

Expanding the UN's Collective Security System: Do the Responsibility to Protect and the Duty to Prevent Conform to its Ideal Elements?
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It has been said the United Nations (UN) has two souls¹. The first soul works to ensure that international peace and security prevails through collective security and the second soul furthers the promotion of human rights, justice and social progress. To fulfill these mandates, each soul employs different strategies. While the second soul furthers the rights of mankind through consensus, treaties, committees and, occasionally economic and diplomatic pressure, the first soul must resort to coercive measures including military intervention in order to preserve the peace from time to time. This paper will explore the first soul and the use of armed intervention.

If one reads the Charter, one finds that the founders were not averse to using force in order to deter aggressors and preserve international peace and security. However, while the UN was formed to “save succeeding generations from the scourge of war,”² the list of scourges is growing. The real threats to international peace and security are no longer confined to violations of state sovereignty for which the UN collective security system was created. Rather, genocide, massive violations of human rights, terrorism and weapons of mass destruction (WMD) represent immediate, international security threats that are beyond the scope of any one state to solve.

A forum through which states can act in common to ensure that international peace is maintained seems even more relevant today than it was sixty years ago. But, the UN is floundering; the Oil-for-Food scandal, the war on Iraq and lack of action in Darfur are all used as exhibit “A” evidence for large-scale UN reform including its collective security system. The UN High Level Panel (HLP) has produced a report that “puts forward a new vision of collective security - one that addresses all of the major threats to international peace and security felt around the world.” The HLP suggests collective security today should rest on three pillars or assumptions.³ The first is the continued need for collective responses at the global, regional and national levels. The second is the acceptance that certain threats pose serious security concerns to all states and the third, also known as the Responsibility to Protect, is the realization that some states cannot and will not protect their own people and will harm their neighbours. Based on these three pillars, the authors of the HLP argue that the UN's collective security system is still relevant and needed.

Lee Feinstein and Anne-Marie Slaughter believe a fourth “pillar” should be added. They have coined it a Duty to Prevent.⁴ This pillar focuses attention on the threat posed by WMDs, rogue states and terrorism and the need for collective military intervention. While the first two pillars are well-established principles of 1945-style collective security, these last two pillars would expand the scope and reach of the UN's collective security system. Some suggest there is a danger to adding these new principles to the UN's collective security system already plagued by “radical defects.”⁵ They ask:

will these new pillars – Responsibility to Protect (R2P) and Duty to Prevent - result in international insecurity?

This paper will explore collective security and these newly recommended “add ons” to collective security. It is acknowledged that diplomatic and economic sanctions could also be discussed but in order to make more meaningful comparisons, this paper will focus on the use of armed intervention - that is the use of deliberate military action by the UN against another state or states. In choosing to look only at the use of collective armed force, the scope of this paper is limited but, hopefully, the analysis will prove more meaningful. Rather than looking at a series of case studies, this paper will explore the ideal of collective security as envisioned by the authors of the UN Charter and the incorporation of R2P and Duty to Prevent into this framework. Of course the UN has had difficulty living up to the ideal of collective security, but if collective security is to include these new principles, it is important that we review the Charter with R2P and Duty to Prevent in mind to ensure there are no fundamental clashes of logic with the current collective security system and these new principles.

This paper will argue that although R2P requires a reinterpretation of what constitutes a threat within the UN’s collective security framework, considerable international support and momentum to accept this change is growing. On the other hand, the Duty to Prevent is less compatible with the UN’s collective security system and is best left to “coalitions of the willing” to pursue. Ultimately, the decision to adopt and apply these new pillars within the greater UN system of collective security must be made by member states but informed as to the fit of both of these new pillars within the current collective security framework.

Collective Security

As first conceived by the founders of the UN, the collective security system was like a “vintage wine.”⁶ In the opinion of Inis Claude and Mumulla Naidu, the potential of collective security was never as great as it was post World War I because of the considerable diffusion of power across many states. Since then ‘new wine’ has been added in the form of state interests and political wrangling to dilute the potential of the collective security system. Overconfidence in collective security as a panacea for action by the international community gave it an aura it could never live up to.⁷ Today, ironically, underconfidence in the UN’s collective security system (largely because it was designed with World War II in mind) has resulted in calls to broaden the scope of threats the system tackles with force (making the system more “elastic”)⁸ in order to maintain international peace and security. However, as many argue that member states invoke collective security inconsistently, is an expansion of the system a good idea? Critics

suggest it will make the UN even more ineffective while proponents believe adoption of these new principles will render the world more secure.

Collective security is described by Inis Claude as the middle ground between two poles that are characterized at one extreme by anarchy and at the other by world government.⁹ Anarchy is described as “every nation for itself”¹⁰ and world government is considered an unattainable ideal. If one applies a means/end analogy to a collective security system, “‘collectively’ is the means, ‘security’ is the end and the ‘system’ is the institution to make the means serve the ends”.¹¹ In other words the means are credible threats of collective measures ranging from diplomatic boycotts through economic pressures to overwhelming force, the ends are characterized by peace and stability in the international community and the institution is the UN. Collective security is security of all states by all states for all states, even non-members.

The distinction between unilateral and collective use of force is not one of numbers but of authority and purpose.¹² Irrespective of the number of states involved, unilateral force is the result of a unilateral decision and is designed primarily to achieve goals personal to the acting states(s). Collective use of force, by contrast, is the result of the decision of a competent international organization and is taken on behalf of its representative community at large. For the purposes of this paper, we are not concerned with collective measures other than the application of physical violence (for example, economic sanctions or diplomatic pressure). Although it is acknowledged that these are important methods of collective action and are tools in the arsenal of collective security, this paper is concerned with the use of ‘force’ as described in Article 2(4) of the UN Charter. ‘Force’, in this paper, means military violence and does not include other types of injurious conduct. Collective security action is taken to mean collective use of force carried out under Chapter VII of the Charter.

Dr. Claude cautions his readers lest they feel collective security be used as an enforcement mechanism for all violations of international law – such logic is what created the over confidence described in the early days of the UN’s history. States must not threaten “collective security” action for violations of all international norms; it must not be appropriated to apply to just any multilateral intervention and is not, as Allen Dulles believed, “a form of [state] insurance”¹³ to be used as an enforcement mechanism for the whole body of international law.¹⁴ However, because collective security has always been described in ideal terms, “it has never been defined by treaty, nor by the supreme international tribunal which has been functioning at The Hague since 1922.”¹⁵ Collective security, therefore, is always in danger, according to Martin, of being hijacked as a “cry for the moon.”¹⁶

So far, I have described what collective security is not. It is not a panacea, it is not insurance against all threats and it is neither anarchy nor world government. But what is collective security and how do states benefit from participating in the system? To answer these questions, let us turn to Inis Claude, Mumulla Naidu and others who have studied, in detail, the ideal typology of collective security. As their research represents the hallmark of this field, we will use their criteria.

The ultimate objective of collective security is to frustrate any attempts by states to change the status quo with overwhelming force.¹⁷ A change in the status quo meant a change to the world order of independent, sovereign states. The mechanism for change was assumed to be acts of aggression or violence by one or more states that would or could lead to war. To counter this aggression (and after exhausting non-violent methods of coercion), overpowering, collective force would be threatened and then applied to end the aggression and deter other would-be aggressors. Of course the experience of World War II was instrumental to these assumptions about what constituted a “threat,” who could project this threat and what was the appropriate response.

Naidu and Claude posit that the ideal form of collective security is constructed with seven necessary elements.¹⁸ These seven elements are really a reflection of the UN lessons learned from the League of Nations. However, with these (new) elements in place, global action, through “preponderant physical power [would] deter or defect actual or potential [breaches] of peace and security anywhere in the world”¹⁹ thus rendering the world more stable and individual states more secure. The seven elements are listed below in what is assumed to represent a descending order of importance. We shall review the elements and then see how they are manifested in the Charter.

The Seven Ideal Elements of a Collective Security System

- 1) Prohibition of force: Whether one has a Kantian or Hobbesian outlook on mankind’s nature, history has proven that man can and will resort to armed force. Therefore, by prohibiting armed force, wars can be eliminated. However, as history has shown that not all states will refrain from the use of force in spite of its prohibition, it is better that all states are armed to counter attacks and preserve the peace through a collective security system. The argument is circular. Really, this first element advocates the prohibition of arbitrary, unilateral force. It is generally accepted that all states recognize and accept the fundamental importance of the primary ban on the resort to force – it is said to have reached the status of *jus cogens* but states also accept that there are cases, including self-defence (unilateral or collective), that are acceptable exceptions to the primacy of this *jus cogens* principle.
- 2) Collective Guarantee of Security: The guarantee of security necessitates that all states render assistance to the victim state. No state can claim neutrality and it is presumed no state would dare to support the aggressor. Thus, this element may require states to use armed force against former allies in order to achieve collective security. This is the three-musketeers element: “all for one and one for all.”²⁰

This is also the compensation aspect of the equation. While many are too polite (or perhaps strategic) to mention this factor, it certainly applies to any state that is not a superpower. Ideally, states will not arm beyond a basic level so that, if they are attacked, they won’t be alone in their response.

- 3) **Collective Force as Deterrence/Sanction:** If the first two elements are in place, then deterrence should be achieved in theory. However, should an aggressor dare to use force then the combined forces of all the other states should so overwhelm the aggressor that hostilities would cease, and furthermore, any other would-be aggressor should be deterred. Naidu refers to the latter lesson learned as “sanction.”
- 4) **Automatism in Collective Action:** Collective guarantees of action must be absolute and automatic. As Woodrow Wilson stated, there can be no ‘ifs’ or ‘buts’ – violation of the prohibition of force must be regarded ipso facto as an “act of war”.²¹ Collective security must be a mechanism that, like a mousetrap, springs automatically when tested. The response must be immediate and impartial. Naidu and Claude are rather circumspect on the issue of nuclear weapons. Presumably, automatism would be unaffected by these weapons of mass destruction (WMD) because element #3 would ensure they are never used in the first place. I am not convinced. I suspect Naidu has fused the concept of deterrence with disarmament and/or had not anticipated that WMD technology would be transferred to non-super power states so readily.
- 5) **Anonymity of Aggressor and Victim:** The collective security system must be above alliances and history; it cannot harbour eternal friends or everlasting foes.²² As a result, regardless of who are the aggressors or the victims, the system must be unbiased and concentrate solely on the act of aggression. Collective security, therefore, is different from a collective defence system like the North Atlantic Treaty Organization (NATO), which will only attack external enemies but never members within the alliance.²³
- 6) **Assignability of Guilt:** This element assumes that all states accept a universal definition of “aggression” and can recognize such acts of aggression instantly. Moreover, this necessitates procedures for the determination of aggression and an impartial institution entrusted by all to make the final (but largely forgone) determination.
- 7) **Permanency and Generality of the System:** The system must be “permanent, abstract and general [as opposed to] ad hoc, expedient or particularistic”.²⁴ The collective security system “must be institutionalized for international security against all dangers”.²⁵ This element is closely related to Automatism in Collective Action and Anonymity of Aggressor and Victim. In other words, the system cannot be whimsical or hesitant.

These elements must be considered as a nexus; if any element is missing, the system as a whole vitiates.

The failure of the League of Nations to invoke collective security to prevent World War II was fore in the minds of the authors of the Charter. If the UN were to succeed

where the League had failed, then a collective security system would be essential. However, in order for states to adopt an ideal system, they must be prepared to sacrifice a degree of sovereignty. As outlined in the Charter, a state could no longer solely make the decision to use force – this was to be a collective decision. States, however, were not prepared to accept this compromise and one sees this tension throughout the Charter. For every article that ensures that the ideal elements are in place, there is a countering article that frustrates the ideal. We shall return to the seven elements with the Charter in hand to highlight this tension.

The Charter and the Seven Ideal Elements

1) Prohibition of the Use of Force: As a cardinal principle, the Charter enshrined the prohibition of the use of force in Article 2(4). This was an improvement on the League's Covenant which did not ban war - war was only a "concern"²⁶. This article, in principle, satisfies element #1. However, by introducing self-defence as a right of all states, a contradiction regarding use of force was also enshrined in Article 51. A system of collective security cannot tolerate states "going it alone" rather than submitting to the system. Realistically though, few states feel secure enough to rely solely on a collective system of security. "Collective security [cannot] do for the international society what police actions [do] for the domestic community"²⁷ and therefore, self-defence and other military alliances help to bolster the security of individual states but detract from the 'collectivity' of collective security. The circular argument is present in the Charter as well to a certain extent though somewhat cushioned by the fact that Article 51 demands the states invoking self-defence inform the Security Council immediately and do not impinge on the Security Council's primary role to maintain international peace and security.

2) Collective Guarantee of Security: The preamble of the Charter invokes element #2 ("to unite our strength to maintain international peace and security") as do Articles 1, 39, 41 and 42. These articles constitute the "core" articles of the UN's collective security system. Not only do states confer on the Security Council primary responsibility for determining and acting on breaches to peace and security but the Council members may authorize "all necessary means" meaning the use of violent force to restore peace and security. Of course, because of the veto power of the five permanent members of the Security Council, collective approaches are contingent on their approval or at least their abstention. This, according to Naidu, "reintroduces decentralization [of decision-making] and thereby neutralizes the collectivist approach..."²⁸ The veto represents one of the profound challenges of the Charter and a potential qualifying sub-element for collective security in the UN. Indeed, the veto is a challenge for all seven of the elements.

Returning to the compensation aspect of this element, the collective guarantee could also be called the "easy rider"²⁹ approach to security spending. As a hedge against member parties coming to their aid, states forge bilateral relations with the superpower(s) to ensure added security. Furthermore, states may even decrease their defence spending

according to the strength of the bilateral relationship, which undermines the collective security system. Canada is the quintessential example.

3) Collective Force as Deterrence/Sanction: Collective force is meant to be far superior to a balance of power because the philosophy underlying the former is the overall diffusion of power rather than shifts in the concentration of power to “balance” the power of other states. Collective security, therefore, is thought to be more stable in the sense that instability was believed to lead to war. This presumption, however, was complicated by the existence of superpowers during the Cold War. Superpowers can impede the operation of collective security simply by being potentially stronger than the collective.³⁰ Should one of the superpowers be the aggressor, the deterrence capacity of the system vitiates significantly. The only solution for dealing with superpowers (or in today’s case, a hegemon) according to Naidu, is universal disarmament (preferably) or armament control (more practically). Unfortunately, the Charter only mentions disarmament in Article 47(1) (in reference to the duties of the never-used Military Staff Committee), Article 11(1) (in reference to possible topics of discussion for the General Assembly) and Article 26 (in reference to the Security Council’s responsibility to armament regulations in consultation with the Military Staff Committee). The first article only refers to “possible disarmament” and the second refers to “the regulation of armaments”. Article 26, though, refers only to the regulation of armaments and not universal disarmament.³¹ Of course it must be remembered that the Charter was drafted during the Second World War and it would have been unrealistic to expect states to become members of an institution that advocated the renouncement of armaments and military capability for the sake of the collective good. Rather, the authors of the Charter expected to use force against aggressors defensively and not offensively. Nevertheless, the paradoxical outcome was an arms’ race to theoretical levels of destruction never presumed imaginable.

Ernest Haas, on the other hand, suggests that discussions about disarmaments are side conversations at best because the permanent five members “were expected – and expected themselves – to settle their differences privately outside the UN.”³² Therefore, whether these states were disarmed or not was largely irrelevant to discussion about collective security that really was meant to benefit “quarreling smaller nations.”³³

4) Automatism in Collective Action: Article 39 stipulates that the Security Council “shall” determine the existence of breaches to international peace but does not guarantee either the extent or speed of the response. These facts in conjunction with the veto are what undermine automaticity. In the case of Iraq’s refusal to comply with a number of UN Security Council Resolutions in the late 1980’s and early 1990’s, twelve years elapsed before the US decided to make good the threat that the “Council [had] repeatedly warned Iraq that it will face serious consequences as a result of its continued violations of its obligations.”³⁴ (Unfortunately, the US and its Coalition of the Willing took action without the blessing of the rest of the Security Council.) The Security Council is not a mousetrap that springs automatically. As a result, element #4 is on shaky ground.

5) Anonymity of Aggressor and Victim, or element #5, is closely related to element #4, Automatism of Response. Remembering Naidu's diktat that "a collective security system... cannot permit eternal friends or everlasting foes," then the UN Security Council should have no compunction acting against any state on behalf of any state. Of course, in reality, this is decidedly not the case. It is highly unlikely that the Council would have reacted with force had South Korea invaded North Korea in 1950 nor does it suggest all states declare war on the instigator if Eritrea invades Ethiopia (or vice versa). Most assuredly, anonymity of aggressor and victims is conspicuous if one of the permanent members is involved. In other words, the mousetrap is very particular about and sensitive to which mice trigger the trap.

6) Assignability of Guilt is another assumption of the collective security system and constitutes element #6. The difficulty for the Security Council has been the fact that "aggression" was not defined nor were "breaches to peace and security" when the Charter was drafted. This was deliberate so as not to constrain the Security Council as the Council had been under the League of Nations. Since then, the General Assembly has defined aggression to be "the use of armed force by a State against the sovereignty, territorial integrity, political independence of another State..."³⁵ Breaches to the peace are still left to the determination of the Security Council on a case-by-case basis. Therefore, there is often considerable debate before a breach to the peace is determined. Furthermore, while the 'act' may be identified, naming the guilty party is another, separate issue that the Security Council is neither mandated nor inclined to determine. For example, Security Council Resolutions pertaining to the annexation of Kuwait by Iraq mention only state names and not the individuals responsible.³⁶ This has much to do with political precedent³⁷ but also the fact that the Security Council had no mechanisms for prosecuting individuals. This has now changed with the establishment of the International Criminal Court for some member states.

7) The final element, Permanency and Generality of the System, is the element that has been realized through the UN. What distinguishes the UN from an alliance system is the fact that it is neither ad hoc nor an expedient arrangement. Rather, it is a permanent and nearly universal institution with one hundred and ninety-one (191) member states.³⁸ Unfortunately, due to the veto power of the permanent five members, the "generality" of the system must be called into question as some breaches of the peace are not subject to the collective security system principally because they involve/concern one of the permanent members.

In addition to these seven elements, Naidu, Claude and others refer to subjective and objective prerequisites specific to the system of collective security.³⁹ The subjective (or internal) prerequisites are:

1. Faith in the rationality/goodness of man – Man will seek to settle differences peacefully if provided the opportunity. However, one must ask if this is a rational assumption given the examples of Hitler, Idi Amin, Pol Pot and others?;

2. Loyalty to a world community - it is assumed that national interests are subordinated to the collective system. Buzan hints at this need to consider the world community in formulating state policy in his book, *People, States and Fear*.⁴⁰ He proposes that international security is only possible if states temper their actions with due regard for the impacts on the larger world community. This is a moderate view. For Realists, however, this is tantamount to state suicide. For them, the interests of other states must never supplant survival of the state especially if state survival is incompatible with the goals of the world community;
3. Conviction in the indivisibility of peace – Related to the second prerequisite, all states must believe in the mantra of Harry S. Truman: “the breaking of the peace anywhere is the concern of peace-loving nations everywhere.”⁴¹ There must be a positive commitment to the value of world peace by a majority of states;
4. Trust and dependence on collective guarantees – All aggressors must be convinced that any act of aggression will be met with overwhelming collective measures and every victim must believe that the system will come to their rescue. Really, this prerequisite can be summarized in one word: certainty. (Collective security is replete with absolutes). But Claude cautions states not to underestimate the significant sacrifice required of states to participate in such a system. It necessitates no less than the “relinquishment of sovereignty in the most crucial area of [national] policy”⁴² – that is, the use of force. National policies must be adjusted to suit collective security and not the state. The state leader must give up the right to make novel decisions regarding the use of force and the protection of his/her citizens. Moreover, the citizens must place their good will and confidence in “foreigners”. States must fully commit to the system.
5. Confidence in the impartiality of the system; the collective security system does not respect states – it is simply an “instrument” to be directed against any aggressor. Confidence is the “quintessential condition of the success of the system; states must be prepared to rely on its effectiveness and impartiality.”⁴³ Of course, as has been mentioned, the ‘impartiality’ of the system must be viewed with skepticism especially if veto-wielding permanent members are involved.
6. Dedication to the status quo: As Claude states, “The essential commitments of a collective system necessitate the willingness of states to fight for the status quo”.⁴⁴ Therefore, states must be prepared to go to war even though this may involve injury to innocent people. An anarchic world order may not be the best world order, but through collective security, a minimum world order has been obtained.⁴⁵

The objective (or external) prerequisites include:

1. An international framework of considerable power diffusion - What has not been stated explicitly is that collective security aims at a pronounced disequilibrium between would-be aggressors and all other states in the system. It

is this disequilibrium that distinguishes collective security from balance of power;⁴⁶ it is assumed that the peace-loving majority of states will always 'out power' a peace-disrupting minority of states. This, of course, is predicated on the assumption that all states are relatively homogeneous in make-up and capabilities.

2. Universality of membership for the system; While this was not the case while communist China was not recognized by the UN until 1971, all other states have been encouraged to join including those that persistently violate the principles of the Charter. In fact, the fundamental rules and principles of the Charter apply to members and the few remaining non-members⁴⁷.
3. Legality of concepts and procedures of the system: The Security Council and the other arms of the UN have tried to adhere to and promote the value system outlined within the Charter. However, as some concepts were never defined (such as 'threat to peace and security') and much of the UN was frustrated by the ideological conflicts of the Cold War, norms and values were often trumped by politics. The fact that the jurisdiction of the International Court of Justice is not universally compulsory and its decisions are non-binding is further impediments to the legality of concepts and procedures.

In reviewing the seven elements and the ten subjective/objective prerequisites, many authors including Naidu, Claude, Martin, Dixon, Thompson and others, readily acknowledge the UN security system resembles a system of collective security but it does not fulfill the requirements of an ideal type of collective security.⁴⁸

What the research on the collective security ideal omits (especially in the 1950s to 1970s) is a discussion on what constitutes national security. This is important because it represents the forest that was lost while concentrating on the trees. In other words, while early researchers in collective security concentrated on the legal and institutional factors necessary for an ideal system, they side-stepped the discussion on whether or not collective security was actually the best mechanism for improving the security of states which were all considered to have identical risks.⁴⁹ The assumption in the early days of the Charter was that security threats would be largely state-on-state; in other words, inter-state war. Absence of war, therefore, equaled security. Furthermore, it was assumed that every state would view acts of aggression similarly - no man's aggression could be considered another man's self-defence or liberation.⁵⁰ The debate about what constituted security led by Arnold Wolfers⁵¹ and followed by Richard Ullman⁵², and others⁵³ was proceeding in parallel but few thought to combine the discussions. During the Cold War, the collective security system was often paralyzed but on the rare occasions when it did function, state-on-state aggression or war was the trigger for war- the Korean War being the ultimate example and really "an accident of history"⁵⁴ and the second Gulf War of 1991 occurring post Cold War.

Today, many including the authors of the HLP as well as Feinstein and Slaughter wish to expand the issues for enforcement via the UN's collective security system to

include shared norms and principles and not just acts of aggression.⁵⁵ In other words, whereas the 'old' UN collective security system separated the two UN souls and armed intervention was only employed (generally speaking) to counter external state security threats (i.e. another aggressive state), the 'new' system would promote collective force to counter internal as well as external state threats. For example, gross violations to human rights, justice and social progress (the second soul of the UN) as well as WMD especially in the hands of weak and failing states would now be considered "threats to international peace and security." At a minimum, this requires a reexamination of the seven elements of the ideal collective security system to see if it is robust enough to tackle this expanded definition of threats to peace and security.

We shall begin with an analysis of the Responsibility to Protect.

Responsibility to Protect

The greatest advocate of the need to expand the UN's collective security system to include armed humanitarian intervention is the Secretary-General, Kofi Annan.⁵⁶ Deeply disturbed by the international community's limited response to the Rwandan genocide, Srebrenica, Darfur and other intra-state conflicts that resulted in "...gross and systematic violations of human rights that affect every precept of our common humanity,"⁵⁷ he believes it is time to equate and translate these gross violations into threats to international peace and security. As we shall see, there is resistance to this concept.

First, the idea of intervening collectively with force in a state that is abusing its own people is not new – many argue it predates the Charter and is supported by early "just war" theory. This theory expounded the permissibility of war if the attacking states believed that their war was waged against an immoral enemy.⁵⁸ This was considered 'just cause.' But, just war theory is now considered antiquated customary law that has since been supplanted by the Covenant of the League, various treaties such as the Kellogg–Briand Pact and, of course, the Charter.⁵⁹ These legal bodies outlaw traditional war to varying degrees. Reinterpreting these bodies of law to promote armed intervention for the purpose of ending human rights abuses requires counter-restrictionist (i.e. more liberal) interpretations of these international bodies of law that some states are hesitant to support.

Furthermore, states have not used the protection of innocent civilians as a reason to use military force consistently.⁶⁰ Rather, the Security Council has preferred to decide each case on an individual basis and has shunned doctrinal constraints⁶¹ that force their collective hand. The problem for proponents of Responsibility to Protect is that numbers are simply not in their favour – a majority of states still believe that the principle of sovereignty, as enshrined in the Charter, protects states from interference in their domestic affairs – even if those states are engaged in the large-scale extermination of their own people. As well, adopting Responsibility to Protect as another pillar of the UN's collective security system means that the Security Council now has a

“responsibility” to act.⁶² There would be greater impetus on the Council to respond to massive human rights violations because Responsibility to Protect articulates when armed intervention is needed.

There have been many books and articles written on this new “responsibility” including Simon Chesterman’s “Just War or Just Peace? Humanitarian Intervention and International Law” and Nicholas Wheeler’s “Saving Strangers: Humanitarian Intervention in International Society”⁶³ which are “must” reads. However, while they debate the legality of the “responsibility” what is missing are the arguments that concretely transfer “gross violations” from Soul 2’s ‘respect for human rights UN in-basket’ to Soul 1’s ‘threats to peace and security in-basket’ that necessitates collective armed force. The HLP has revived this debate.

The International Commission on Intervention and State Sovereignty (ICISS) and HLP both agree that regardless of whether a legal norm has developed or not, there is a growing international consensus that, under certain circumstances characterized by massive human rights abuses, a legitimate case for armed intervention is emerging. So long as states can make the fundamental shift in thinking from “sovereignty as authority” meaning “sovereignty as an unrivaled control over a delimited territory and the population residing within it”⁶⁴ to “sovereignty as responsibility” meaning “sovereignty as conditional on a state demonstrating respect for a minimum standard of human rights”⁶⁵ then a norm of responsibility to protect will emerge. If this shift can be made, then armed force can be employed legitimately.

Similar to the conclusion of Martha Finnemore⁶⁶, the HLP has concluded that norms and practices regarding armed interventions have and are in the process of changing. But is the UN’s current collective security system predicated on inter-state wars robust enough to accommodate a new pillar – the Responsibility to Protect? As we shall see, it is an awkward fit. Let us turn to the seven ideal elements once again.

The Seven Ideal Elements and the Responsibility to Protect

1. The prohibition to use force is considered jus cogens.⁶⁷ Its exceptions, self-defence and/or to combat acts of aggression that threaten peace and security, are well-established customary rules of law⁶⁸ that took years to develop. Humanitarian intervention as a collective practice has yet to be established. The great danger to expanding collective use of force for collective security to this new responsibility to protect is that it may weaken the entire system – the weakest link argument in other words. Restrictionists are still not convinced that states should meddle in the domestic affairs of another state. Using force to end massive human rights abuses may serve only as a guise for other purposes. In the eyes of some, it is better to restrict uses of collective force to very specific and well-established legal precedents than to run the risk of slippery-slope use of force for any and all purposes.

2. Adding a responsibility to protect does not change the second element, the collective guarantee of security. The same dilemmas are faced by this new principle as was discussed for collective security in general. The unknown is whether or not the Security Council is more or less likely to sanction the use of force for massive human rights abuses than for acts of aggression. New studies by the Folke Bernadotte Academy in Sweden suggest that before the 1980s, UN peacekeepers were more likely to be sent for interstate rather than for intrastate conflicts. However, the number of intrastate conflicts (that are characterized by massive human rights abuses) has been on the rise and the international promotion of intrastate peace has only recently become more common than the promotion of inter-state peace.⁶⁹ This shows that the UN does equate intrastate conflict with threats to peace and security. Furthermore, another study by Gilligan and Stedman suggest there is a positive relationship between, on the one hand, civil war duration and number of casualties and, on the other hand, the probability of a UN operation.⁷⁰ This suggests that “need” rather than great power interests may “condition UN decisions.”⁷¹ So, as long as the UN can be convinced that there is a need to intervene to protect civilians from massive human rights violations, there is a reasonable chance that the collective system will be invoked. While one can be accused of comparing apples and oranges (not all UN peacekeeping missions are collective security missions) and, of course, my analysis is cursory at this point, these statistics can be designated as points toward a win for responsibility to protect to be included in the greater collective security system.
3. Collective Force as Deterrence/Sanction: Unless states believe they will be threatened with armed force for not respecting the rights of their citizens, then deterrence in these cases cannot be achieved. This harkens back to the early discussion on the leap of legal faith to intervene thus contravening a state’s “domestic jurisdiction.” Which state is doing the abusing matters. Gilligan and Stedman have concluded that the UN is “significantly less likely to intervene in civil wars with large government armies.”⁷² Power, therefore, must matter. Of course power also matters when discussing collective security – the system will not engage ‘superpowers’ or great power states because there is little chance of success. It would seem that the same chance of success is an important determinant for the responsibility to protect as well. Perhaps if the Janjaweed were not as strong, the UN would act? (This is rather tongue-in-cheek as the UN member states are capable of overpowering the Janjaweed if they so wished.) What is important to note is that military power discussions, thought to be “academic” now that the US is the sole superpower, still matter.
4. The fourth element, automatism in collective security, is a perennial problem for Responsibility to Protect. Why intervene in Somalia and not Rwanda, why Haiti and not Darfur? The third element raised a discussion regarding size of the state army, but an element of political will must also be considered as an impediment to the R2P. If Responsibility to Protect were adopted formally as a pillar of the collective security system, then a debate about using force to end the atrocities should, in theory, only focus on whether it is or is not the best means for ending

the human rights violations and not whether it is or is not permissible. But would this mean that collective force would be used to stop human rights abuses? Political realities (who is the abuser, what is the state, where is the state etc.) are still factors that could “overrule” the Responsibility to Protect despite the legal green light.

5. Anonymity of Aggressor and Victim is the fifth element. The difficulty is that who or what constitutes the aggressor and the victim are radically different under Responsibility to Protect than under ideal collective security. The international community must consider individuals and non-state actors as potential aggressors and victims rather than just seeing states as the aggrieved and victimized. The UN is extremely reluctant to denounce the actions of individuals. Furthermore, the dilemma for the UN then becomes weighing the sacrifice of “blood and treasure” of member states’ armed forces against the lives of “strangers.”⁷³ The media has compounded such decisions by amassing public opinion to “do something”.
6. Assignability of Guilt: Since the UN lacks its own intelligence forces⁷⁴, it depends on member states and the Secretary General to bring situations of concern to the attention of the Security Council. It is not an obligation for states to report information that they might have regarding a certain situation. One may run into the perverse situation where potential aggressors are also members of the Security Council when an item that pertains to them is discussed. This limits the objectivity of other members of the Council to counter assertions that the situation is “under control”. (Eg. Rwanda in 1991.) What states are members on the Security Council does impact the assignability of guilt and the call for armed intervention.
7. Permanency and Generality of the System is the final element to consider. The UN Charter binds states only to refrain from the “threat or use of force” in “their international relations” and explicitly protects their “domestic jurisdiction” from outside interference. As a result, the 1990s were replete with examples of internal conflicts - civil wars, ethnic bloodletting and resurgent nationalism – against which the UN’s collective security system chooses not to counter. At the same time, however, there were examples of cases when the Security Council did choose to intervene. (E.g. Kurdish refugees flooding into Europe – especially France and Turkey - were one of the arguments for intervening and establishing no-fly zones in northern Iraq in 1991.)⁷⁵ Over time, restrictionist thinking (i.e. conservative interpretations of the Charter) has held less weight in discussions in the Security Council. Slowly, the UN has adopted a new interpretation of what constitutes a threat to international peace and security representing an evolution in thinking.

Compared to the ideal system of collective security, the new principle of Responsibility to Protect, in its ultimate form as armed intervention for the purposes of protecting individuals, has an uncertain future. But, so did collective security during the Cold War. The key will be to what extent the UN is able to establish and impose the two other responsibilities that make up the responsibility to protect. These include the responsibility to prevent (addressing root causes), and the responsibility to rebuild (recovery, reconstruction and reconciliation so as not to slip back into a state of conflict); these Soul 2-type mandates are always preferred to armed conflict. If after a concerted effort to stop the conflict, Soul 2 scenarios fail, the Security Council must entertain the use of force as well as the possibility of a regime change. There is no point stopping a Pol Pot from killing his people only to leave him in-charge once the troops have left. And here represents the most difficult dilemma for R2P. Implicit in the doctrine is the need for regime change. Collective security, based on WWII thinking, is all about stopping the unilateral use of force and not promoting regime change and democratization. It is this expansion of the collective security system that will prove most difficult for the UN system.

The six subjective and three objective requirements also apply but they are not unduly challenged by the new principle of responsibility to protect. Of course, these prerequisites are dependent on the member states. The principle of responsibility to protect (really the responsibility to react according to the ICISS report) would, of course, be strengthened if each of these pre-requisites were met. Certainly faith in the impartiality of the system (or the fifth subjective prerequisite) has been badly damaged by events in the 1990s including Somalia, Rwandan and Bosnia and continues to be damaged by the dithering surrounding Darfur. One cannot help but to conclude that black Africans are not worth as much as white Europeans – as unfair as this sounds (in fact and in analysis), the Sudan is a current example. While R2P does not undermine collective security elements per se, it would require that the Security Council define threats to peace and security to include massive human rights abuses. The Council may adopt such a new definition – all signs point this. But, no one should be surprised when the Security Council chooses not to intervene despite a new definition.

Let us next turn to an analysis of Feinstein and Slaughter's Duty to Prevent.

Duty to Prevent

There is a lot of confusion about "duty to prevent" because two different "versions" have been promoted. The first, which this paper shall investigate, is the Duty to Prevent as collective military force directed at rogue states to eradicate the immediate threat posed by weapons of mass destruction in the hands of terrorists and/or the governing elite of these failed states. The second "challenge of prevention,"⁷⁶ outlined in the HLP, also applies to the elimination or control of WMD and terrorism but the focus is on collective actions short of force. For example, the HLP would be most pleased that the General Assembly, on April 13, 2005, adopted by consensus the text of the International Treaty for the Suppression of Acts of Nuclear Terrorism, which makes it a crime for

terrorists to possess or threaten to use nuclear weapons.⁷⁷ This second duty to prevent is about strengthening the second soul of the UN and only advocates employing collective force in very particular circumstances once specific criteria of legitimacy are met and all non-violent forms of coercion have been exhausted.⁷⁸ However, once collective force is used, it is no longer “prevention” according to the HLP. Feinstein and Slaughter are suggesting that the international community should not wait for the issue to be debated and transferred from the second soul prevention “in-basket” to the first soul action “in-basket”. In their opinion, WMD in the hands of rogue states and/or terrorists necessarily constitutes an immediate international threat and the use of force may be the only sensible solution to ensure peace and security. These authors have been influenced heavily by the current US President’s doctrine of pre-emption and its use in the current Iraq war. While the Bush doctrine promotes unilateral action, Feinstein and Slaughter believe a collective armed response is the preferred preventative course of action because collective action is more “legitimate”.

According to Feinstein and Slaughter, current non-proliferation regimes have been ineffective. The result is the “unprecedented threat” posed by terrorists and rogue states armed with weapons of mass destruction. Their suggestion is that a doctrine of armed anticipatory self-defence, conducted collectively rather than unilaterally, is a necessary new corollary to be added to the UN’s collective security system. They argue that the threat posed by rogue states and closed societies headed by autocratic rulers pose immediate threats to international peace and security because they are more likely to pursue possession of WMD, menace their own citizens and their neighbours.⁷⁹ As a result, the threat to international peace and security is a direct link and does not require debate – it is all about disarming rogue states of potentially catastrophic weapons. They may have a point. However, is a “duty to prevent” as they envision amenable to the UN’s current collective security system? Again, the seven elements of an ideal collective security system will be applied to Feinstein and Slaughter’s new corollary.

The Seven Ideal Elements and the Duty to Prevent

- 1) Prohibition of use of force: To be fair, Feinstein and Slaughter do not propose declaring war on rogue states immediately. Rather, they suggest states engage the usual diplomatic processes including diplomatic and economic sanctions first. However, given the track record of certain states – especially North Korea, Iran and Iraq, prohibition of force is not respected by these types of states and therefore, pre-emptive force should be used, according to the authors, to stem the spread of WMD to terrorists and other rogue states. Of course use of WMD is also a major concern and demands preventative force. For the authors, the time delay between measures short of force and force should be minimal. They make no comments about the need for a corresponding regime change. Rather, Feinstein and Slaughter argue that the Duty to Prevent concerns the eradication of WMD.
- 2) Collective Guarantee of Security: If the eleven-nation Proliferation Security Initiative is a measure of “collectiveness,” guaranteed collective security is highly unlikely. This “global” effort to stop the shipment of WMD, their delivery

systems and related material at sea by air or on land is led by the Americans.⁸⁰ The member nations include Australia, Japan, Poland and Western European countries (including Canada). If only eleven countries are interested in stopping the spread of WMD, how many countries would be willing to send their soldiers to attack a rogue state in possession or suspected possession of WMD? The probable answer is very few; the method being the issue not so much the desire to stop the proliferation of WMD. Limited “coalitions of the willing” are likely the only bet in my opinion. Feinstein and Slaughter would disagree. They point to the EU’s “strategy against proliferation” announcement in June 2003 that identified “coercive measures, including as a last resort the use of force in accordance with the UN Charter” as a key element.⁸¹ The G-8 group has agreed that WMD and the spread of international terrorism are “the pre-eminent threat to international society” and that force was not out of the question.⁸² Still, the EU and the G-8 states, though important, do not the UN make.

- 3) **Collective Force as Deterrence/Sanction:** Feinstein and Slaughter believe “keeping force on the table is often a critical ingredient in making diplomacy work.”⁸³ Furthermore, in the opinion of Feinstein and Slaughter, the unmatched legitimacy of the UN Security Council to order force against rogue states makes it “...harder for targeted governments to evade [the Security Council] by playing political games.” The more likely scenario is that Security Council members are more likely to engage in political games and delay any decisions to enforce “all necessary means.” Furthermore, states like North Korea are well aware of the international community’s reticence to engage them militarily. One must ask: who is in control? The UN or rogue states?
- 4) **Automatism of Collective Security:** It is one thing to threaten force against a small state. It is another to threaten the use of force on a small state, potentially armed with WMD and headed by a highly unpredictable ruler. One of the reasons why I believe North Korea has not been threatened with force is that there is no guarantee that Kim Jong Il will not launch nuclear weapons indiscriminately. Having proven he is not averse to killing his own people, why would he feel any compunction toward neighbouring enemies and potential adversaries? No one wants another war in Korea so states are extremely reticent to go so far as to wage war. Of course, North Korea is just one example but the authors see it as the archetypical example for application of this new corollary. I am not convinced that automatism of armed force is assured, however.
- 5) **Anonymity of Aggressor and Victim:** The Duty to Prevent represents the antithesis of this element. The duty to prevent is directed at closed, weak or rogue states with WMD that lack “internal checks.” The list is small but includes North Korea and Iran (Iraq having been “dealt” with already). Furthermore, the authors suggest that it would be folly to direct attention to China (and one would presume India, Pakistan, Israel, the US, France or the UK) because there is little chance of success in disarming these states. So much for anonymity. But the point of collective security is not to rid the world of WMDs, but to what extent states with

WMDs have sufficient and robust internal checks (read democracy). Collective security is about minimizing the use of force. India, Israel, the US, France and the UK have sufficient internal checks; Pakistan and China arguably do not have sufficient checks. The danger with a Duty to Prevent becomes the possibility of moving beyond the management of WMDs to the establishment of acceptable state governance models, which is beyond the scope of collective security.

As for the victim, the duty to prevent is not particularly concerned with the citizens of these rogue states (although Feinstein and Slaughter readily accept that rogue states usually abuse their citizens terribly). The victims in this case are what Buzan would refer to as “strong states.”⁸⁴ This new pillar is about saving and securing states. From this perspective, this does correspond to the goals of collective security.

- 6) Assignability of Guilt: This may be the only element that has a chance of success. When it comes to rogue states like North Korea and Iran, most states can agree who they are. However, not all states are willing to make the jump that these states represent threats to international peace and security and not just a local security concern for surrounding states. Rather, some suggest that by just leaving them alone, the world order status quo can remain rather happily. I refer to this as the “laissez-faire” theory. However, as more and more states reveal they have the technology and appetite for WMD, is laissez-faire a wise, international strategy? Buzan would argue that it is preferable for the world order for every state to have nuclear weapons than for just a few to possess them. Politically, however, this is not a popular mantra to adopt.
- 7) Permanency and Generality of System: There is a fear that if the UN pursues the doctrine of duty to prevent as envisioned by Feinstein and Slaughter, states may choose to leave the UN rather than pursue this new corollary. Perhaps this is why the HLP tread rather more gingerly than Feinstein and Slaughter and presented a less force-driven version of “duty to prevent” with respect to failing/rogue states and terrorism.

Rather than a defensive, reactive response of force to an established collective threat, a Duty to Prevent would require an offensive, preventative response of force to a potential collective threat. This would require a significant change of thinking on the part of states if the current UN collective security system were to be used. Not only does it require states to act before a traditional act of aggression takes place, but the threat may never be realized. In which case, states would be engaging in war against another state without the necessary threat to peace and security. Furthermore, the use of force is switched from a defensive posture to an offensive one. To be fair, a right of anticipatory self-defence has been evident in international law for some time, made famous by the Caroline Case. The Caroline was an American ship that had been used by Canadian rebels to harass the authorities in Canada in the 1840s. While it was moored in an American port close to the Canada/US border, it was attacked by the British and

destroyed. The legality of the action was raised when Great Britain sought the release of one of the men involved in the attack. The US's representative, Mr. Webster, wrote a letter to his British counterpart, Mr. Fox. Webster's formulation in this letter is regarded as the locus classicus of anticipatory self-defence.⁸⁵ A right of self-defence would be recognized by the Americans if the British could prove that the threat posed by the *Caroline* was "instant, overwhelming, leaving no choice of means and no moment for deliberation."⁸⁶

It would seem prudent for Feinstein and Slaughter to include these four criteria, outlined by Mr. Webster, in their duty to prevent. My assumption, however, is that the authors would promote a use of force before this moment of brinkmanship because of the destructive nature of WMD – presumably, they would argue that WMD pose a much greater and wide-spread threat than a ship of rebels armed with swords and pistols.

Turning to a review of the prerequisites, we find that several large changes must be made in order for a duty to prevent to be accommodated by the UN's current collective security system.

The first (rationality/goodness of man) and fifth (impartiality of the system) prerequisites would require re-thinking for a duty to prevent since states are specifically targeted because they are weak and/or the government/governing elite is/are incapable or unwilling to maintain law and order. The implicit assumption of duty to prevent is that certain individuals are barbarous and untrustworthy.

As well, the ninth prerequisite (legality of the concepts and procedures) requires a particular note of discussion. A Duty to Prevent as conceived by Feinstein and Slaughter, is really a form of collective (offensive) self-defence and, as such, is different from collective security. Collective self-defence (as is practiced by NATO) is meant to be an emergency response to an emergency situation, but, according to Dixon, "[self defense] also implies that the 'defender[s]' are entitled to use force for so long as it is threatened..."⁸⁷ Collective security, on the other hand, is concerned with the maintenance of international peace and security. The right of self-defence is superseded by collective action under Chapter VII once the Security Council is "seized" of the matter. However, collective security does not guarantee that peace and security will be restored or that the status quo ante will be achieved. Returning once again to the warning of Inis Claude, states must be willing to give up a significant portion of their sovereignty to participate in a collective security system. The portion of the sovereignty they forgo is the independence of decision-making to use or not to use force to protect the state. However, as it has proven inconsistent, no state would put all their eggs in collective security system basket and would likely support the option of acting more quickly with a "coalition of the willing" even if it is at the expense of the UN's credibility.

Furthermore, the main threat to be challenged is a weapon, terrorist group or weak government. It is not a state as is the normal aggressor under a collective security system. As we have seen analyzing the Responsibility to Protect principle, changing the 'type' of aggressor from state to individual(s) is not a transition that is easily made.

Reviewing the “fit” of the Duty to Prevent with the seven, ideal elements, it is not at all certain that it can or should be adopted as a fourth pillar to the UN’s current collective security system.

Conclusion

This paper examined the UN’s collective security system. In the early days of the Charter, threats assumed to be limited to states bent on war. The appropriate action was a collective response of a threat of violent force to counter the aggressor and deter future aggressors. So long as power is diffused amongst the states and states are willing to cede sovereignty to the collectivity, then collective security would ensure the safety and security of the world order. This, however, is an ideal position and rarely is it a realistic one.

Since the number of intrastate conflicts has increased and because of the events of 9/11, many are suggesting that what constitutes a threat to international peace and security be reexamined. War is no longer the main preoccupation of states. Rather, poverty, infectious diseases, bloody civil war, weapons of mass destruction and terrorist cells are “the gravest threats to the [world’s] survival and well-being [of individuals].”⁸⁸ In response to these cries for changes, the Secretary General configured a high level panel that would refashion and renew the UN to better meet these threats.

The High Level Panel authored a report that recommended the expansion of the UN’s collective security system to be broader and more comprehensive. The authors recommended that an additional pillar be added called the Responsibility to Protect. Lee Feinstein and Anne Marie Slaughter have also suggested another pillar be added called the Duty to Prevent. With these two additional pillars, presumably, all of these new threats would be covered and the threat of deadly force authorized by the UN would ensure peace, stability and the world order status quo.

What we have concluded from the analysis, however, is that it is not simply a question of adding new pillars to the old UN security system. Firstly, the system was designed to counter very different threats. Secondly, the ideal elements of collective security were never fully realized by the UN’s system. Thirdly, states have not demonstrated a level of willingness to accept these new pillars as has been witnessed by the dithering in Darfur (a test case for Responsibility to Protect – to date, a disaster) and the latest war in Iraq (a test case for the Duty to Prevent - in some ways successful if adopted by a “Coalition of the Willing). Perhaps the fault lies not with the new pillars but with the will of the member states of the Security Council to act. The Security Council is not limited by the Charter as to what constitutes “a threat to peace and security”⁸⁹ But, in practice, military force under Chapter VII is used carefully and advisedly. While the number of armed UN interventions has increased, some critics would say the Security Council has been too “mean” in their assessments as to what constitutes a threat that requires force.

While many urge the UN to adopt a Responsibility to Protect and what Feinstein and Slaughter call a Duty to Prevent principles, one must remember the urging of Claude, Naidu and others not to employ collective security for the enforcement of just any international norms. If collective security is to be employed, especially armed intervention, then it must be to preserve and protect “international peace and security.” Therefore, advocates of the Responsibility to Protect and Duty to Prevent doctrines must present their cases to all states as hitherto new mechanisms to counter the new threats to international peace and security. Furthermore, it must be proven that the UN’s collective security system, as opposed to some other alliance system, is best placed to preserve the peace. While the Responsibility to Protect converges (albeit awkwardly) with the seven, ideal elements of collective security, the Duty to Prevent represents a radical departure from many of the elements. It is therefore recommended that while the Responsibility to Protect may be adopted in theory, the Duty to Prevent is likely to clash within the current confines of the UN system.

Ultimately, states must ask: can these new pillars strengthen international peace and security? Only they can answer this question legitimately.

¹ Dr. Jane, Boulden, Royal Military College.

² Charter of the United Nations and Statute of the International Court of Justice, June 26, 1945.

³ A More Secure World: Our Shared Responsibility: Report of the High-level Panel on Threats, Challenges and Change, UN report A/59/565. December 2004. 11.

⁴ The HLP also talks about the duty to prevent but they refer to this duty more in reference to the need to strengthen some two-type activities to eliminate or minimize the conditions that cause instability in the world. Examples include the need to reduce economic and social threats, including poverty, infectious diseases and environmental degradation as well as inter state and intrastate conflict. Force is only considered as a very last resort. Feinstein and Slaughter’s duty to prevent targets only rogue/weak states with the potential of acquiring or having WMD and/or terrorists and that force is to be considered much earlier due to the immediacy of the threat posed by these rogue states and their WMD’s.

⁵ Stromberg, Roland. N., “The Idea of Collective Security”, *Collective Security to Preventive Diplomacy: Readings in International Organization and the Maintenance of Peace*, Joel Larus (ed), (New York: John Wiley & Sons, Inc., 1965), 277. Ernst B. Haas is even more cynical stating “[c]ollective security, as an institutionalized organizational task, has shown no sign of producing any kind of cumulative patterns of satisfaction, acceptance or growth.” See Ernest B. Haas, “Collective Security and the Future International System”, *Monograph Series in World Affairs University of Denver*, Vol. 5. No. 1, (1967-1968): 55.

⁶ Claude, Inis, L., *Swords into Plow Shares: The Problems and Progress of International Organization*, Fourth Edition, (New York, Random House, 1971): 247.

⁷ Claude, *Swords...* : 248.

⁸ Martin, Andrew, *Collective Security Progress Report*, (Paris: United Nations UNESCO, 1952): 125.

⁹ *Ibid*:245.

¹⁰ Stromberg, “The Idea of Collective...:277.

¹¹ Naidu, Mumulla Venkatrao, *Collective Security and the United Nations*, (New York: St. Martin’s Press, 1975): 15.

¹² Dixon, Martin, *Textbook on International Law*, 4th Edition, (London, Blackstone Press Limited, 2000), 294.

¹³ As quoted in Finkelstein and Finkelstein, 31. From *Collective Security, A Record of the 7th and 8th Studies Conferences*, London, 1935, League of Nations, *International Studies Conferences*, Maurice Bourquin, editor (Paris; International Institute for Intellectual Cooperation, 1936), 44.

¹⁴ Claude, 249.

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- ¹⁵ Martin, Collective....:14.
- ¹⁶ Ibid: 13.
- ¹⁷ Ibid: 14.
- ¹⁸ Naidu, Collective....: 17-20.
- ¹⁹ Ibid: 17.
- ²⁰ Collective Security, Marina, S. Finkelstein and Lawrence S. Finkelstein (eds), (San Francisco, Chandler Publishing Company, 1966): 1.
- ²¹ Claude, Swords into...:262. Taken from Royal Institute of International Affairs, International Sanctions (London : Oxford University Press, 1938), 2.
- ²² Naidu, Collective....:48.
- ²³ Lipson, Charles, "Is the Future of Collective Security Like the Past?", Collective Security Beyond the Cold War, George W. Downs (ed), (Ann Arbor: University of Michigan Press, 1997): 113.
- ²⁴ Naidu, Collective: 20.
- ²⁵ Ibid: 20.
- ²⁶ Covenant of the League of Nations Article 11. Adopted December, 1924.
- ²⁷ Thompson, Kenneth W., "Collective Security Reexamined", American Political Science Review, Vol. XLVII, No. 3 (September 1953): 755.
- ²⁸ Naidu, Collective... : 37.
- ²⁹ A term coined by Dr. Joel Sokolsky, Royal Military College of Canada.
- ³⁰ Claude, Swords....: 272.
- ³¹ See Naidu's discussion for a complete analysis, Collective: 41-46.
- ³² Haas, "Collective Security and the...": 36.
- ³³ Ibid: 36.
- ³⁴ See Security Council Resolution 1441 (S/2002/1441) November 8, 2002, point #13. This resolution recalls all previous resolutions regarding Iraq including 661 (1990).
- ³⁵ UN GA Resolution 3314 (XXIX), UN GAOR 29th Sess., Supp. 31., (1974)
- ³⁶ See, for example, Security Council Resolution 660, August 2, 1990.
- ³⁷ Naidu, Collective....: 50.
- ³⁸ Only a few states have yet to join the UN. They are all very small states in terms of territory and population.
- ³⁹ For a full description of the prerequisites and the UN's record see Naidu, 51-63.
- ⁴⁰ Buzan, Barry, People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era, 2nd (ed), (Boulder: Lynne Rienner Publishers, 1991). Refer to his section on "Implication for Policy", 374-381 especially 378.
- ⁴¹ Harry S. Truman, first message to the American Congress, April 16, 1945. See <http://www.jewishvirtuallibrary.org/jsourc/ww2/presidenttruman.html>.
- ⁴² Claude, Swords....: 253.
- ⁴³ Claude, Swords....: 255.
- ⁴⁴ Ibid: 254.
- ⁴⁵ See Bull, Hedley, "The Obsolescence of the States System?", in Hedley Bull's, The Anarchical Society: A Study of Order in World Politics, (London: The Macmillan Pres Ltd., 1977), 282-296.
- ⁴⁶ Levontin, A.V, The Myth of International Security: A Juridical and Critical Analysis, (Jerusalem: Jerusalem Post Press, 1957): 184.
- ⁴⁷ See Article 2(6) of the Charter of the United Nations.
- ⁴⁸ Naidu, Collective....: 51.
- ⁴⁹ Eban, Abba, "The UN Idea Revisited", Foreign Affairs, vol.74, n5 (September-October, 1995), 40.
- ⁵⁰ Ibid: 44.
- ⁵¹ See Wolfers, Arnold, "National Security as an Ambiguous Symbol", Political Science Quarterly, Volume LXVII, (December 1952): 481-502.
- ⁵² See Richard H. Ullman, "Redefining Security," International Security, vol. 8, no. 1, Summer 1983, pp. 129-153.
- ⁵³ David A. Baldwin, "The concept of security," Review of International Studies, vol. 32, 1997, pp. 5-26. is an example.

⁵⁴ Dr. David Malone, Assistant Deputy Minister of Foreign Affairs Canada, Royal Military College, April 13, 2005. It was an “accident” because Russia had chosen to vacate its Security Council seat in protest that the UN did not recognize communist China. Thus a vote could proceed without the threat of a Russian veto.

⁵⁵ Finnemore, Martha, *The Purpose of Intervention: Changing Beliefs About the Use of Force*, (New York, Cornell University Press, 2003): 81.

⁵⁶ Urged by Mr. Annan, The International Commission of Intervention and State Sovereignty (ICISS) sought to explore the sovereignty vs. intervention dilemma. Rather than focusing on a “right” to intervene which necessitates a direct challenge to articles within the Charter such as article 2(4) (prohibition of the use of force) and article 2(7) (domestic jurisdiction), the authors talked about a responsibility to protect. In this paper, I am only concentrating on what the ICISS coins the “responsibility to react” or the use of military intervention in extreme cases. However, as the use of force in this particular context is more widely referred to as the “responsibility to protect” after the title of the report, I shall use this term to refer to collective armed intervention by the UN for the purposes of protecting a states’ citizens for a variety of reasons including massive human rights violations, genocide, poverty, and large-scale displacement due to civil war.

⁵⁷ *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*, Gareth Evans and Mohamed Sahnoun (co chairs) (Ottawa: International Development Research Centre, 2001), vii. Quote by Mr. Annan to the UN General Assembly in 2000. Referred to as the ICISS report.

⁵⁸ This principle of “Just War” is attributed to St. Augustine and Hugo Grotius. Of course, protecting individuals of a state was not envisioned as a ‘just cause’ and so it is an awkward argument for proponents of Responsibility to Protect to use.

⁵⁹ Dixon, *Textbook.....*: 294-295.

⁶⁰ Even though cases such as Vietnam’s war with Cambodia, and Tanzania’s war against Uganda are used as early examples of “armed humanitarian intervention”, neither Vietnam nor Tanzania used the humanitarian imperative as their just cause. Rather, the reasons for war given by Vietnam and Tanzania were self-defence for breaches to the territorial integrity of the state.

⁶¹ Comment by David Malone, Assistant Deputy Minister, Foreign Affairs of Canada, at the Royal Military College, April 13, 2005.

⁶² Comment by David Malone, Assistant Deputy Minister, Foreign Affairs of Canada, at the Royal Military College, April 13, 2005.

⁶³ Chesterman, Simon, *Just War or Just Peace? Humanitarian Intervention and International Law* (Oxford: Oxford University Press, 2001) 295 pp. and Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention and International Society*, (Oxford: Oxford University Press, 2000), 336 pp.

⁶⁴ Welsh, Jennifer, “From Right to Responsibility: Humanitarian Intervention and International Society”, *Global Governance*, v8, i4 (Oct-Dec, 2002), 511.

⁶⁵ *Ibid*, 511.

⁶⁶ See her book *The Purpose of Intervention - Changing Beliefs about the Use of Force* especially her chapter on “Changing Norms of Humanitarian Intervention”: 52-84.

⁶⁷ Dixon, Martin, *Textbook on International Law*, 4th Edition, (London: Blackstone Press Limited, 2000): 38.

⁶⁸ *Ibid*: 28-38.

⁶⁹ Heldt, Birger and Peter Wallensteen, “Peacekeeping Operations: Global Patterns of Intervention and Success, 1948-2000”, Research Report #1, (Oslo, Folke Bernadotte Academy Publications, 2004): 13. One could argue that the number of intrastate conflicts has not increased. Rather, what has changed is the response to intrastate war as a challenge to international peace and security.

⁷⁰ Gilligan, Michael, and Stephen J. Stedman, “Where do Peacekeepers Go?”, *International Studies Reviews*, 5(4), 2003, 48, 50, 53.

⁷¹ Heldt and Wallensteen, *Peacekeeping.....*: 15.

⁷² Gilligan and Stedman, *Where do.....*: 48.

⁷³ In reference to Wheeler’s work “*Saving Strangers.....*”.

⁷⁴ Sutterlin, James, S., *United Nations and the Maintenance of International Security: A Challenge to be Met*, 2nd Edition, (Westport, Praeger, 2003), 19-21.

⁷⁵ See Security Council Resolution 688, April 5, 1991. S/RES/0688 (1991). Although Resolution 688 employed the language of a treaty to “international peace and security”, it did not explicitly invoke Chapter VII.

⁷⁶ HLP : 35, 40, 45,50. The HLP outlines a number of strategies to improve international regulatory frameworks, share information, strategies to reduce demand and supply of WMD, and strengthening existing international bodies such as the IAEA and the OPCW as prevention solutions.

⁷⁷ Aida, Judy, “UN General Assembly Adopts Nuclear Terrorism Treaty”, US Department of State. <http://www.iwar.org.uk/news-archive/2005/04-13.htm> accessed April 13, 2005.

⁷⁸ The criteria as outlined in the HLP include: seriousness of threat, proper purpose, last resort, proportional means and balance of consequences.⁷⁸ These criteria, however, are not new. They represent the criteria of jus ad bellum which should apply to any inter-state (and now many say intra-state) armed conflicts. One would hope the Security Council has adopted these criteria already.

⁷⁹ Feinstein, Lee and Anne-Marie Slaughter, “A Duty to Prevent”, *Foreign Affairs*, (January/February 2004): 137.

⁸⁰ Feinstein and Slaughter, 146. In September 2003, 11 countries -- Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, the United Kingdom, and the United States -- agreed to and published the PSI Statement of Interdiction Principles. Over 60 countries have pledged their interest in PSI. See the US Department of State website at <http://www.state.gov/t/np/rls/other/34726.htm> for more information. Accessed April 10, 2005.

⁸¹ Feinstein and Slaughter, A Duty....: 148. One may ask why the Non-nuclear Proliferation Treaty (NPT) isn't sufficient? The aim of the NPT was to limit the spread of technology. The issue is no longer making new weapons but controlling weapons (especially since the fall of the USSR) already in existence.

⁸² *Ibid*, 147.

⁸³ *Ibid*, 147.

⁸⁴ Buzan, 96-107.

⁸⁵ Dixon, Martin and Robert McCorquodale, Cases and Material on International Law, 3rd Edition, (London: Blackstone Press Limited, 1991) 561-562.

⁸⁶ Letter to Mr. Fox from Mr. Webster, Washington, April 24, 1841 in Dixon and McCorquodale, 562.

⁸⁷ Dixon, Textbook....: 317.

⁸⁸ High Level Panel Report, 12.

⁸⁹ Charter of the United Nations, Article 39.