G., *Animal Farm* (London: Penguin, 1987).
Pattison, J., *Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?* (New York: Oxford University Press, 2010).
Pattison, J., 'The Ethics of Humanitarian Intervention in Libya', *Ethics and International Affairs* (25, 3, 2011, 271–7).
Plano, J. C. and Riggs, R. E., *Forging World Order, The Politics of International Organisation* (New York: The Macmillan Company, 1967).
Power, S., *A Problem From Hell, America and the Age of Genocide* (London: Flamingo, 2003).
Power, S., 'Never Again: The World's Most Unfulfilled Promise', *Frontline Magazine, online* (No date of publication given), http://www.pbs.org/wgbh/pages/frontline/shows/karadzic/genocide/neveragain.html. Accessed 1 April 2010.
Price, R. M. and Zacher, M. W., *The United Nations and Global Security* (New York: Palgrave Macmillan, 2004).
Prunier, G., *The Rwanda Crisis, History of Genocide* (New York: Columbia University Press, 1997).
Prunier, G., *Darfur, The Ambiguous Genocide* (London: Hurst & Company, 2005).
Prunier, G., *From Genocide to Continental War, The 'Congolese' Conflict and the Crisis in Contemporary Africa* (London: Hurst & Company, 2009).
Quigly, J., *The Genocide Convention, An international Legal Analysis* (Hampshire: Ashgate, 2006).
Ramsbotham, O. and Woodhouse, T., *Humanitarian Intervention in Contemporary Conflict* (Cambridge: Polity, 1996).
Raymond, D. (ed.), *Mass Atrocity: Prevention and Response* (Report on the PKSOI-Harvard Kennedy School MARO Workshop, December 8–9 2010, 2011).
Reilly, J., *Belsen: The Liberation of a Concentration Camp* (London: Routledge, 1998).

Rengger, N., 'Realism, Tragedy, and Anti-Pelagian Imagination in International Political Thought', in M. Williams (ed.), *Realism Reconsidered* (Oxford: Oxford University Press, 2007).

Reinold, T., 'The Responsibility to Protect-Much ado about Nothing?' *Review of International Studies* (32, S1, 2010, 55–78).

Responsibility to Protect Engaging Civil Society Interim Report, 'Global Consultative Roundtables on the Responsibility to Protect: Civil Society Perspectives and Recommendations for Action' (New York: World Federalist Movement-Institute for Global Policy, 2008), http://responsibilitytoprotect.org/files/Interim%20Report-R2P%20Roundtables%202008.pdf. Accessed 22 May 2009.

Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001).

Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect, Research, Bibliography, Background* (Ottawa: International Development Research Centre, 2001).

Reus-Smit, C., 'The Constructivist Challenge after September 11th', in A. Bellamy, *International Society and its Critics* (Oxford: Oxford University Press, 2005).

Riemer, N., *Protection Against Genocide, Mission Impossible?* (London: Praeger, 2000).

Roberts, A. and Kingsbury, B. (eds), *United Nations, Divided World, The UN's Roles in International Relations* (New York: Oxford University Press, 2007).

Rorty, R., *Contingency, Irony and Solidarity* (Cambridge: Cambridge University Press, 1989).

Rosenbaum, A. S., *Is the Holocaust Unique?* (Oxford: Westview Press. 2001).

Roth, J. K., 'Genocide and the Logic of Racism', in J. K. Roth (ed.), *Genocide and Human Rights a Philosophical Guide* (New York: Palgrave Macmillan, 2005).

Rummel, R. J., *Death by Government* (London: Transaction, 2008).

Semelin, J., *Purify and Destroy, the Political uses of Massacre and Genocide* translated from the French by Cynthia Schoch (London: Hurst and Thompson, 2007).

Serrano, M., 'Responsibility to Protect – True Consensus, False Controversy', *Development Dialogue* (55, 2011, 101–12).

Schaack, B. V., 'The Crime of Political Genocide: Repairing the Genocide Convention's Blind Spot', *The Yale Law Journal* (106, 7. 1997, 2259–91).

Schabas, W. A., 'National Courts Finally Begin to Prosecute Genocide, the "Crime of Crimes", *Journal of International Criminal Justice* (1, 1, 2003, 39–63).

Schabas, W. A., *Genocide in International Law* (Cambridge: Cambridge University Press, 2000).

Schabas, W. A., 'Has Genocide Been Committed in Darfur? The State Plan or Policy Element in the Crime of Genocide', in R. Henham and P. Behrens (eds), *The Criminal Law of Genocide, International Comparative and Contextual Aspects* (Surrey: Ashgate, 2007).

Schabas, W. A., 'Whither Genocide? The International Court of Justice Finally Pronounces', *Journal of Genocide Research* (9, 2, 2007, 183–92).

Schaller, D. J. and Zimmerrer, J. (eds), 'Raphael Lemkin: The "Founder of the Genocide Convention" as a Historian of Mass Violence', *Journal of Genocide Research, special issue* (7, 4, 2005).

Scheffer, D., 'Atrocity Crimes Framing the Responsibility to Protect', in R. H. Cooper and J. V. Kohler (eds), *The Responsibility to Protect: The Global Moral Compact for the 21st Century* (New York: Palgrave Macmillan, 2009).
Shapcott, R. 'Anti-Cosmopolitanism, Pluralism and the Cosmopolitan Harm Principle', *Review of International Studies* (34, 2, 2008, 185–205).
Shaw, M., *Global Society and International Relations, Sociological Concepts and Political Perspectives* (Cambridge: Polity Press, 1994).
Shaw, M., 'Strategy and Slaughter', *Review of International Studies* (29, 2, 2003, 269–77).
Shaw, M., *War and Genocide* (Cambridge: Polity Press, 2003).
Shaw, M., *What is Genocide?* (Cambridge: Polity Press, 2007).
Shelton, D., 'Normative Hierarchy in International Law', *American Journal of International Law* (100, 2, 2006, 291–323).
Shue, H. 'Limiting Sovereignty', in J. Welsh (ed.), *Humanitarian Intervention in International Relations* (Oxford: Oxford University Press, 2006).
Simon, T. W., *The Laws of Genocide, Prescriptions for a Just World* (Westport: Praeger Security International, 2007).
Simpson, G., *Great Powers and Outlaw States, Unequal Sovereigns in the International Legal Order* (Cambridge: Cambridge University Press, 2004).
Slim, H., 'Dithering Over Darfur? A Preliminary Review of the International Response', *International Affairs* (80, 5, 2004, 811–28).
Smith, M. J., *Realist Thought From Weber to Kissinger* (Baton Rouge: Louisiana State University Press, 1987).
Smith K. E. and Light, M. (eds), *Ethics and Foreign Policy* (Cambridge: Cambridge University Press, 2001).
Smith, K. E., *Genocide and the Europeans* (New York: Cambridge University Press, 2010).
Smith, S. 'Singing Our World Into Existence: International Relations Theory and September 11th', *International Studies Quarterly* (48, 3, 2004, 499–515).
Spector, S., 'Aktion 1005–Effacing the Murder of Millions', *Holocaust and Genocide Studies* (5, 2, 1990, 157–73).
Stahn, S., 'Responsibility to Protect, Political Rhetoric or Emerging Legal Norm?', *American Journal of International Law* (vo1. 101. no. 1 2007, 99–120).
Strauss, E., 'A Bird in the Hand is Worth Two in the Bush-On the Assumed Legal Nature of the Responsibility to Protect', *Global Responsibility To Protect* (1, 3, 2009, 291–323).
Straus, S., 'Darfur and the Genocide Debate', *Foreign Affairs* (84, 1, 2005, 124–34).
Straus, S., 'Political Science and Genocide', in D. Bloxham and A. D. Moses (eds), *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010).
Suganami, H., 'Understanding Man, The State, and War', *International Relations* (23, 3, 2009, 372–88).
Tesón, F., 'The Vexing Problem of Authority', *Wisconsin International Law Journal* (24, 3, 2006, 761–72).
Thakur, R., *International Peacekeeping in Lebanon: United Nations Authority and Multinational Force* (Colorado: Westview Press, 1987).
Thakur, R., 'Developing Countries and the Intervention-Sovereignty Debate', in R. M. Price and M. W. Zacher, *The United Nations and Global Security* (New York: Palgrave Macmillan, 2004).

Thakur, R., *The United Nations, Peace and Security, from Collective Security to the Responsibility to Protect* (Cambridge: Cambridge University Press, 2006).

Thakur, R., *The Responsibility to Protect: Norms, Laws and the Use of Force in International Politics* (New York: Routledge, 2011).

True, J., 'Feminism', in A. J. Bellamy (ed.), *International Society and its Critics* (Oxford: Oxford University Press, 2005).

Thucydides, *History of the Peloponnesian War* translated by Rex Warner (London: Penguin, 1972).

Tomuschat, C. and Thouvenin, J. M. (eds), *The Fundamental Rules of the International Legal Order: Jus Cogens and obligations Erga Omnes* (Leiden Boston: Martinus Nijhoff, 2006).

Totten, S. and Bartrop, P. R. 'The Complexities of the Prevention and Intervention of Genocide', in S. Totten and P. R. Bartrop (eds), *The Genocide Studies Reader* (New York: Routledge, 2009).

Totten, S. and Bartrop, P. R., *The Genocide Studies Reader* (New York: Routledge, 2009).

Tucker, R. W. and Hendrickson, D. C., 'The Flip Side of the Record', *Foreign Affairs* (84, 2, 2005, 139–41).

Tucker, R. W. and David, C. Hendrickson, 'The Sources of American Legitimacy', *Foreign Affairs* (83, 6, 2004, 18–32).

UN Doc., United Nations, United Nations Charter (26 June 1945), http://www.un.org/en/documents/charter/index.shtml. Accessed 21 June 2009.

UN Doc., United Nations Archive, S – 0544 – 0004 – 12. Human Rights Commissions Defence. 28 August 1946–28 October 1947. Interoffice Memorandum from John P. Humphrey, Director of Division of Human Rights to M. Henri Laugier, Assistant Secretary-General in charge of Social Affairs. 30 August 1946.

UN Doc., United Nations General Assembly Resolution 96 (I). 'The Crime of Genocide'. (12/11/1946), http://daccessdds.un.org/doc/RESOLUTION/GEN/NR0/033/47/IMG/NR003347.pdf?OpenElement. Accessed 15 August 2008.

UN Doc., United Nations Archives. S-0991-0008-14. Economic and Social Council. Convention on the Prevention and Punishment of the Crime of Genocide (11 February 1948).

UN Doc., United Nations, 'Convention on the Prevention and Punishment of the Crime of Genocide' (A/Res/3/260, 9 December 1948), http://www.preventgenocide.org/law/convention/text.htm. Accessed 12 May 2009.

UN Doc., UN General Assembly Declaration, 'Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty' (A/RES/20/2131, 21 December 1965), http://www.un-documents.net/a20r2131.htm. Accessed 21 November 2008.

UN Doc, UN Security Council Resolution 688 (S/RES/0688, 05/04/1991), http://www.fas.org/news/un/iraq/sres/sres0688.htm. Accessed 17 September 2008.

UN Doc., Report of the Secretary-General pursuant to General Assembly Resolution 53/55, 'The Fall of Srebrenica' (A/54/549, 15/11/1999), http://www.idrc.ca/openebooks/963-1/#ch5fn37. Accessed 2 September 2008.

UN Doc., Report of the Independent Inquiry into the actions of the United Nations during the 1994 genocide in Rwanda (S/1999/1257, 15 December 1999), http://www.un.org/Docs/journal/asp/ws.asp?m=S/1999/1257. Accessed 29 October 2008.

UN Doc., Millennium Report of the Secretary-General, 'We the Peoples: The Role of the United Nations in the 21st Century' (A/54/2000, September 2000). http://www.un.org/millennium/summit.htm. Accessed 29 October 2007.

UN Doc., UN Secretary-General Report, 'A More Secure World Our Shared Responsibility, A Report of the Secretary-General's High Level Panel on Threats, Challenges and Change' (4 December 2004), http://www.un.org/secureworld/. Accessed 29 October 2007.

UN Doc., UN General Assembly, '2005 World Summit Outcome' (UNGA Res. 60/1, 16th September 2005) http://www.un-ngls.org/un-summit-FINAL-DOC.pdf. Accessed 28 October 2007.

UN Doc., Report of the International Commission of Inquiry on Darfur to the United Nations Secretary-General (25 January 2005), http://www.ohchr.org/english/darfur.htm. Accessed 11 July 2007.

UN Doc., UN Security Council Resolution 1663, 'Reports of the Secretary-General on the Sudan' (24 April 2006), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/283/61/PDF/N0628361.pdf?OpenElement. Accessed 9 February 2009.

UN Doc., UN Security Council Resolution 1672, 'Reports of the Secretary-General on the Sudan' (S/Res/1672, 25/04/2006), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/326/77/PDF/N0632677.pdf?OpenElement. Accessed 9 February 2009.

UN Doc., UN Security Council Resolution 1674, 'Protection of Civilians in Armed Conflict' (S/RES/1674, 28 April 2006), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/331/99/PDF/N0633199.pdf?OpenElement. Accessed 9 February 2009.

UN Doc., UN Security Council Resolution 1665, 'Reports of the Secretary-General on the Sudan' (S/Res/1665, 29 June 2006), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/290/22/PDF/N0629022.pdf?OpenElement. Accessed 9 February 2009.

UN Doc., UN Security Council Resolution 1706, 'Reports of the Secretary-General on the Sudan' (S/RES/1706, August 2006), http://www.un.org/Docs/sc/unsc_resolutions06.htm. Accessed 9 February 2009.

UN Security Council Resolution 1894, S/RES/1894, November 2009, http://unispal.un.org/UNISPAL.NSF/0/A4E2352BFDF75FF08525766C00588264. Accessed 11 May 2010.

UN Doc., UN General Assembly, 'The Responsibility to Protect' (A/Res/63/308, 7 October 2009), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/513/38/PDF/N0951338.pdf?OpenElement. Accessed 21 June 2010.

UN Doc., UN General Assembly, 'Cooperation Between the United Nations and the African Union' (A/RES/63/310, 7 October 2009), http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/513/50/PDF/N0951350.pdf?OpenElement. Accessed 21 June 2010.

UN Doc., Report of the UN Secretary-General, Early warning, Assessment and the Responsibility to Protect (A/64/864, 14 July 2010), http://globalr2p.org/media/pdf/2010_A.64.864.pdf. Accessed 25 July 2010.

Valentino, B., *Final Solutions, Mass Killing and Genocide in the Twentieth Century* (New York: Cornell University Press, 2004).

Vincent, R. J., 'Racial Equality', in H. Bull and A. Watson (eds), *The Expansion of International Society* (Oxford: Clarendon Press, 1984).

Vincent, R. J., *Human Rights in International Relations* (London: Cambridge University Press, 1986).
Waal, A. D., *Famine that Kills: Darfur, Sudan* (Oxford: Oxford University Press, 2005).
Watson, A., *The Evolution of International Society: A Comparative Historical Analysis* (New York: Routledge, 2009).
Walling, C. B., 'The History and Politics of Ethnic Cleansing', K. Booth (ed.), *The Kosovo Tragedy: The Human Rights Dimensions* (London: Frank Cass, 2001).
Waltz, K., *Theory of International Politics* (Reading: Mc Graw Hill Higher Education, 1979).
Waltz, K., *Realism and International Politics* (New York: Routledge, 2008).
Walzer, M., *Just and Unjust Wars a Moral Argument with Historical Illustrations, third edition* (New York: Basic Books, 2000).
Walzer, M., *Thick and Thin Moral Argument at Home and Abroad* (Notre Dame: University of Notre Dame Press, 2002).
Walzer, M., *Arguing about War* (London: Yale University Press, 2004).
Weaver, O., 'International Society – Theoretical Premises Unfulfilled?' *Cooperation and Conflict* (27, 1, 1992, 97–128).
Wedgwood, C. V., *The Thirty Years War* (London: The Bedford Historical Series, 1944).
Weitz, E. D., *A Century of Genocide, Utopias of Race and Nation* (Princeton: Princeton University Press, 2003).
Weiss, T. G., 'The Illusion of UN Security Council Reform', *The Washington Quarterly* (26, 4, 2003, 147–61).
Weiss, T. G., *Military – Civilian Interactions* (Oxford: Rowman & Littlefield, 2005).
Weiss, T. G., *Humanitarian Intervention* (Cambridge: Polity Press, 2007).
Weiss, T. G., *What's Wrong with the United Nations and How to Fix it* (Cambridge: Polity Press, 2009).
Weiss, T. G., 'How United Nations Ideas Change History', *Review of International Studies* (36, S1, 2010, 3–23).
Weiss, T. G., 'RtoP Alive and Well After Libya', *Ethics and International Affairs* (25, 3, 2011, 287–92).
Weiss-Wendt, A. 'The State and Genocide', in D. Bloxham and A. D. Moses (eds), *The Oxford Handbook of Genocide Studies* (Oxford: Oxford University Press, 2010).
Welsh, J. M., 'Taking Consequences Seriously: Objections to Humanitarian Intervention', in J. M. Welsh (ed.), *Humanitarian Intervention and International Relations* (New York: Oxford University Press, 2006),
Welsh, J., (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2006).
Welsh, J., 'The Security Council and Humanitarian Intervention', in V. Lowe, A. Roberts, J. Welsh, and D. Zaum, *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).
Welsh, J., 'Civilian protection in Libya; Putting Coercion and Controversy Back into RtoP', *Ethics and International Affairs* (25, 3, 2011, 255–62).
Wendt, A., 'Anarchy is what States make of it: The Social Construction of Power Politics', *International Organization* (46, 2, 1992, 391–425).

Wheeler, N. J., 'Pluralist and Solidarist Conceptions of International Society: Bull and Vincent on Humanitarian Intervention', *Millennium Journal of International Studies* (21, 3, 1992, 463–87).

Wheeler, N. J., *Saving Strangers Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

Wheeler, N., 'Reflections on the Legality and Legitimacy of NATO's Intervention in Kosovo', in K. Booth (ed.), *The Kosovo Tragedy, The Human Rights Dimensions* (London: Frank Cass, 2001).

Wheeler, N. J., 'Humanitarian Intervention after Kosovo: Emergent Norm, Moral Duty or the Coming Anarchy', *International Affairs* (77, 1, 2001, 113–28).

Wheeler, N. J., 'A Victory for Common Humanity? The Responsibility to Protect after the 2005 World Summit', a paper presented to a conference on The UN at Sixty: Celebration or Wake? at the University of Toronto in October 2005, http://cadair.aber.ac.uk/dspace/bitstream/2160/1971/1/a%20victory%20for%20common%20humanity,%20Wheeler.pdf. Accessed 5 June 2008.

Wheeler, N. J., 'The Humanitarian Responsibilities of Sovereignty: Explaining the Development of a New Norm of Military Intervention For Humanitarian Purposes in International Society', in J. Welsh (ed.), *Humanitarian Intervention and International Relations* (Oxford: Oxford University Press, 2006).

Wight, M., 'Why is there no International Theory?' in H. Butterfield and M. Wight (eds), *Diplomatic Investigations: Essays in the Theory of International Politics* (London: Allen and Unwin, 1966).

Wight, M., *International Theory, The Three Traditions* edited by Gabriele Wight and Brian Porter (New York: Holmes ad Meir, 1992).

Williams, M., (ed.), *Realism Reconsidered* (Oxford: Oxford University Press, 2007).

Woosley, L. H., 'Uniting For Peace Resolution of the United Nations', *American Journal International Law* (45, 1, 1951, 129–37).

Zaum, D., 'The Security Council, The General Assembly, and War: The Uniting For Peace Resolution', in V. Lowe, A. Roberts, J. Welsh, and D. Zaum, *The United Nations Security Council and War, The Evolution of Thought and Practice since 1945* (New York: Oxford, 2008).

Zimbardo, P., *The Lucifer Effect, How Good People Turn Evil* (London: Ryder, 2007).

Index