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# Protection from Tragedy: Developing Effective and Legitimate Safe Zones after the Tragedy of Srebrenica

## **Cover Page Footnote**

Kyle Rapp is currently pursuing his Master of Science in Human Rights at the University College Dublin in Ireland. The research this article is based upon was conducted as part of his undergraduate thesis for Roberts Wesleyan College.

## **Protection from Tragedy:**

### **Developing Effective and Legitimate Safe Zones after the Tragedy of Srebrenica**

Over the course of a week in July 1995, genocide on a scale not seen in Europe since the Holocaust occurred. In the midst of a bloody civil war, the Bosnian Serb Army slaughtered more than seven thousand civilians. These massacres followed the collapse of the United Nations (UN) safe area around Srebrenica, where thousands of Bosnian Muslims had gathered under the illusion that the UN force in the village would protect them from Serbian aggression. However, the UN presence and safe area in Srebrenica failed to protect the population from Serbian forces, which overran the village and committed a series of violent crimes against humanity, including genocide and ethnic cleansing. In addition to the deaths and immense destruction caused by the failure of the UN safe area, its collapse resulted in long-term harm to the UN's reputation, casting doubt on the viability of the safe area concept.

It is not surprising that some question the safe area concept after Srebrenica, and indeed some concerns are valid. However, this failure does not mean that safe areas are not an effective and legitimate tool for the UN to protect endangered populations. Instead, Srebrenica can serve as a guiding experience moving forward. Analyzing what went wrong in Srebrenica can provide the UN and the international community with the knowledge needed to affect a new approach to safe areas and titled safe zones, and to protect populations who are at risk of crimes against humanity, specifically genocide and ethnic cleansing. Combining the lessons of Srebrenica with recent developments in international law, specifically the international community's responsibility to protect, safe zones may be one of the most useful tools to protect populations in these instances. It is the aim of this paper to propose a new kind of protection, legitimate under

international law, informed and molded by what went wrong with the UN safe area around Srebrenica: safe zones. This will be done through an analysis of the literature surrounding the events of Srebrenica, deterrence and peacekeeping, and the responsibility to protect. These ideas will then be brought together to give guidance to future application of the safe zone concept.

### Literature Review

The safe zone concept is an original idea, albeit built upon several different fields of scholarship and research. The first field of research which contributes to the safe zone concept is work on the events surrounding and leading up to the failure at Srebrenica. The idea of a safe zone is that an area of land within a conflict area is declared to be free from military operation and attack. The goal is to offer a relatively secure area for civilians to seek refuge during conflict. The November 1999 report of the Secretary-General, which details the events related to Srebrenica, including background information on the Yugoslav crisis, details on the creation of the safe areas, the fall of Srebrenica, its aftermath, and an analysis of 'lessons learned,' is a key document for understanding the events of Srebrenica. This report cites numerous flaws in the safe area concept, including limitations in the mandated structure, forces assigned, air power utilization, the role of the United Nations, and limitations inherent in traditional peacekeeping operations.<sup>1</sup> Jan Willem Honig and Norbert Both also studied the events of Srebrenica and reached similar conclusions, noting that the institutional and operational shortcomings in the United Nations safe area predated the failure of Srebrenica. These shortcomings include issues with the forces assigned to safe area duty, the system by which air support was used, the understandings of neutrality and impartiality utilized by the UN, and shortcomings within the safe area mandates and Security Council resolutions, which will be addressed in this paper.<sup>2</sup>

Sheila Zulfiqar Ahmad offers another view on the events of Srebrenica, focusing on the

role of the UN in the Bosnian Crisis as a whole, but seeing the events of Srebrenica and other safe areas as "the UN's most conspicuous failure"<sup>3</sup> during the Bosnian Crisis. Ahmad elucidates three causes for the failure of the UN during the Bosnian Crisis. Her first critique, echoed throughout the literature, is that peacekeeping was an inappropriate response to the situation. Ahmad instead argues that the situation called for a peace enforcement action, noting that peacekeepers were not prepared to handle the situation in Bosnia, especially when faced with non-compliance by various actors.<sup>4</sup> Ahmad's second claim is that since no major powers had a major national interest at stake in the Bosnian Crisis, those powers acted to prevent the adoption of a peace-enforcement model. Ahmed claims that these major powers, referred to as the "Western Allies," and mentioning the US by name, acted in self-interest to minimize their own involvement until the matter could be delayed no further, and NATO took over the operation for the UN.<sup>5</sup> The final cause put forth by Ahmed is that a "crusade syndrome," the belief that fears of the creation of an "Islamic State" in Europe,<sup>6</sup> limited the effectiveness of the UN. Ahmed argues that Serb leaders like Radovan Karadzic and Ratko Mladic created this fear and limited the UN response to the situation.<sup>7</sup> In some regards, Ahmed's work agrees with much of the other scholarship on the topic, especially her views on the unsuitability of the Bosnian Crisis for peacekeeping intervention. Her second claim, although likely controversial to many, is not without its merits and backers. Her third claim is by far the furthest from most scholarship on the topic but introduces a view that is held by some, primarily non-western scholars.

The safe zone concept also draws from research on deterrence, starting with Thomas Schelling's seminal work *Arms and Influence*, particularly its first and second chapters, "The Diplomacy of Violence," and "The Art of Commitment." Schelling claims that military force can create compliance via coercion. Schelling posits that the threat of force being used can create

coercion, as long as the threat is credible. Additionally, the threat of force may be stated or unstated, as long as it is understood. The credibility of the threat is found in the commitment to use force and the believability that sufficient force would be used. If those conditions are met, if sufficient force is promised and the commitment to use force is credible, then coercion can be exerted and the mere threat of force used or not, can create compliance.<sup>8</sup> Schelling's work provides the theoretical foundation for safe zones, particularly how the use of adequate force under a strong mandate can be used to establish compliance.

Timothy Crawford offers an analysis of deterrence more focused on the Bosnian situation that serves to link the theoretical work of Schelling with the situation that occurred at Srebrenica. Crawford proposes two points that a peace enforcement doctrine must fulfill to be successful. His first point is that the enforcing powers must have clear policies in place to guide the use of force if deterrence does not prove to be enough. Secondly, he notes that the doctrine must "communicate threats and promises to local belligerents in a credible and convincing manner."<sup>9</sup> Crawford is clear in his belief that the 'minimum force' doctrine was ineffective because it failed to have clear policies on how to respond if deterrence proved inadequate, and it failed to communicate the intended threats and promises credibly. Crawford claims that the UN attempted to apply a traditional peacekeeping doctrine to the Bosnian Crisis, and that this doctrine "sacrificed military effectiveness" based on an assumption of compliance, and in doing so reduced the deterrent power of the force.<sup>10</sup> Crawford argues, in short, that to create extended deterrence a peace enforcement mission must have the ability to carry out offensive operations "in order to provide extended defense."<sup>11</sup> Crawford shows how insufficient force and a lack of willingness to take credible action hamstrung the defense of Srebrenica, and proposes ways that future action may better balance traditional peacekeeping deterrence with the use or threat of

force to create greater extended deterrence.

Scharff's work *Protecting Minorities: The Lessons of International Peacekeeping* supports the claim that peacekeeping missions need stronger and clearer mandates to allow for a more effective use of force, including a strong argument for utilizing Chapter VII of the UN Charter, which allows the use of force, in situations where the goal is to protect civilians.<sup>12</sup> Scharff's research draws from UN peacekeeping missions throughout the 1990s, helping also to provide a wider frame of reference to this research otherwise focused only on the Srebrenica incident.<sup>13</sup> *The Relativity of Humanitarian Neutrality and Impartiality*, by Marc Weller, further supports and reinforces the changes needed to UN peacekeeping mandates. This work draws especially from Weller's definitions of neutrality and impartiality, in particular the difference between the two and how force can be used to protect a safe zone without violating the impartiality of UN forces.<sup>14</sup> Moreover, how a nuanced understanding of those concepts allows for stronger and more effective UN action.<sup>15</sup>

The original report by Gareth Evans and Mohamed Sahnoun<sup>16</sup> provides the foundational understanding of "responsibility to protect" as used in this paper, while recognizing that later adaptations of the principle by the UN have altered the principle to a degree. Works by Alex Bellamy<sup>17</sup> and Gareth Evans<sup>18</sup> are foundational for developing a nuanced understanding of the legal and practical applications of merging the responsibility to protect with UN peacekeeping and peace-enforcing operations. Bellamy's work provides a link between UN General Assembly action, UN Security Council actions, and an increasing willingness within the international community to accept the responsibility to protect when justifying humanitarian interventions.<sup>19</sup> Evan's work also expands upon the justificatory potential of responsibility to protect in the context of humanitarian intervention.<sup>20</sup> Additionally, Evan's work provides a starting point for

the potential use of General Assembly Resolution 377V<sup>21</sup> to justify humanitarian intervention. This resolution outlines how, in certain cases, the UN General Assembly may recommend intervention, despite such authority typically being vested only in the UN Security Council.<sup>22</sup>

Given the cross-cutting nature of the safe zone proposal, it is necessary to draw from an assortment of different subfields and specialties. Work by scholars like Honig and Both, as well as Zulfiqar Ahmad, outline key flaws in the Srebrenica system. Work on the use of force, credibility, and deterrence by persons such as Schelling and Crawford reinforce how flaws in UN peacekeeping and peace-enforcing limit the deterrent power of those missions. The literature related to mission mandates, by scholars including Scharff and Weller, highlight the need for clarity in language and mandate strength. Finally, work on the topic of the responsibility to protect, such as that done by Bellamy and Evans, show that the emerging responsibility to protect concept can be applied to UN missions. As a whole, a wide array of literature supports the general ideas underlying the safe zone concept, providing a firm grounding in existing literature and understandings.

### General Background

The UN involvement in the former Yugoslavia began with an arms embargo in 1992<sup>23</sup> and the formation of UN Protection Force (UNPROFOR), which would later be responsible for the Srebrenica safe area. The Security Council created UNPROFOR with resolution 743, in order to “create the conditions of peace and security required for the negotiation of an overall settlement in the Yugoslav crisis.”<sup>24</sup> The role of UNPROFOR grew as the conflict expanded, with the Security Council extending the mission of UNPROFOR into Bosnia and Herzegovina as conflict grew in the region after the 1992 declaration of independence. Fighting raged with the Bosnian Serb Army (BSA) and the Yugoslavian army on one side, and the Army of the Republic



of Bosnia and Herzegovina (ARBiH) and Croatian defense forces on the other.<sup>25</sup>

With the onset of war in Bosnia and Herzegovina the UN High Commissioner for Refugees (UNHCR) took primary responsibility for the distribution of humanitarian assistance to the civilian population. The distribution of aid was dependent on UNHCR convoys having access to roads in the conflict area, access that BSA forces frequently obstructed or denied. At the request of the Security Council, the Secretary-General undertook a mission to determine the viability of a UN peacekeeping mission to Bosnia and Herzegovina to assist in aid delivery, which found that the situation was inappropriate for a peacekeeping mission.<sup>26</sup> On 6 June 1992, the Secretary-General reported to the Security Council that BSA forces had agreed to open the Sarajevo airport for UNHCR transports, allowing a humanitarian airlift. UNPROFOR was to manage the airport.<sup>27</sup> In response, the Security Council passed resolution 758, expanding the UNPROFOR mandate to include Bosnia and Herzegovina.<sup>28</sup>

#### Srebrenica and Creation of the UN Safe Area

Located in eastern Bosnia, Srebrenica was a municipality with a population of around 37,000 in 1991, three-quarters of whom were Bosniaks. Srebrenica saw intense fighting between Bosniak and Serbian paramilitary groups between 1991 and 1993; with Bosniak forces seeing early success before Serbian counter attacks compressed the Srebrenica enclave to an area of roughly 150 square kilometers. In doing so the Serbian offensive created a humanitarian crisis in Srebrenica. The village was without running water or electricity, buildings were overcrowded with refugees, and food was in short supply.<sup>29</sup> News of the situation prompted then commander of UNPROFOR, General Philippe Morillon, to travel to Srebrenica. While there, General Morillon made a public declaration that the town was under the protection of the UN. Following this declaration, General Morillon negotiated the passage of some UNHCR convoys into

Srebrenica to distribute humanitarian aid.<sup>30</sup>

However, the situation in Srebrenica continued to worsen and the Security Council began debate on the idea of creating a UN safe area for the Srebrenica. Opinions were split; many involved in UN peacekeeping believed that a safe area would fail due to the nature of the conflict. Concerns focused on the lack of support for a peacekeeping deployment by the Serbian leadership, difficulties in enforcing the safe area, and the likelihood that the safe area would be used as a staging area for offensive operations by the ARBiH. However, Serbian threats to enter Srebrenica unless it immediately surrendered and was completely evacuated by the Bosniak population, forced the Security Council to act. The Security Council adopted resolution 819,<sup>31</sup> calling on all parties to recognize Srebrenica as an area safe from military action. However, the resolution made no arrangements for UNPROFOR protection of the safe area.<sup>32</sup>

There remained concern on the Security Council that the safe area concept would fail without UNPROFOR protection. The permanent representative from France, Jean-Bernard Merimee, offered a memorandum proposing changes to the UNPROFOR mandate. The changes would make UNPROFOR responsible for securing the safe areas, by force if necessary. The proposal outlined three possible force deployments, two light options and one heavy option. The first light option, without formed units, would be intended to deter aggression, observe the cease-fire, and assist in facilitating relief operations. The second light option, with formed units, would participate in relief operations and would be authorized to occupy key areas in a safe area in order to better monitor the cease-fire. The heavy option would oppose aggression, hold key positions in the safe area, and maintain an open logistical corridor to the safe areas.<sup>33</sup> The Security Council adopted resolution 836, drawing from the third option of the French memorandum, expanding the UNPROFOR mandate. Resolution 836 ordered UNPROFOR to

deter attacks against UN safe areas, monitor the cease-fire, promote the removal of BSA forces from within the area, and occupy key positions in order to achieve these goals. UNPROFOR was given permission to use force in self-defense as well as in the case of bombardment of or incursion into the safe areas.<sup>34</sup>

A Secretary-General report on 14 June 1992 requested the deployment of an additional 34,000 troops to enforce resolution 836.<sup>35</sup> These forces would allow for the full execution of the safe area mandate, based on the heavy option proposed in the French memorandum.<sup>36</sup> However, in this same statement the Secretary-General noted that a light option could be used to begin the implementation of the safe areas. This would require 7,600 troops, but would depend on the availability of air support since the ground force itself would be insufficient for defending the safe area on its own.<sup>37</sup> Considering this, the Security Council adopted resolution 844, authorizing 7,600 troops to enforce resolution 836. The resolution also reaffirmed paragraph ten in resolution 836, authorizing the use of NATO air power<sup>38</sup> to support the UNPROFOR mandate.<sup>39</sup>

In 1994, the Secretary-General reported that it was impossible for UNPROFOR to fully execute its mandate due to the shortage of troops. Only 3,000 troops had been deployed of the 7,600 called for in resolution 844. The Secretary-General also reported concerns that the safe areas were being used by the ARBiH to regroup and train in before mounting attacks against BSA forces. The undermanned nature of UNPROFOR made it impossible for the disarmament to be fully enforced and left UNPROFOR with inadequate forces to adequately patrol the safe areas to prevent incursions into or attacks from within the safe areas.<sup>40</sup>

Finally, there was confusion about the mandate. Vague wording in resolution 844 left UNPROFOR's role in the case of an armed incursion into the safe areas open to interpretation. Since UNPROFOR was a peacekeeping mission the references to the use of force other than in

self-defense created confusion within the office of the Secretary-General and the command structure of UNPROFOR. It was the understanding of the Secretary-General that the purpose of safe areas was to protect people, not to defend the territory of the safe areas. Also, BSA forces continued to interfere with UNHCR convoys and the resupply of UNPROFOR forces in the safe areas. However, UNPROFOR was hesitant to use preemptive force out of concern that this would make UNPROFOR a party to the conflict and exacerbate the situation.<sup>41</sup>

Confusion remained over the role of air power in support of UNPROFOR. UNPROFOR commanders were hesitant to authorize air support in all but the most limited of circumstances, and then only permitting close air support. It was the belief of UNPROFOR and the Security Council that using air power could make UNPROFOR a party to the conflict.<sup>42</sup> The failure of air support around Sarajevo, which resulted in hundreds of UN workers being taken hostage by the BSA, led the Secretary-General to order an end to the air strikes and to instruct the UNPROFOR commander that the safety of UN personnel was more important than fulfilling the mandate.<sup>43</sup>

### The Fall of Srebrenica

When Srebrenica was attacked in July 1995 the UNPROFOR presence in the village was a Dutch infantry battalion (Dutchbat). This force numbered around 780 at full strength and was stationed in two villages, Srebrenica and Potočari, and occupied several UN observation posts around the perimeter of the safe area. The attack began on 6 July 1995 with Serbian forces bombarding the safe area and attacking two of the observation posts. Attacks on observation posts and the shelling of Srebrenica continued and by the end of 8 July several observation posts were occupied by the BSA without UN resistance.<sup>44</sup> By the end of 9 July, 30 Dutchbat soldiers had been taken hostage, multiple observation posts had fallen, and Dutchbat created blocking positions outside of Srebrenica to prevent further BSA advances. The presence of blocking

positions and the promise of retaliatory airstrikes did not deter the BSA, who bypassed the positions and continued to advance and shell Srebrenica. Srebrenica fell on 11 July and refugees fled to the Dutchbat compound at Potočari, seeking protection.<sup>45</sup>

At this point the Dutchbat command began the ultimately disastrous process of negotiating with the BSA forces in an attempt to secure the safety of the UN personnel and the Bosniak refugee population. Although successful in protecting the UN personnel within the safe area, these negotiations surrendered the Bosnian population to the BSA, ultimately resulting in genocide and ethnic cleansing against the Bosniak population. Thousands of women and children were forcibly removed from Srebrenica by the BSA. Men were separated from the women and children, and detained before ultimately being executed. Serbian killings of Bosniak men continued for several days after the fall of Srebrenica; the estimated death toll rising above 7,000.<sup>46</sup>

#### Safe Zones: An Effective Response?

The failure of Srebrenica casted immediate and justified doubt upon the UN safe areas' ability to offer effective protection. A commonly accepted opinion soon emerged in the international community that UN deployments may be useful in cases of traditional peacekeeping, but that the UN was not an organization able to provide any meaningful measures for peace enforcement.<sup>47</sup> This line of thinking reasoned that the UN was too concerned with its strict interpretation of impartiality to be of any real use in providing protection to endangered population, unless that defense could be found through strictly nonviolent means.<sup>48</sup> This is what the Security Council attempted in Srebrenica; to establish protection and safety for an endangered civilian population through common consent and acceptance of UN authority by both parties. As Srebrenica shows, strictly nonviolent measures are not always enough to prevent

crimes against humanity. The reality of the events in Srebrenica cannot be ignored. In recognizing the tragedy, it is possible to create a new approach to similar situations in the future. This approach must be informed by the failures of Srebrenica so people in the future do not suffer the same way.

### Defining Terminology: Safe Areas

Both safe areas and safe zones are sections of territory intended to be safe and protected in times of conflict. However, the ways of achieving this protection differ significantly between the two. Safe areas depend on the consent of all parties to allow the deployment of UN forces. In addition, safe areas are to be fully demilitarized, in order to separate them clearly from the conflict. If all parties in a conflict understand and accept the validity of international law and UN mandates, disarmament should protect the civilians within the area. However, safe areas require at least some measure of enforcement and maintenance. In the case of Srebrenica this enforcement was provided by UNPROFOR.<sup>49</sup>

As was the case in Srebrenica, forces assigned to maintain the integrity of safe areas are deployed with the understanding that their primary task will be deterrence.<sup>50</sup> The forces are not expected to fight against conflicting parties to defend the safe area. Instead safe areas are built on the unspoken threat that if a safe area is violated the violation will be responded to by the UN.<sup>51</sup> It is important to note that in a safe area this response will likely not be immediate, as the force at the safe area would be insufficient to respond. Instead, the threat is that the Security Council would decide on further action.<sup>52</sup> The power of a deterrent is found in the credibility that a response will be made in the case of a violation.

In the case of Srebrenica and the UNPROFOR mandate, the deterrent was not found in the actual military capabilities of UNPROFOR, but in the UN itself.<sup>53</sup> This was the reason that

the Security Council authorized the light force option in resolution 836. UNPROFOR was not intended to provide a military defense. Instead, UNPROFOR was a reminder of the UN commitment to the situation and to the Security Council's resolve to protect the human rights of the civilian population.<sup>54</sup> A lighter force was considered sufficient for the safe area tasks of observation and deterrence. However, the force would not have enough military ability to resist a BSA offensive. Finally it must be remembered that in the case of Srebrenica it was the understanding of the Secretary-General, and later the understanding of UNPROFOR commanders and Dutchbat forces on the ground, that the primary responsibility of UNPROFOR was “to protect people and not to defend territory.”<sup>55</sup>

#### Defining Terminology: Safe Zones

Safe zones, although similar in purpose to safe areas, offer a far stronger response in situations where civilian populations need protection. Safe zones could be used to provide protection to civilians in times of interstate or intrastate conflict by creating areas safe from hostile action or utilization by any party in a conflict. However, unlike safe areas, safe zones are backed by a stronger application of force by the Security Council and the UN. Safe areas fit within the traditional peacekeeping model of international intervention. However, safe zones are formatted around the more decisive, and admittedly controversial, peace-enforcing approach.

Safe zones cause deterrence by more traditional means, namely a willingness to deploy and utilize a combat capable force in order to defend the safe zone. The doctrine employed by UNPROFOR in the protection of the Srebrenica safe area was one of minimum force. However, a minimum force doctrine was not the choice of UNPROFOR military commanders, but was instead a political choice made by the Security Council when it approved a light force deployment. In making this decision the Security Council naively clung to the belief that Bosnia

and Herzegovina was somehow suitable for peacekeeping, despite expert statements to the contrary. This belief ignored one simple fact; that the conflict in Bosnia and Herzegovina was one where peace had not been reached. UNPROFOR did not have a mandate to enforce peace, nor did it have the appropriate resources for such a mission. UNPROFOR had resources and a mandate that did not match the reality of the situation, trying to keep a peace that did not exist.

For this reason, UNPROFOR was almost guaranteed to fail. Rooted in peacekeeping, the safe area concept was critically incapable of responding to the reality of the situation in Bosnia and Herzegovina. It was this incapability that guaranteed the failure of UNPROFOR in defending Srebrenica, allowing horrendous crimes to be committed. It is worth considering, that had the UNPROFOR mandate been constructed differently that those crimes may have been prevented. Before the Security Council adopted resolution 819 to create the Srebrenica safe area, there were already those within the UN and UNPROFOR advocating a stronger and more active mandate.

The Force Commander of UNPROFOR stated in 1993 that if the UN were hoping to protect safe areas it would not be a job for a peacekeeping operation. Instead, he called for the creation of a “combat-capable, peace-enforcement operation.”<sup>56</sup> It is this dual emphasis, combat capability and peace enforcement, which forms the foundation of the type of safe zone this paper advocates. The protection of the safe zone is found in the presence of an effective and properly coordinated military presence, capable and willing to maintain situations of peace.<sup>57</sup> In safe zone policy, the protection of civilians depends on a willingness to engage, with whatever strength is needed, against any force that would act to violate the integrity of the safe zone. Underpinning this assumption is the understanding that the persons within a safe zone cannot be adequately protected without also committing to defend the territory of the safe zone. It must be



acknowledged that trying to protect a population while allowing a hostile force unimpeded access to territory will do nothing but render the goal of protection impossible.

### Implementation – Mandate

Any hope for safe zones to be a more effective means of protection than safe areas begins with mandates which would be needed to bring such a zone into existence. It may be argued that it was the UNPROFOR mandate, with its ambiguities regarding the use of force and its mission, and its refusal to recognize that Srebrenica was not an appropriate situation for a peacekeeping force, which doomed the safe area concept in Srebrenica. For safe zones to be effective, their mandate must be clearly outlined. Without clear objectives, an attempt to enforce a safe zone in a conflict area would be of little value. The zone would offer little to no real protection to the population, while at the same time placing the deployed UN personnel in danger.

Perhaps the most significant difference between a safe zone mandate and a safe area mandate, such as the one put forth for UNPROFOR in Bosnia and Herzegovina, is that the protection force must have permission to use force in order to defend the zone from aggression. The difference here is twofold. First, the mandate must clearly demand the protection of the safe area by the securing force. UNPROFOR did not have such a mandate. Instead, UNPROFOR in Srebrenica was to "deter attacks against the safe areas."<sup>58</sup> The use of the word deter, chosen intentionally by the Security Council to avoid stronger language such as defend or protect,<sup>59</sup> created ambiguity regarding the exact purpose of UNPROFOR in Srebrenica. By positioning the force as a deterrence and not as a defensive force, it was possible for the Secretary-General and UNPROFOR command to develop and operate under the belief that the mission in Srebrenica and other safe areas was solely to deter, and not repulse hostile action.<sup>60</sup> Although this distinction may seem minor, it weakened the position and legitimacy of UNPROFOR in Srebrenica, calling

into question the validity of UNPROFOR as a deterrent by assuring the Serbian forces that UN peacekeepers would allow them to impinging upon the safe area. This policy also “appeared to legitimize” the illegal Serbian incursions and interferences.<sup>61</sup>

Just as important as clearly mandating how the UN deployed force is to protect both the people within and the territory of the safe area is providing the proper permission to the UN force to utilize an appropriate amount of force in order to achieve this end. This permission was not given to UNPROFOR in Srebrenica, at least not explicitly. Resolution 836 gave permission to UNPROFOR to

Acting in self-defense, to take the necessary measures, including the use of force, in reply to bombardments against the safe areas by any of the parties or to armed incursion of them or in the event of any deliberate obstruction in or around those areas to the freedom of movement of UNPROFOR or of protected humanitarian convoys.<sup>62</sup>

The focus on acting in self-defense hamstrung the entirety of the UNPROFOR mission in Srebrenica. When BSA forces engaged ARBiH forces within the safe area, intentionally violating Security Council resolution 819, UNPROFOR did not act. It was not until UNPROFOR was attacked by BSA forces that Dutchbat and UNPROFOR command even began to consider taking measures against the BSA. The mandates’ opaque references to utilizing force in self-defense continued to limit the actions UNPROFOR throughout the fall of Srebrenica as the command structure focused on the first portion of paragraph 9 of resolution 836, which allowed UNPROFOR to use force in self-defense.<sup>63</sup>

This focus ignored the later parts of paragraph 9 which allowed UNPROFOR to use force in response to the shelling of the safe zones, the invasion of the safe area by hostile forces, or even the deliberate interference of UNHCR and UNPROFOR convoys to Srebrenica. All of these occurred in the months leading up to the fall of Srebrenica. Since these actions took place

without Serbian forces attacking UNPROFOR, and out of a fear of escalating the conflict, no action was taken. Even when BSA troops approached the village of Srebrenica, action was not taken by UNPROFOR to secure the safe area. So limiting was the reference to acting in self-defense that at no point during the fall of Srebrenica did Dutchbat forces fire upon or otherwise engage against BSA forces except for one time when indirect warning shots were fired towards BSA forces approaching a blocking position.<sup>64</sup>

The BSA was allowed to overrun an area that was supposedly under the protection of the UN, without suffering a single shot from UNPROFOR ground forces. This was possible because the Serbian commanders recognized that by only targeting ARBiH forces and maneuvering around UNPROFOR they could destroy the safe area without consequence. It does sometimes appear that the UN allows the fear of casualties to play a role in their decision making process, often resulting in UN forces standing aside or minimizing the protection they may offer. A mandate for a safe zone requires that the securing force be granted permission to utilize force whenever the safe zone is violated, regardless of if the violating forces trigger a self-defense situation for the securing force. The exact nature of what force and response are used would depend upon the situation, but the whole range of possible responses must be considered.

In the case of Srebrenica this could have taken the form of allowing the observation posts to engage against Serbian tanks when taking fire on 6 July. Had OP Foxtrot, the first Dutchbat observation post engaged by BSA forces, utilized its mounted anti-tank weapon on 6 July when it initially came under fire from Serbian forces it may have been enough of an action to show the BSA that the UN would not stand aside and allow Srebrenica to be taken. Had BSA forces responded by increasing their pressure on OP Foxtrot, or even escalated their bombardment of the safe area as a whole, it would have been wholly appropriate to utilize the NATO close air

support.<sup>65</sup> Coordinated action between Dutchbat forces on the ground and widespread close air support, if not general airstrikes, may indeed have stymied the BSA attack on 6 and 7 July, stopping the BSA well short of overrunning the safe area. Of course, it is impossible to make this claim as a certainty, especially given the light force tasked with protecting the Srebrenica safe area. However, the point calls for careful consideration, as if it had succeeded thousands of lives would have been saved. If it had failed the final result would have been similar to what occurred.

### Impartiality and Safe Zone Mandates

Both of these issues, deterrence instead of defense and permission to act in self-defense instead of permission to provide meaningful protection arose from a desire by the UN to maintain their position as an impartial party focused primarily on providing humanitarian assistance. Impartiality is foundational in establishing a peacekeeping mission as peacekeeping depends on the consent of all involved parties.<sup>66</sup> The UN considered UNPROFOR to be a peacekeeping mission and structured its response to BSA aggression as such.<sup>67</sup> In its effort to maintain impartiality, the UN rarely permitted the use of force in response to violations of the safe areas. It was the belief of the UN that taking action in these situations would position UNPROFOR as a party in the conflict as such action would be predominately taken against Serbian forces which were engaged in the most notable violations of the safe areas.<sup>68</sup>

So great was the UN fear of appearing biased that for the first two years of its deployment in Srebrenica UNPROFOR did not report human rights violations witnessed by UN personnel. The UN reasoned that reporting atrocities may amount to taking sides in the conflict.<sup>69</sup> This interpretation of impartiality results in a total failure of the purpose of the UN deployment. In addition, this impartiality is a complete abdication of the stated purposes of the UN, namely the maintenance of international peace and security. Safe zone mandates must make clear the

responsibility of the deployed forces to not only prevent, but also report, any human rights violations of which they are aware. Observation and reporting is an integral part of deterrence, in part because of the strength it provides to international justice systems prosecuting crimes after the conflict.

UNPROFOR policy in Bosnia and Herzegovina ignored the reality of impartiality. When the Security Council and Secretary-General indicated that UNPROFOR was to maintain impartiality by minimizing its use of force in order to avoid the appearance of supporting one side, or another, what was really being advocated was neutrality. Neutrality prohibits action that could benefit, intentionally or not, one side or another in a conflict. In impartiality, action is decided upon by utilizing an objective standard.<sup>70</sup> In the case of UNPROFOR, this objective standard was provided in resolution 819 and subsequent resolutions that mandated that the safe areas be protected from attack. When Serbian forces violated the territory of the safe areas and the mandates of the Security Council resolutions they broke an objective standard which demanded the same response if ARBiH forces, instead of BSA forces, had taken action against the safe areas. Measures taken by the UN in response to such a violation would have been impartially decided upon, even if such action had been taken predominantly against one party.<sup>71</sup> The UN focus on maintaining as much distance as possible from involvement in the conflict tragically constrained the ability of UNPROFOR to respond to violations of the safe areas. Unable to respond adequately to breaches of the safe area, UNPROFOR was unable to protect the Bosniak populations from crimes against humanity.

### Force Deployments

The limitations of UNPROFOR in Srebrenica may have begun with the ambiguity and limitations of a mandate split between self-defense and maintaining the integrity of the safe zone,

but that is hardly where the limitations ended. The decision by the Security Council to deploy a light force did nothing to help the safety of Srebrenica. Instead, this decision by the Security Council, and following action by UNPROFOR and the Dutch command, about how to outfit units for safe area duty left Dutchbat in the position of being woefully underequipped to execute their mission in the face of the BSA incursion into the Srebrenica safe area. With insufficient and underequipped manpower Dutchbat had no way of preventing the Serbian advance without using air support. With Dutchbat of limited operational ability, and air support practically nonexistent throughout the BSA attack, there was no hope of maintaining the integrity of the safe area or the safety of civilians within.

Dutchbat's efficiency would also have been enhanced had they been equipped "to oppose any aggression"<sup>72</sup> as the French had indicated in their proposed heavy option. Instead, Dutchbat deployed with scaled-back equipment such as lighter mortars and a reduction in the heaviness of weapons carried on their APCs.<sup>73</sup> This decision came from the belief in the UN that the mandate could be fulfilled through deterrence. The safe zone concept makes no such assumption, believing instead that deterrence should be guaranteed through strength of force. The decision by the Security Council to choose the light option for the enforcement of Srebrenica was "irresponsible" as it failed to provide the forces necessary to complete the mandate. The UN must, when forming safe zones, provide enough force to do the job.<sup>74</sup>

When considering the shape that a safe zone force would have to take it is impossible to ignore the role of air support. Despite promises from UNPROFOR and the Security Council, air support was not made available to Dutchbat until it was too late. The failure of UNPROFOR to properly deploy air support at Srebrenica, despite the clear authority to do so within the UNPROFOR mandate<sup>75</sup>, guaranteed that the BSA would succeed in overrunning the safe area.

The complexities in securing air support for Srebrenica: issues in communication between commanders on the ground in Srebrenica, the UNPROFOR chain of command, up to the Security Council itself, presents a convincing argument in favor of loosening the restrictions on the deployment of close air support.

### Legitimacy – Can it be Done?

Safe zones may be the most practical way to offer short-term protection to populations threatened by genocide and ethnic cleansing in times of inter- and intrastate conflict. However, practicality alone does not transmit legitimacy for international intervention in sovereign nations. On what basis can the UN legitimately deploy a safe zone? Safe areas find their legitimacy in the consent of all involved parties. Consent solidifies the action as legal by recognizing one of the oldest ideas of the nation-state system, state sovereignty. State sovereignty is the idea that each state may act absolutely within its borders. Since each state has total power within its borders, each state is an independent entity and should be free from external influence or control.<sup>76</sup> The principle of state sovereignty is a reciprocal one; modern states recognize the sovereignty of others in order to make sure that their sovereignty is, in turn, recognized.

State sovereignty raises a crucial question about the entire safe zone concept. Within the modern world system, a system built on connections between numerous distinct and sovereign states, how can a safe zone be a legitimate course of action? Is not the creation of a safe zone the imposition of a foreign will onto a sovereign state? The UN itself is built on the recognition of and respect for the integrity of the modern nation-state and its sovereignty,<sup>77</sup> the safe zone concept must reconcile the reality of state sovereignty with the need to provide protection for populations at risk of crimes against humanity, particularly genocide and ethnic cleansing.

## International Responsibility

The questions of legitimacy in the face of state sovereignty may best be answered by a claim of international responsibility. The claim that the duties and responsibilities of the international community may at times call for action, despite the sovereignty of nation-states, favors the existence of international authority to act. The basic tenet of the argument for international responsibility is that under certain conditions a state may forfeit its sovereignty in the case of grave crimes or misconduct.<sup>78</sup> If the sovereignty of the country is limited than it is indeed possible and legitimate for a safe zone to be established. This is the case because when sovereignty is lost the area in question and the people within it, are no longer subject to the absolute rule of their state. In conditions such as these it may not only be legitimate for the international community to act, it may be considered a moral imperative in order to protect the rights and safety of the population.

### The UN Charter - Purposes and Principles: The Application of Chapter I

The greatest source of legitimacy for international action and intervention is the Charter of the UN including Chapter I, Article 1, where the purposes and principles of the UN are outlined. Chapter I, Article 1, of the Charter of the UN reads:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace,<sup>79</sup> and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace.<sup>80</sup>

Here is an agreement accepted by each nation when it agrees to the validity of the UN that the organization has the authority to act in situations where peace is threatened or when acts of aggression are taking place.<sup>81</sup> Furthermore, Chapter I, Article 1, affords the UN the power to



coordinate and carry out collective measures to achieve the stated goal of maintaining peace and security.

The goal of a safe zone would always be to remove, or at least limit, a credible threat to international peace and security. In addition, a safe zone offers protection to civilian populations who are at risk of acts of aggression or "other breaches of the peace," specifically those most tragic breaches of peace: genocide, ethnic cleansing, and crimes against humanity. With this motivation a safe zone mandate would qualify as a collective action, undertaken by the UN, in response to threats to international peace and security.

#### Taking Action: Chapter VII and the Security Council

Chapter VII extends upon Chapter I, offering a structure for how safe zone mandates should be brought into force. Article 39 of Chapter VII reads

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.<sup>82</sup>

Article 39 thereby grants the Security Council authority to determine when, and what kind(s) of, the action outlined in Chapter I, Article 1, should be undertaken. Given the consent all nations' grants when joining the UN Article 39 and Article 1 give the Security Council authority to authorize and carry out action in response to threats to international peace or acts of aggression.

Of particular importance with regards to the potential of developing a legitimate, safe zone, mandate is Article 42, Chapter VII. Article 42, Chapter VII, reads

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the UN.<sup>83</sup>

The Security Councils authority to create safe zones is in Chapter VII, Article 42 of the UN Charter. Historically, the Security Council has used Chapter VII, Article 42 in particular, to authorize the deployment of peacekeeping missions. In fact, Chapter VII was referenced when it was the Srebrenica safe area was initially approved.<sup>84</sup> When the Security Council authorized UNPROFOR to “take the necessary measures, including the use of force,”<sup>85</sup> the Security Council was expanding the UNPROFOR mandate under authority granted by Article 42.

Given the Security Council’s powers explained here, it is no stretch to see how the Security Council can legally mandate and enforce safe zones, as an application of Article 42. A safe zone is, at its core, an action by armed forces to maintain or restore international peace. In the case of a safe zone, the goal is to protect the peace and security of at-risk populations, with force if necessary. Protecting civilian populations from genocide, ethnic cleansing, or crimes against humanity is an essential component of the UN goal to protect international peace; the aforementioned crimes are perhaps the most grave breaches of international peace imaginable. As such, Article 42 gives the Security Council the authority to use force as a way to protect peace in situations where the risk of crimes such as those is present. There is nothing in the UN Charter that would limit application of Article 42 and bar the establishment of safe zones. Chapter VII also provides the Security Council a way to offer protection in spite of state sovereignty, the Security Council can authorize action without the consent of the host nation, if need be. Additionally, Article 25 requires UN member states to comply and assist with the execution of Chapter VII mandates.<sup>86</sup> Article 2(6) compels non-member states to accept the decisions of the Security Council “as far as may be necessary for the maintenance of international peace and security.”<sup>87</sup>

## Uniting for Peace, International Democracy, and Legitimization via the General Assembly

Although primary responsibility for organizing and mandating safe zones would rest with the Security Council, there are certain conditions under which the General Assembly could act to prescribe safe zones. Particularly, the General Assembly has the authority to establish safe zones in the case of failure by the Security Council. As has previously been discussed, Chapter VII of the UN Charter grants primary power regarding peacekeeping and the enforcement of international peace and security to the Security Council. However, this authority is not absolute, and there are particular circumstances and conditions under which the General Assembly can act to maintain peace and security even without action or approval by the Security Council.<sup>88</sup>

This authority originates from General Assembly resolution 377, *Uniting for Peace*, adopted in 1950 to provide a way for the UN to act in situations where the Security Council refuses, or is unable, to discharge its duties.<sup>89</sup> Resolution 377, paragraph 1 reads

Resolves that if the Security Council, because of a lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security.<sup>90</sup>

The General Assembly adopted this resolution in order to allow the UN to continue working towards its stated purposes even in cases where the Security Council refused or was not able to act.<sup>91</sup> Concerns over the ability of permanent members of the Security Council to abuse their position in order to protect or act on their interests were the motivating factor behind the adoption of resolution 377. When a member or members of the Security Council are acting in this way, then the General Assembly has the authority to discuss the matter and act on it.

## Responsibility to Protect

The responsibility to protect is based on two fundamental principles. The first of these principles is that state sovereignty carries implied responsibilities of the state. Highest among these is the duty of the state to protect its citizens and provide for their welfare. The other principle is that if a state is failing, either through inability or intentional action, to halt or prevent serious harm to its population, then it becomes the international community's responsibility to intervene and provide that protection.<sup>92</sup>

The responsibility to protect grows out of four distinct areas. The first source of the responsibility to protect is the responsibilities and obligations intrinsic to state sovereignty. The second foundational concept is that the responsibility of the UN Security Council found in Chapter V, Article 24, of the UN Charter.<sup>93</sup> In Article 24, member states agree that the Security Council has the primary responsibility to maintain international peace and security. In addition, member states recognize that the Security Council is acting on the behalf of all UN member states when taking action to maintain international peace and security.<sup>94</sup> The third foundational principle of the responsibility to protect is the growing number of legal obligations binding states to respect human rights. This includes the gradual transition of international humanitarian and human rights law to being international legal norms, applicable even to states who are not a party to a treaty or international legal body. The fourth and final foundational principle of the responsibility to protect is that the growth of regional organizations and the Security Council as organs which are accepted as legitimate actors for carrying out coercive action to protect human rights, as well as their being organizations who should also plan and coordinate other modes of response.<sup>95</sup>

The responsibility to protect consists of three interconnected, yet specific, responsibilities

of the international community. The first of these responsibilities is the responsibility to prevent. This refers to the responsibility the international community has to assist states and their populations in addressing possible causes of conflict and to help resolve these situations peacefully before they become crises. Prevention is the most important of the three pillars and is dependent on developing systems for early warning and analysis, coupled with improved systems of peaceful conflict resolution. If preventive measures are successful than crisis situations can be avoided through action that is internationally assisted and supported while at the same time is primarily domestic.<sup>96</sup> The third element of the responsibility to protect is the responsibility to rebuild. This is the idea that after the intervention there is an obligation to provide assistance in the reconstruction of the affected nation. This rebuilding is done with a focus on developing systems that will help prevent instances similar to whatever led to the need for intervention in the first place. Without this pillar international intervention will do little to prevent future action, allowing the deep causes of a conflict to remain in place.<sup>97</sup>

The second element of the responsibility to protect, and the most pertinent to this paper, is the responsibility to react. The responsibility to react details the obligation of the international community to respond to “situations of compelling need for human protection.”<sup>98</sup> Reaction can take different forms including non-military options such as sanctions, arms embargos, and diplomatic restrictions. These measures should be considered, if not implemented, before any military intervention is carried out. If peaceful measures fail then it is the responsibility of the international community to step in with military force to protect civilian populations.<sup>99</sup>

#### Adopting Responsibility to Protect

The UN has strengthened the legitimacy of responsibility to protect, putting the concept on a level where it can be applied as a justification for armed humanitarian intervention. The UN

directly addressed the responsibility to protect at the 2005 World Summit and in the follow-up 2005 World Summit Report. In this report the General Assembly resolved that nations do have a responsibility to protect their populations from "genocide, war crimes, ethnic cleansing, and crimes against humanity."<sup>100</sup> By recognizing this, the General Assembly took a powerful step in agreeing that state sovereignty does not protect governments that commit human rights violations and crimes against humanity.<sup>101</sup> Later, in the 2005 World Summit Outcome, the General Assembly resolved to use whatever diplomatic and peaceful means are available as a response to states that violate or fail in carrying out their responsibility to protect their citizens. The General Assembly also noted that in certain situations peaceful means may not be enough to rectify the situation. In these circumstances the General Assembly resolved that the Security Council could approve action, on a case-by-case basis, which could include the use of military force.<sup>102</sup>

Follow-up reports from the Secretary-General and resolutions from the General Assembly reinforce the validity of responsibility to protect within the international legal system. In the report, *Implementing the responsibility to protect*, the Secretary-General noted that the theory of responsibility to protect was of growing importance in the international community and the UN system in particular. This report shows a continuing trend towards accepting the validity of the responsibility to protect.<sup>103</sup> A more recent report by the Secretary-General, *Responsibility to protect: timely and decisive response*, continues the trend towards further legitimizing the responsibility to protect as a rationale for humanitarian intervention. Additionally, this report recognized that while prevention and peaceful means of conflict resolution will always be preferred, forceful measures cannot be ruled out. Instead, the Secretary-General noted that the particular conditions of each situation must be taken into account and recognizes that under certain circumstances the use of military force may be an appropriate response.<sup>104</sup>

Beyond discussion and debate, the UN, particularly the Security Council, and other international agencies have shown a willingness to apply the responsibility to protect when taking action. In 2007, The Human Rights Council began to use the language from the responsibility to protect in its reports from Darfur. The Security Council referenced responsibility to protect when mandating a 2006 UN-African Union joint mission to Darfur.<sup>105</sup> These examples demonstrate that the responsibility to protect has moved past the theoretical stage and into application. Growing acceptance of the responsibility to protect as a legitimizing theory for international humanitarian intervention provides legitimacy to the idea of a safe zone mandates.

#### Further Considerations

There are several issues which must still be addressed before safe zones are appropriate for use in the field, including practical issues such as cost and from where troops will be acquired. The UN already has members in arrears on their dues and sometimes encounters funding issues, and as Srebrenica shows it can be difficult to find nations willing to commit troops to peace keeping or peace enforcing operations. UN credibility in the field of peace enforcing also needs to be addressed.<sup>106</sup> The failures of the 1990s, such as Srebrenica and Rwanda, led many to see the UN as incapable of protecting populations. This lack of credibility needs to be addressed before safe zone missions would find international support. For deterrence to be effective it must be built on a credible belief that a promised action will be fulfilled by the deterring forces.<sup>107</sup>

The protection of human rights is one of the essential components of the UN mission. If the UN is to succeed in this mission, then it needs legitimate ways to provide adequate protection to people who are in danger. This is what was intended with the safe area at Srebrenica, where the Security Council tried to provide security for an endangered population. However, the safe area mandate and application in Srebrenica was woefully inadequate. While the intent was to

deploy UN peacekeepers to provide safety and security what happened instead was a human rights disaster on a scale not seen in Europe since the Second World War.

This is the failure that safe zones are to correct. Although it is impossible to wind back the clock and protect Srebrenica and its inhabitants, it is possible to learn from what went wrong. The authority of Security Council mandated coercive action in order to protect the human rights of the population has reached a point where it is all but undeniable. Srebrenica teaches not that such a mandate is unilaterally incorrect, but instead teaches how such a mandate cannot be carried out. The Security Council cannot act timidly when working to prevent crimes against humanity. The safe area at Srebrenica was timid. It was built on the assumption that a modest force and the unspoken reminder that the world was watching would be enough to deter a group set on committing a series of remarkably violent and immoral crimes.

A safe zone does not surrender to timidity and half measures. Safe zone philosophy realizes that the UN needs to be politically neutral, but at the same time recognizes the reality that neutrality does not neuter action and demand passivity. Neutrality in Srebrenica meant that UNPROFOR was hesitant to respond to violations of the safe area; for fear that these responses would be seen as violating the neutrality of the UN. This hesitancy allowed the Bosnian Serb Army to overrun the safe area. The safe zone mandate realizes that neutrality can be maintained while still taking action in the case of a safe zone violation. The safe zone mandate does not scale back its force in order to appear neutral, nor does a safe zone mandate fear the use of force in order to carry out its mandate. Instead, a safe area provides effective and legitimate protection of populations at risk of crimes against humanity during times of inter and intrastate conflict.

The international community continues to be confronted with situations where civilian populations are at risk of crimes against humanity, and in these situations it may be the



responsibility of the UN to stand up and take action. Currently, there are situations where this action may be at risk of the same issues faced in Srebrenica. For example, UN forces deployed in South Sudan<sup>108</sup> have found themselves unable to protect internally displaced persons. Attacks against UN bases in South Sudan have resulted in civilian casualties. However, progress is being made in the defense of civilian populations; UN forces at the Bor Camp fought off a hostile mob, saving many civilian lives.<sup>109</sup> There is still work to be done though. The UN mandate in South Sudan is nearer to what is envisaged in a safe zone mandate but reports indicate that it still lacks the forces to adequately protect civilians.<sup>110</sup>

Srebrenica is a tragedy that can never be fully understood, much less excused or undone. The inability of the UN to protect some of the most vulnerable persons is a matter that will continue to haunt the world of UN peacekeeping. The tragic crimes of Srebrenica and the absolute and inexcusable failures of the UN illuminate the way forward. From that horror comes the experience needed to change future operations and protect the populations who most need protecting.

## ENDNOTES

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<sup>1</sup> United Nations, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35: The fall of Srebrenica*, A/54/549 (15 November 1999).

<sup>2</sup> Jan Willem Honig and Norbert Both, *Srebrenica: Record of a War Crime* (New York: Penguin Books, 1997).

<sup>3</sup> Sheila Zulifqar Ahmad, "The UN's Role in the Bosnian Crisis: A Critique" *Pakistan Horizon* 51, no. 2 (1998): 86.

<sup>4</sup> *Ibid.*, 89-90.

<sup>5</sup> *Ibid.*, 90-1.

<sup>6</sup> *Ibid.*, 91.

<sup>7</sup> *Ibid.*

<sup>8</sup> Thomas Schelling, *Arms and Influence*. 11<sup>th</sup> ed. (New Haven: Yale University Press, 1976).

<sup>9</sup> Timothy Crawford, "Why Minimum Force Won't Work: Doctrine and Deterrence in Bosnia and Beyond," *Global Governance* 4, no. 2 (1998): 235-236.

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- <sup>10</sup> Ibid., 238.
- <sup>11</sup> Ibid., 248.
- <sup>12</sup> Michael Scharff, “Protecting Minorities: The Lessons of International Peacekeeping” *Proceedings of the Annual Meeting (American Society of International Law)* 91 (1997): 439.
- <sup>13</sup> Ibid., 437-41.
- <sup>14</sup> Marc Weller, “The Relativity of Humanitarian Neutrality and Impartiality” *Proceedings of the Annual Meeting (American Society of International Law)* 91 (1997): 443.
- <sup>15</sup> Ibid., 445-8.
- <sup>16</sup> Gareth Evans and Mohamed Sahnoun, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).
- <sup>17</sup> Alex Bellamy, “The Responsibility to Protect and the Problem of Military Intervention” *International Affairs* 84, no. 4 (2008): 615-39.
- <sup>18</sup> Gareth Evans, “The Responsibility to Protect: Rethinking Humanitarian Intervention” *Proceedings of the Annual Meeting (American Society of International Law)* 98 (2004): 78-89.
- <sup>19</sup> Bellamy, 620-3.
- <sup>20</sup> Evans, 84-8.
- <sup>21</sup> United Nations, General Assembly, *Uniting to Protect*. A/RES/377V (3 November 1950).
- <sup>22</sup> Evans, 87.
- <sup>23</sup> Security Council resolution 713, S/RES/713 (1991) (25 September 1991).
- <sup>24</sup> Security Council resolution 743, S/RES/743 (1992) (21 February 1992): paragraph 5.
- <sup>25</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, 14-6.
- <sup>26</sup> Ibid., paragraphs 20-6.
- <sup>27</sup> Ibid., paragraph 27.
- <sup>28</sup> Security Council resolution 758, S/RES/758 (1992) (8 June 1992).
- <sup>29</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35* paragraphs 33-8.
- <sup>30</sup> Ibid., paragraphs 39-40.
- <sup>31</sup> Ibid., paragraphs 41-5.
- <sup>32</sup> Ibid., paragraphs 56-8.
- <sup>33</sup> UN, Security Council, *Note Verbale Dated 19 May 1993 From the Permanent Representative of France to the UN Addressed to the President of the Security Council*, S/25800 (19 May 1993).
- <sup>34</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993).
- <sup>35</sup> UN, Security Council, *Report of the Secretary-General Pursuant to Security Council Resolution 836 (1993)*, S/25939 (14 June 1993).
- <sup>36</sup> UN, Security Council, *Note Verbale Dated 19 May 1993*.
- <sup>37</sup> UN, Security Council, *Report of the Secretary-General Pursuant to Security Council Resolution 836 (1993)*, S/25939 (14 June 1993).
- <sup>38</sup> UN, Security Council, *Letter Dated 18 August 1993 From the Secretary-General Addressed to the President of the Security Council*, S/26335 (20 August 1993).
- <sup>39</sup> Security Council resolution 844, S/RES/844 (1993) (18 June 1993).
- <sup>40</sup> UN, General Assembly, *The Situation in Bosnia and Herzegovina: Report of the Secretary-General submitted pursuant to paragraph 29 of the General Assembly resolution 48/88*, A/48/847 (7 January 1994).

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- <sup>41</sup> UN, Security Council, *Report of the Secretary-General Pursuant to Security Council Resolutions 982 (1995) and 987 (1995)*, S/1995/444 (30 May 1995).
- <sup>42</sup> Crawford, "Why Minimum Force Won't Work," 240.
- <sup>43</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraphs 190-193.
- <sup>44</sup> *Ibid.*, paragraphs 190-258.
- <sup>45</sup> *Ibid.*, paragraphs 259-296.
- <sup>46</sup> *Ibid.*, paragraphs 260-393.
- <sup>47</sup> Ahmad, "UN's Role in the Bosnian Crisis," 83-92.
- <sup>48</sup> Weller, "Relativity of Humanitarian Neutrality," 441-3.
- <sup>49</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraphs 41-51.
- <sup>50</sup> *Ibid.*, paragraph 79.
- <sup>51</sup> Crawford, "Why Minimum Force Won't Work," 238.
- <sup>52</sup> *Ibid.*, 240.
- <sup>53</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraphs 93-95.
- <sup>54</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993).
- <sup>55</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraph 151(a).
- <sup>56</sup> *Ibid.*, paragraph 51.
- <sup>57</sup> Crawford, "Why Minimum Force Won't Work," 235-56.
- <sup>58</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993).
- <sup>59</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraph 79.
- <sup>60</sup> *Ibid.*, paragraph 151(a).
- <sup>61</sup> Weller, "Relativity of Humanitarian Neutrality," 442.
- <sup>62</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993): paragraph 9.
- <sup>63</sup> Scharf, "Protecting Minorities," 439.
- <sup>64</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraph 293.
- <sup>65</sup> NATO was responsible for providing air support to UNPROFOR, under an agreement reached on 20 August 1993 by the Secretary-General. This created a two-key system, where both NATO and UN commands had to agree on the use of air support. A request for air support had to travel from the Force Commander in the field through the UNPROFOR command structure in Zagreb, where it needed approval from both NATO command and UN command and either side could veto a request. The UN report on the fall of Srebrenica (A/54/549) and the work of Jan Willem Honig and Norbert Both, among others, notes that the process of requesting air support could take several hours and that requests prior to the Srebrenica attack were often denied at various stages in the chain of command.
- <sup>66</sup> Weller, "Relativity of Humanitarian Neutrality," 445.
- <sup>67</sup> UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraph 77.
- <sup>68</sup> Weller, "Relativity of Humanitarian Neutrality," 446.
- <sup>69</sup> Scharf, "Protecting Minorities," 440.

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- <sup>70</sup> Weller, "Relativity of Humanitarian Neutrality," 441-50.
- <sup>71</sup> *Ibid.*, 448.
- <sup>72</sup> UN, Security Council, *Note Verbale Dated 19 May 1993*, paragraph 5(c).
- <sup>73</sup> Honig and Both, *Srebrenica: Record of a War Crime*, 125-6.
- <sup>74</sup> Scharf, "Protecting Minorities," 437-41.
- <sup>75</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993): paragraph 10; UN, General Assembly, *Report of the Secretary-General Pursuant to General Assembly Resolution 53/35*, paragraph 77.
- <sup>76</sup> Alan James, *Sovereign Statehood: The Basis of International Society* 1st ed. (London: Allen & Unwin, 1986), 4-5.
- <sup>77</sup> UN, Charter of the UN, 24 October 1945, 1 UNTS XVI. ch I, art. 2 (1)
- <sup>78</sup> Evans, "The Responsibility to Protect," 84-88.
- <sup>79</sup> Emphasis added.
- <sup>80</sup> UN, Charter of the UN, 24 October 1945, 1 UNTS XVI. ch I, art. 1 (1).
- <sup>81</sup> Evans, "The Responsibility to Protect," 87.
- <sup>82</sup> UN, Charter of the UN, 24 October 1945, 1 UNTS XVI. ch VII, art. 39.
- <sup>83</sup> *Ibid.*, ch VII, art. 42.
- <sup>84</sup> Security Council resolution 819, S/RES/819 (1993) (16 April 1993)
- <sup>85</sup> Security Council resolution 836, S/RES/836 (1993) (4 June 1993)
- <sup>86</sup> Scharf, "Protecting Minorities," 437-41.
- <sup>87</sup> UN, Charter of the UN, 24 October 1945, 1 UNTS XVI. ch I, art 2(6)
- <sup>88</sup> Evans, "The Responsibility to Protect," 87.
- <sup>89</sup> Voeten, Erik Voeten, "The Political Origins of the UN Security Council's Ability to Legitimize the Use of Force," *International Organization* 59, no. 3 (2005): 527-57.
- <sup>90</sup> UN, General Assembly, *Uniting to Protect*. A/RES/377V (3 November 1950): paragraph 1.
- <sup>91</sup> Evans, "The Responsibility to Protect," 87.
- <sup>92</sup> Bellamy, "The Responsibility To Protect," 620.
- <sup>93</sup> UN, Charter of the UN, 24 October 1945, 1 UNTS XVI. ch V, art. 24 (1).
- <sup>94</sup> *Ibid.*
- <sup>95</sup> Evans and Sahnoun, *The Responsibility to Protect*, 1-8.
- <sup>96</sup> *Ibid.*, 23.
- <sup>97</sup> *Ibid.*, 39-44.
- <sup>98</sup> *Ibid.*, 29.
- <sup>99</sup> *Ibid.*, 29-35.
- <sup>100</sup> General Assembly resolution 60/1, *2005 World Summit Outcome*, A/RES/60/1 (24 October 2005): paragraph 138.
- <sup>101</sup> Bellamy, "The Responsibility To Protect," 623.
- <sup>102</sup> General Assembly resolution 60/1, *2005 World Summit Outcome*, A/RES/60/1 (24 October 2005): paragraphs 138-139.
- <sup>103</sup> UN, General Assembly, *Implementing the responsibility to protect: Report of the Secretary-General*, A/63/677 (12 January 2009).
- <sup>104</sup> UN, General Assembly and Security Council, *Responsibility to Protect: timely and decisive response: Report of the Secretary-General*, A/66/874 - S/2012/578 (25 July 2012), paragraph 56.
- <sup>105</sup> Bellamy, "The Responsibility To Protect," 615.

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<sup>106</sup> UN, General Assembly, *Strengthening the capacity of the UN to manage and sustain peacekeeping operations: Report of the Secretary-General*, A/65/624 (13 December 2010)

<sup>107</sup> Schelling, *Arms and Influence*, 36-43.

<sup>108</sup> Labeled UN Mission in the Republic of South Sudan (UNMISS), formed by Security Council resolution 1996.

<sup>109</sup> UN, UN Mission in the Republic of South Sudan (UNMISS), *Conflict in South Sudan: A Human Rights Report* (8 May 2014): paragraph 144.

<sup>110</sup> *Ibid.*, paragraph 263.