

SHOULD THE UNITED STATES INTERVENE IN INTERNATIONAL CONFLICTS: WHY, WHEN, AND HOW?

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“When you approach a city to attack it, offer its people a peaceful way to surrender.”¹

I. INTRODUCTION

This comment analyzes the state of international interventions that are often couched in terms of protecting humanity, specifically the civilian population of a state.² In many instances, interventions are undertaken as a result of internal conflict, which is generally the impetus for regime change. The global community is concerned not only about intervention but also failure to intervene, which often leads to critiques about the underlying rationale and effects of either decision. These concerns are couched under various rubrics, but the “rule of law” is often cited as a guiding light that determines the rights and duties based on: customary international law, treaty law, *jus cogens*³ concepts, and the evolving nature of international law.⁴ The questions often come to, are we our brothers’ and sisters’ keepers?⁵ The legal and moral bases for intervention are inherently part of

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1. *Deuteronomy* 20:10 (God’s Word Translation) (emphasis added).

2. FERNANDO R. TESÓN, *HUMANITARIAN INTERVENTION: AN INQUIRY INTO LAW AND MORALITY*, 23-24 (Transnat’l Publishers, Inc. 2d ed. 1997) (discussing humanitarian intervention and the models of intervention: absolute noninterventionism (where force is only justified in response to self-defense); limited interventionism (only in cases where extreme human rights violations exist, e.g., genocide, etc.); and, broad interventionism (humanitarian intervention is acceptable in cases of serious human rights violations, which need not reach the genocide level).

3. “Latin for ‘cogent law.’ A principle or norm of international law that is based on values taken to be fundamental to the international community that cannot be disregarded.” *Jus cogens*, NOLO’S PLAIN-ENGLISH LAW DICTIONARY, <http://www.nolo.com/dictionary/jus-cogens-term.html> (last visited Apr. 19, 2013).

4. See, e.g. Euan MacDonald & Philip Alston, *Sovereignty, Human Rights, Security: Armed Intervention and the Foundational Problems of International Law*, in *HUMAN RIGHTS, INTERVENTION, AND THE USE OF FORCE I* (Euan MacDonald & Philip Alston, eds., 2008).

5. Henry A. Kissinger & James A. Baker III, *The Grounds for U.S. Intervention*, *THE WASH. POST*, Apr. 10, 2011, at A17, available at <http://www.henrykissinger.com/articles/wp041011.html> (discussing ongoing confrontations in the Arab world and their belief that the United States should always support democracy and human rights).

that query, which allows us to determine whether we are in fact keepers of the global citizenry; and, if we are the keepers, then what are our duties and responsibilities both legally and morally? Intervention or failure to intervene often results in far reaching consequences, which may have direct effects on civilian populations and often direct or indirect effects on external forces, often economic and political. Therefore, in all instances, we must carefully consider what level of intervention would least likely cause harm to those we desire to assist, especially when this assistance includes effects that, more often than not, will be wholly felt within another sovereign's territory. Inherent in all interventions are questions of audience and commitment, i.e., the citizens' views, assurance for the country where the intervention may take place that the intervention is for the right reasons, and, perhaps most crucial, support after the intervention is complete.⁶

After this brief introduction, part two of this Comment provides an overview of several recent interventions. Part three examines the "why"; part four develops the "when"; and part five discusses the "how." Finally, part six covers the conclusion and recommendation, highlighting an existing, volatile situation with recommendations of how it and other percolating conflicts should be undertaken by the community of civilized nations. The conclusion supports just interventions when they "are waged in defense of the only currency we all have: our basic rights and the individual autonomy from which we all derive."⁷ People deserve to live without fear; interventions should start with the offer of peaceful settlements, if at all possible. If not, interventions should be undertaken with the interest of peace as the ultimate goal, even though war may be the only option to obtain that goal.

II. OVERVIEW – RECENT INTERVENTIONS

From the last decade of the twentieth century to the present, the United States and its allies have engaged in several interventions of various types. Interventions included humanitarian, "regime change" and "democracy promotion," as well as counterinsurgency strategies.⁸ The US

politically, economically and diplomatically, just as we championed freedom for the captive peoples of the Soviet empire during the Cold War. Our values impel us to alleviate human suffering. But as a general principle, our country should do so militarily only when a national interest is also at stake.).

6. See *NATO's Risky Afghan Endgame*, ECONOMIST, May 20, 2012, at 60, available at <http://www.economist.com/node/21555893>. See e.g., S.C. Res. 2022, U.N. Doc. S/RES/2022 (Dec. 2, 2011) (establishing a transitional Government of Libya, and reaffirming its commitment to the sovereignty, independence, and territorial integrity of the nation).

7. TESÓN, *supra* note 2, at 317.

8. James Traub, *The End of American Intervention*, N.Y. TIMES, Feb. 19, 2012, at Sec. SR, p. 4, available at <http://www.nytimes.com/2012/02/19/opinion/sunday/the-end-of-american-intervention.html?pagewanted=all> (discussing President Obama's national security strategy and its core objectives: "defeat Al Qaeda, deter traditional aggressors, counter the

government has taken the position that certain action may warrant US intervention.⁹ The global community has engaged in interventions under the auspices of regional and multinational organizations for various reasons and in various situations. To secure “compliance with customs, principles, and norms that function as rules to regulated conduct”¹⁰ by persons and states, sometimes force, punishment, or other methods must be employed.¹¹ On one hand, such regulating efforts by the United States and its allies have been exercised in places like Afghanistan,¹² Rwanda,¹³ Bosnia-Herzegovina,¹⁴ Iran (US rescue intervention),¹⁵ Kosovo,¹⁶ and Libya,¹⁷ as

threat from unconventional weapons.”).

9. *Id.*

10. Jasper Doomen, *The Meaning of ‘International Law,’* 45 INT’L LAW 881, 887-888 (2011).

11. *Id.* at 888.

12. “Following the 9/11 terrorist attacks in the USA, the USA and the UK pledged to take action against all states harbouring or supporting terrorist activities. [In 2001,] [a]fter a significant military build-up and an unsuccessful ultimatum to hand over prime suspect Osama bin Laden, US and UK forces invaded Afghanistan.” NIKOLAS STURCHLER, *THE THREAT OF FORCE IN INTERNATIONAL LAW* 308 app. § 434 (John S. Bell & James Crawford, eds., Cambridge Univ. Press 2007) (discussing the evolution and developments in the threat of force before 1919 and the threat and use of force from 1945-2003).

13. OLIVIER CORTEN, *HUMAN RIGHTS AND COLLECTIVE SECURITY: IS THERE AN EMERGING RIGHT OF HUMANITARIAN INTERVENTION?*, in *HUMAN RIGHTS, INTERVENTION, AND THE USE OF FORCE* 90 (Euan MacDonald & Philip Alston, eds., 2008). *See also* TESÓN, *supra* note 2, at 258 (discussing collective humanitarian intervention in Rwanda after the UN approved a French proposal to intervene, i.e., “use military force (‘all necessary means’) to protect civilians in a very violent civil war that had erupted in Rwanda.”).

14. CORTEN, *supra* note 13, at 91 (discussing categories of humanitarian intervention, including Operation Resolute Force in Bosnia, August 1995).

15. Here, the United States attempted, unsuccessfully, to rescue American hostages [Operation Eagle Claw]. *Timeline of United States Military Operations: 1980 - 1989*, WIKIPEDIA, http://en.wikipedia.org/wiki/Timeline_of_United_States_military_operations (last visited Dec. 14, 2012) (highlighting U.S. military operations where military units participated).

16. CORTEN, *supra* note 13, at 108-23 (discussing NATO member states intervention in 1999 under human rights and humanitarian rubrics and the interwoven ambiguity of defined legal authority over political aspects in its efforts to allegedly avoid a humanitarian catastrophe). *See also* *Kosovo: A Moral Crusade Reconsidered*, <http://www.amprpress.com/Kosovo.htm> (last visited Apr. 19, 2013) (discussing the error of US intervention, which was an imposition of the American will in a new world order, “Pax Americana.” The author wrote:

Americans had better rethink their support for such “moral crusades” as we conducted in Kosovo. Are Americans prepared for the day when the shoe will be on the other foot and other nations impose their definition of morality on them? Are Americans prepared to overthrow historic concepts of international law with its recognition of national sovereignty? If so that will indeed be a new world order.

Id.

17. Traub, *supra* note 8 (discussing interventions during the 1990s as well as NATO’s recent air campaign in Libya, which clarifies that humanitarian intervention are still viable

well as other parts of Africa.¹⁸ On the other hand, the global community has remained silent in other situations, e.g., Sudan, where it has failed to intervene despite cries for intervention. By way of example, Africa exhibits many of the reasons why interventions are on the rise globally; oppression, corruption, lack of enforcement of women's rights, gender violence, poverty among the masses, and instability led to many of the internal coups, riots, and other acts of self determination throughout that part of the world.¹⁹

In fact, "The UN Security Council rarely acts effectively in crises, not only because of the veto power of its leading members but also because its members do not have a strong sense of responsibility for global security,

and are not doomed to fail). See also Scott Wilson and Karen DeYoung, *Limited Intervention Contrasts Obama with Bush*, THE WASH. POST, Oct. 21, 2011, at A-01. President Barack Obama's intervention was limited, with no "boots on the ground," and emphasized global burden-sharing.

18. HERMAN J. COHEN, INTERVENING IN AFRICA: SUPERPOWER PEACEMAKING IN A TROUBLED CONTINENT 17 – 59 (McMillan Press Ltd. 2000) (discussing US intervention in Africa, here specifically Ethiopia and the US position, based on political pressure, to assure the safe departure of 20,000 Ethiopian Jews and to relieve hunger in the Horn of Africa). See CORTEN, *supra* note 13, at 90 (discussing the 1990 humanitarian justification for intervening in Liberia as well as Somalia - Restore Hope operation in December 1992). See TESÓN, *supra* note 2, at 234 (discussing collective humanitarian intervention in Somalia (1992-1993) as a result of UN Resolution 794, which authorized a U.S.-led military force to "use all necessary means to establish as soon as possible a secure environment for humanitarian relief . . ."). See ALEXANDER DE WAAL, WHO FIGHTS? WHO CARES? WAR AND HUMANITARIAN ACTION IN AFRICA 25 (Africa World Press 2000). Author posits the view that the international humanitarian interventions in Africa:

was not an attempt by the UN to usurp the powers of major states, or a project for recolonisation. Instead it was an attempt by major states to use the UN and other 'humanitarian' institutions to impose particular supposed solutions on Africa. The humanitarian international is practicing a new form of imperial control . . . This aggressive multilateral interventionist policy was spearheaded by the United Nations and large humanitarian agencies through the driving forces were the US Government (initially) and the French and Belgian governments (more consistently) . . . [T]he prospects of future large scale international interventions in Africa, instigated by a western power, are remote. But it is remarkable that very similar 'humanitarian' rationalizations have since been cited by NATO for its intervention in Kosovo.

See also John Tirman, *Do We Care When Civilians Die in War?*, THE WASH. POST, Jan. 8, 2012, at B1, B5. The author describes how the United States uses cultural tropes to explain the US action as well as how "the news media and politicians frequently portraying Islamic terrorists a frontier savages. By framing each of these wars [Iraq and Afghanistan] as a battle to civilize a lawless culture, we essentially typecast the local populations as the Indians of our North American conquest."

19. Roland Aveng, Sajalieu Bah, David Bamlango, Edna Udobong, Elizabeth Barad, & James Feroli, *Africa*, 41 Int'l LAW, 691 (2007) (discussing the issues that affect progress as well as major accomplishments that have taken place in many African nations, such as Charles Taylors' transfer to the Hague; Ellen Johnson Sirleaf's Presidency in Liberia; and political changes/participation of women in the process).

[or] the survival of minority people”²⁰ Members of the Security Council “pursue their own national interests while the world burns,”²¹ especially the permanent members with an unbridled right to veto.²² A recent veto by two permanent members, China and Russia, illustrates the point.²³ “Council practice . . . exhibit[s] the promise and the danger of a more activist Organization tied to a legal framework still subject to the will of member states.”²⁴

Iraq is a great example of the international community’s continued responses to hostile acts against neighbors. The UN Security Council authorized “Operation Desert Storm,” an intervention against Iraq in order to protect the Kurds.²⁵ The operation allowed intervening member states to use force “to terminate Iraq’s occupation of Kuwait.”²⁶

The Security Council buttresses its resolutions for intervention under the UN Charter mandates.²⁷ The United States has supported UN Security Council resolutions that “authorize the use of force [intervention] unequivocally.”²⁸ The Resolution authorized the use of all “necessary means.”²⁹ In 1991, the United States and five of its allies intervened into the

20. Michael Walzer, *On Humanitarianism – Is Helping Others Charity, or Duty, or Both?* 90 FOREIGN AFF. 69, 75 (July/Aug. 2011) (discussing the importance of humanitarianism generally and more specifically the case of humanitarian intervention).

21. *Id.* at 75.

22. U.N. Charter, art. 27, para. 3.

23. CNN Wire Staff, *Russia, China Veto U.N. Action on Syria; Opposition Group Calls for Strike*, CNN (Feb. 4, 2012), <http://www.cnn.com/2012/02/04/world/meast/syria-unrest/index.html?iphonemail> (discussing growing international anger about the carnage taking place in Syria; China and Russia successfully wielded their veto power and voted against the resolution, which condemned Syria).

24. SIMON CHESTERMAN, *JUST WAR OR JUST PEACE?* 162 (Oxford Univ. Press 2002) (discussing intervention and the use of force).

25. TESÓN, *supra* note 2, at 234 (discussing collective humanitarian intervention in Iraq, “the first, historic, instance of humanitarian intervention.”).

26. *Id.* at 235.

27. U.N. Charter, Ch. VII, art. 39. “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 Article 41 and 42, to maintain or restore international peace and security.” *Id.* To prevent an aggravation of the situation, the Security Council may call upon the concerned parties to comply with provisional measures. *Id.* at art. 40. “The Security Council may decide what measures not involving the use of armed forces are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.” *Id.* at art. 41 (emphasis added).

28. MICHAEL BYERS, *WAR LAW: INTERNATIONAL LAW AND ARMED CONFLICT* 41 (Grove Press 2006), (discussing the developments and the recent constraints to “use of force”).

29. *Id.*; *E.g.*, UN Security Council Resolution 678 authorized Member States cooperating with the Government of Kuwait . . . to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international

sovereign territory of Iraq to protect civilians when it conducted "Operation Provide Comfort."³⁰ Other resolutions are not as clear,³¹ which opens the door for broad interpretation and may lead to premature or unilateral interventions.

More recently, in 2003, the U.S.-led intervention into Iraq was interpreted as justified based on a conclusion by the United States and its allies that Iraq had materially breached "its ceasefire and disarmament obligations."³² After the United States repeatedly warned "Saddam Hussein to disarm and give up control of Iraq,"³³ the country was invaded in the

peace and security in the areas. S.C. Res. 678, U.N. Doc. S/RES/678 (Nov. 29, 1990), available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/575/28/IMG/NR057528.pdf?OpenElement>.

30. BYERS, *supra* note 28, at 40 (discussing the developments and the recent constraints to "use of force"). See also S.C. Res. 0688, U.N. Doc. S/RES/0688 (April 5, 1991):

[M]indful of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security, Recalling of Article 2, paragraph 7, of the Charter of the United Nations, Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions, which threaten international peace and security in the region, Deeply disturbed by the magnitude of the human suffering involved . . .

1. Condemns the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish populated areas, the consequences of which threaten international peace and security in the region;
2. Demands that Iraq, as a contribution to remove the threat to international peace and security in the region, immediately end this repression and express the hope in the same context that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;
3. Insists that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and to make available all necessary facilities for their operations;
4. Requests the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;
5. Requests further the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;
6. Appeals to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts.

31. BYERS, *supra* note 28, at 40 (discussing how Security Council resolutions are sometimes worded ambiguously as a result of deliberate compromise).

32. *Id.* at 43 (discussing the military intervention in Iraq as interpreted to be authorized not only by UN Resolution 678, but also 1441, which was unanimously adopted after a finding that Iraq was in breach). Cf. Edieth Y. Wu, *Saddam Hussein as Hostes Humani Generis? Should The U.S. Intervene*, 26 SYRACUSE J. OF INT'L L. & COM. 55, 94 (1998) (discussing why the US should not intervene in spite of its view, and perhaps others, that Saddam Hussein may be classified as hostes humani generis).

33. STURCHLER, *supra* note 12, at 309-10 app. § 441 (highlighting threats of force from 1945-2003).

U.S.-led “Operation Iraqi Freedom” (OIF). OIF included troops from the United States, Britain, Australia, Spain, as well as other countries.³⁴ The mission was to “disarm Iraq in pursuit of peace, stability, and security both in the Gulf region and in the United States.”³⁵

After almost a decade, US soldiers finally left Iraq. One critic said the war was “launched under false pretenses” by President George W. Bush, and the death toll on both sides left a “destabilized Middle East, a newly emboldened and empowered Iran, and ‘widespread hatred of the U.S.’”³⁶ Nevertheless, “a government has been formed.”³⁷ “Iraq still has a long way to go before it becomes a stable, sovereign, and self-reliant country. Continued engagement by the United States [and the global community] can help bring Iraq closer to the American vision of a nation that is at peace with itself, a participant in the global market of goods and ideas, and an ally against violent extremists.”³⁸

The United States intervenes in many instances in hopes that its presence will affect “the postconflict process of recovery and rehabilitation”³⁹ in regions that are entrenched in internal conflict. Humanitarian assistance has been realized as a result of the ravaging devastation that civilian populations experience during and after wars and internal conflicts. Collective intervention in humanitarian situations is emerging as an exception to the absolute state sovereignty rule, which basically acted as a shield to prevent interference in internal affairs. “It is

34. STEPHEN A. CARNEY, CENTER OF MILITARY HISTORY, ALLIED PARTICIPATION IN OPERATION IRAQI FREEDOM CMH Pub 59-3-1 (2011), available at http://www.history.army.mil/html/books/059/59-3-1/CMH_59-3-1.pdf (discussing the participation and achievements of the thirty-seven countries that provided military support in OIF).

35. RICHARD F. GRIMMETT, INSTANCES OF USE OF UNITED STATES ARMED FORCES ABROAD, 1798-2001, Congressional Research Service (CRS Web) Rep. No. RL30172 (Feb. 5, 2002), available at <http://www.fas.org/man/crs/RL30172.pdf> (highlighting U.S. military operations where military units participated). On February 17, 2010, the US Secretary of Defense Robert Gates announced that as of September 1, 2010, the name “Operation Iraqi Freedom” would be replaced by “Operation New Dawn.” Secretary of Defense, Memorandum for the Commander, U.S. Central Command (Feb. 17, 2010), available at <http://a.abcnews.go.com/images/Politics/08144-09.pdf>.

36. *Controversy of the Week – Iraq: What Was Gained, What Was Lost*, THE WK, Dec. 30-Jan. 6, 2012, at 6, (quoting Gary Kamiya, Salon.com, discussing US involvement in Iraq and the US soldiers who were sacrificed, which ultimately resulted in an uncertain and dark future for the country). On the other hand, others have said “Iraq needs continued U.S. support Otherwise we face a power vacuum and maybe more war.” *How They See Us: Iraq Says Good-bye to U.S. Troops*, THE WK, Dec. 30-Jan. 6, 2012, at 16.

37. Emma Sky, *Iraq, From Surge to Sovereignty – Winding Down the War in Iraq*, 90 FOREIGN AFF. 117, 126, (March/April 2011) (discussing the United States’ attempt to reduce violence prior to its withdrawal of American troops and the shift of duties to the Iraqi officials).

38. *Id.* at 127.

39. COHEN, *supra* note 18, at 59 (discussing America’s political and social objectives for intervening in Ethiopia).

now increasingly felt that the principle of non-interference with the essential domestic jurisdiction of States cannot be regarded as a protective barrier behind which human rights could be massively or systematically violated with impunity."⁴⁰ Hence, it appears that customary international law is adapting to the needs of the global society because of the belief that "[s]tates sovereignty must, on occasion, yield to human rights concerns."⁴¹ For instance, the "duty to protect" women, children, and the general civilian population are inescapable reasons to intervene; this author argues it must be done, though, only with the smallest military footprint.

III. THE WHY

Nations should intervene because they have an inherent duty to protect human rights. "[P]rotecting the population"⁴² is a primary reason to intervene. When the major world organizations and the majority of nations agree that intervention is the correct option, interventions should also be undertaken. The global community of nations, after consulting and determining that no other avenue exists, should intervene because human rights are rights that all world citizens should enjoy. Intervention should never take place if the intervention is based on "political objectives,"⁴³ or nation-building, or to chase warlords. The North Atlantic Treaty Organization ("NATO") has been criticized for not listening even though the situation indicates that the approach may not be correct.⁴⁴ Adjustments must be made and better strategies have to be considered. But a major organization or a single nation cannot be prevented from intervening solely because of "fears that the absence of a substantial number of NATO [or UN] members ... [may signal] a lack of solidarity . . ."⁴⁵ Nations should intervene to ensure that citizens who rise up against their leaders--especially those who are oppressing and committing heinous acts-- in an effort to bring about change against oppressive regimes are supported and protected. Nations must call upon sister nations to share the burden that was

40. TESÓN, *supra* note 2, at 239 (discussing humanitarian intervention and the models of intervention) (citing Report of the Secretary-General on the Work of the Organization, U.N. GAOR., 46th Sess., No. 1, U.N. Doc. A/46/1, at 5, (1991)).

41. TESÓN, *supra* note 2, at 239 (quoting Javier Perez de Cuellar).

42. *Western Aims in Afghanistan: Played for Fools*, ECONOMIST, Feb. 27, 2010, at 48, available at <http://www.economist.com/node/15580253>.

43. Christopher B. Hynes, Carrie Newton-Lyons & Andrew Weber, *National Security*, 41 INT'L LAW 683, 684 (Summer 2007) (discussing challenges placed on the United States as a result of the Iraq War, and the ongoing situation with the Taliban in Afghanistan and the resulting impact on security).

44. Lally Weymouth, *Mahmoud Ahmadinejad 'Bombs Are a Wrong Thing to Have'*, NEWSWEEK, Oct. 5, 2009, at 45.

45. Ivo H. Daalder & James G. Stavridis, *NATO's Victory in Libya*, 91.2 FOREIGN. AFF. 2, 4 (Mar./Apr. 2012).

evinced in the Libyan intervention, so that burden sharing “becomes the rule, not the exception;”⁴⁶ then, when other situations arise, as they are sure to, “the international community [will] respond[] swiftly”⁴⁷ and effectively to protect civilians.

IV. THE WHEN

Interventions should only take place after the whole panoply of options has been exhausted: political/diplomatic, economic, and the effective use of the international rule of law. They should be undertaken after the global community of nations, especially the United States and its allies determine “exactly what and whom we are supporting.”⁴⁸ Unintended consequences,⁴⁹ backlash from prior interventions,⁵⁰ and objectors’ views⁵¹ must also be considered and heavily weighed. Governance and follow-up after an intervention must be determined because it is essential to the nation’s stability. The duty to protect must be balanced against the sovereign’s rights. Some ask if the United States would allow a foreign sovereign to intervene in its territory. However, this query is not legitimate in determining whether to intervene because any nation, including the United States, could be placed in a situation where the community of

46. *Id.* at 7.

47. *Id.* at 2 (discussing the necessity of rapid response).

48. Kissinger & Baker III, *supra* note 5 (discussing how interventions should be approached).

49. According to Taliban members, who boasted that Arabs and Iraqis transferred IED technology and other legal methods of destruction to them, “The American invasion of Iraq was very positive for us. It distracted the United States from Afghanistan.” Sami Yousafzai & Ron Moreau, *The Taliban in Their Own Words*, NEWSWEEK, Oct. 5, 2009, at 39-40, available at <http://www.thedailybeast.com/newsweek/2009/09/25/the-taliban-in-their-own-words.html>.

50. Arab Mujahedin assisted the Afghan Taliban with its resistance movement, and “American operations that harassed villagers, bombings that killed civilians, and Karzai’s corrupt police and officials were alienating villagers and turning them into our favor. *Id.* at 40.

51. Weymouth, *supra* note 44, at 45 (discussing nuclear ambitions and world events with Iranian President Ahmadinejad). Ahmadinejad stated:

Since NATO entered Afghanistan, terrorism has increased tenfold and the production of illicit drugs has increased fivefold. Let me remind you of a historical event. . . . About 100 years ago, the British forces entered Afghanistan full on and left with a heavy defeat. Thirty years ago, Soviet troops entered Afghanistan and left in defeat. What sort of supernatural force did Mr. Bush envision he possessed that would allow him to win a war that the Soviets and the British could never win? . . . The wealth of the European and American people is being used there without any result except defeat. This wealth can be used to build friendships or to reconstruct a place, so it worries us.

nations would have to decide when to intervene.

Intervention should definitely take place after a UN Resolution is passed.⁵² Additionally, if the United Nations refuses to act and conditions change to imminent breaches of human rights, widespread systematic attacks on civilians, and severe breaches of the peace that affect the civilian population, then intervention should occur. President Barack Obama's decision to "[carry] out the raid that killed Osama bin Laden"⁵³ demonstrates that one or more nations may have to take up the mantle in order to protect. Interventions should happen when all other options, including diplomacy and sanctions, have been exhausted, and the duty to prevent civilian carnage is imminent.⁵⁴ Until then, intervention should be the "last resort, not a first choice."⁵⁵ To illustrate, some of the strictest sanctions have been leveled against Iran for its buildup of nuclear capabilities, which threatens the global peace; in some ways they appear to be ineffective as a deterrent.⁵⁶ Some think an intervention or a war should be declared to protect humanity. "Iran is a decade into a determined effort to become a nuclear power. If U.S. sanctions don't force Iran's leaders to comply with international demands to prove their program is peaceful, Israel [unilaterally] has said it will take military action to destroy it."⁵⁷

The situation currently brewing in Syria is very similar to the Libyan crisis. Again, citizens around the world are asking whether an intervention is necessary. The question is extremely difficult to answer. Military action is always an option, but the Libyan model is instructive. Nations that are willing to intervene may take the position that "[t]he only sure way to quickly stop the killing and replace the Assad regime with something better would be to do what few have been willing to advocate so far: start a serious military operation to topple the government."⁵⁸ However, this is not

52. U.N. Security Council approved a 'No-Fly Zone' over Libya (allowing all necessary measures to protect civilians; demanding an immediate ceasefire in Libya, including an end to the current attacks against civilians, which it said might constitute crimes against humanity; imposing a ban on all flights in the country's airspace – a no-fly zone; and tightening sanctions on the Qadhafi regime and its supporters). S.C. Res. 1973, U.N.Doc. S/Reg/1973 (Mar. 17, 2011).

53. Colin H. Kahl, *Not Time to Attack Iran*, 91.2 FOREIGN AFF. 166, 173 (Mar./Apr. 2012) (discussing why war should be a last resort in the growing Iranian situation, in a manner similar to arguments against intervention).

54. *Id.*

55. *Id.*

56. Jay Newton, *One Nation Under Sanctions*, TIME, Sept. 24, 2012, at 42, available at www.usiranaffairs.com/?p=4127 (discussing how economic sanctions have, in spite of Iran's holdout, affected Iran: its currency has been devalued by 50%, with a possible 50% inflation rate, and oil exports have decreased by 45%).

57. *Id.*

58. Jonathan Tepperman, Op-Ed., *The Perils of Piecemeal Intervention*, N.Y. TIMES, Mar. 9, 2012, available at <http://www.nytimes.com/2012/03/09/opinion/the-perils-of-piecemeal-intervention-in-syria.html> (discussing the war in Syria, the death toll that continues to

the correct approach. The German government has stated that the approach should be a political/diplomatic approach, which was evinced by the German and French governments' expelling Syrian ambassadors.⁵⁹ The level of disconnect also may not be the same in Syria as it was in Libya; reports say "high-level dissent"⁶⁰ is absent in Syria, and even though "regime change is overdue . . . a slow squeeze is a smarter solution than war."⁶¹ But for many, the "brutal crackdown on mostly peaceful pro-democracy protests and Assad's tanks shelling civilians,"⁶² are examples of sufficient reasons to intervene. Such actions caused one Syrian colonel to defect "to take responsibility for protecting civilians" and made a desperate plea calling on "people of conscience, on people of humanity: please help the Syrian people."⁶³

A critical part of the analysis, which works in tandem with the political approach, is the economic approach.⁶⁴ The UN Charter provides that economic measures may be used in cases where acts of aggression and other breaches of the peace are occurring.⁶⁵ These measures should be stringently used prior to a decision to intervene. Even though the United States acknowledges that the economic and diplomatic approach is an option, it readily posits, "[w]hen it comes to military options . . . at the end of the day, we in the Department of Defense have a responsibility to look at the full spectrum of options and to make them available if they are requested."⁶⁶

Another option to consider before intervention is using international law effectively. "From the U.S. perspective, the 'rule of law' offers a powerful mechanism to end violence"⁶⁷ Some critics do not accept

increase as a result of the rebel action, the divided country, which includes hostile religious groups and ethnicities, as well as the global response, or lack thereof, to finding solutions).

59. Nicholas Kulish & Melissa Eddy, *Putin Sees Worsening Conflict in Syria but Rejects Outside Intervention*, N.Y. TIMES, June 2, 2012, <http://www.nytimes.com/2012/06/02/world/europe/germany-likely-to-press-russia-on-syrian-crisis.html> (discussing why the global community should avoid military intervention in Syria).

60. Fareed Zakaria, *The Case Against Intervention in Syria*, TIME, June 11, 2012, at 16 (discussing reasons why a military intervention will not work in Syria: geography and the inability for the opposition to unify).

61. *Id.*

62. Rania Abouzeid, *Cracks in the Armor*, TIME, June 27, 2011, at 40-41.

63. *Id.*

64. Walter Pincus, *Big Risks, and No Easy Solutions, in Syrian Intervention*, THE WASH. POST, May 31, 2012 (discussing how the Americans have been pressing for military intervention in Syria, but, obviously, failing to see that Syria is not a video game).

65. UN Charter, Ch. VII, art. 41 (which authorizes the United Nations to partially or completely sever economic relations).

66. Pincus, *supra* note 64.

67. Dr. Gregory P. Noone, *Lawfare or Strategic Communication?*, 43 CASE W. RES. J. INT'L L. 73, 78 (2010) (discussing Major General Dunlap's construct of "Lawfare" and the two divergent paths it has now taken on). "[L]awfare" was a way to apply legal pressure on the other side of a conflict, often times, but not always, in conjunction with military

“lawfare” as a legitimate tool to effectuate legitimate changes in modern wars.⁶⁸ They view “lawfare” as a malignant weapon of war, with a strategy that uses law to “gain negative publicity for the enemy country.”⁶⁹ “Lawfare is an assault on the people of free nations to exercise their constitutional rights to free speech under both international and domestic laws.”⁷⁰

The weapon they use is the rule of law that was originally created not to quiet the speech of the innocent, but more to subdue dictators and tyrants. Ironically, it is this very same rule of law that is being misused to empower these tyrants and to thwart free speech about national security and other public concerns. “Lawfare” is an attack on the sovereignty of democratic States. “Lawfare” is a pun, a not so funny play on words based on the shared power of the law that is as strong as the power of military might, especially when it is misused and abused. Continued use of lawfare will erode the integrity of the national and international legal systems and result in the unfortunate and increased use of warfare to resolve disputes.⁷¹

An example of the correct use of “lawfare” is Charles Taylor’s indictment in the Special Court of Sierra Leone, as well as successes in the International Criminal Tribunal for the Former Yugoslavia (“ICTY”) and the International Criminal Tribunal for Rwanda (“ICTR”). The country in crisis should ask for assistance; after these questions are answered and a global consensus has been reached, then and only then should sovereigns intervene in another sovereign’s internal affairs. This intervention must be based on humanitarian concerns that do not lend themselves to the aforementioned process.

Currently, the sentiment from Syria’s leadership is that “[t]he Syrian problem is one that can be resolved only by Syrians.”⁷² At this point, if the

operations, which then potentially forced the enemy to defend themselves in multiple arenas.” *Id.* at 74.

68. Susan W. Tiefenbrun, *Semiotic Definition of “Lawfare,”* 43 CASE W. RES. J. INT’L L. 29 (2010) (arguing that “Lawfare is a weapon designed to destroy the enemy by using, misusing, and abusing the legal system and the media in order to raise a public outcry against that enemy.”).

69. *Id.* at 59.

70. *Id.*

71. *Id.* at 59-60.

72. Nada Bakri, *U.N. Human Rights Official Calls for Intervention in Syria*, N.Y. TIMES, Dec. 3, 2011, at Sec. A, available at <http://www.nytimes.com/2011/12/03/world/middleeast/un-says-action-needed-to-prevent-civil-war-in-syria.html> (quoting Faysal Khabbaz Hamoui, Syria’s ambassador to the U.N.) (discussing the high commissioner for the UN’s human rights’ call for international intervention in Syria to protect civilians from the government’s crackdown, and warning that Syria was headed toward a civil war.).

global community's position is similar to its position on Libya's Moammar Gaddafi, intervention may be proper. In Libya, NATO and several European allies were involved; President Obama, rightly, allowed the Europeans to take the lead,⁷³ which showed the international community that "support of at least the absence of opposition of a majority of UN members states"⁷⁴ had been verified. Syria is not getting the attention that Libya received. The outrage over civilian casualties, urgent calls for aid, and a cry to protect those who are rising up against Syria's leader, Bashar al-Assad, beg the international community to consider all options.⁷⁵ Some believe intervention should be imminent; others "preferred tighter and more coordinated sanctions."⁷⁶ "Our strong preference is not to fuel what has the potential to become a full-blown civil war," and there is no desire to arm the opposition either.⁷⁷

The international community responded quickly in Libya. The UN Security Council placed serious sanctions against the country and "referred Qaddafi's crimes against humanity to the International Criminal Court."⁷⁸ The international community joined in and took measures to ensure proper pressure was exerted, including persuading the United Nations to pass a resolution so that the international community could protect Libyan civilians from imminent danger.⁷⁹ "[A]ll UN members [and participating non-members must] respect the sovereignty and territorial integrity" ... of all nations as much as practicable.⁸⁰

Nevertheless, in situations like Syria where a minimum of one member has "blocked potentially the last effort to resolve [internal issues

73. Wilson & DeYoung, *supra* note 17 (discussing the seven months that it took to capture Gaddafi as well as President Obama's approach, which included working closely with allies in an intervention that highlighted his technocratic approach, which bolsters his foreign policy capabilities).

74. CORTEN, *supra* note 13, at 135-136 (discussing obstacles relating to legal policy and several of Antonio Cassese's conditions for humanitarian interventions), quoting A. Cassese, 'Ex iniuria ius oritur: Are We Moving towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?', 10 EUR J. INT'L L. 23 (1999).

75. Tim Lister, *No Libya Play for the West in Syria*, CNN, Feb. 8, 2012, http://www.cnn.com/2012/02/07/world/meast/syria-analysis/index.html?hpt=hp_bn2. The United States "should consider all options, including arming the opposition. The blood-letting has got to stop." *Id.* (quoting Sen. John McCain, R-Arizona).

76. *Id.* (quoting U.S. Ambassador to the U.N. Susan Rice).

77. *Id.*

78. Daalder & Stavridis, *supra* note 45, at 2 (discussing NATO's success in the Libyan intervention and the lessons nations should learn from that intervention).

79. *Id.*

80. *The Iraq Effect: Play on the Brink*, ECONOMIST, Feb. 28, 1998, at 25 (discussing how America and Iraq have stepped away from conflict in spite of Hussein's vacillating about UNSCOM's inspectors' visit to his country).

diplomatically and] peacefully,”⁸¹ then actions must be taken. This veto represents the UN Security Council and the international community’s abandonment of a people in crisis.⁸² Intervention should take place when all options “to halt the violence”⁸³ and other abuses have been exhausted. Sometimes this will include instances when the UN Security Council fails to take diplomatic and other opportunities to resolve conflicts, or, when diplomatic approaches fail.⁸⁴ The United Nations has tried, through former Secretary General Kofi Annan, to negotiate with Syria’s ruler, Bashar Assad.⁸⁵ “Mr. Assad needs to know that unless he rapidly adheres to Mr. Annan’s proposal, diplomatic and logistical backing will be given to establish humanitarian safe zones-- on the Syrian side of the border.”⁸⁶ Intervention should be inevitable, when it is “time to get tougher,”⁸⁷ especially when the regime’s counterattacks against dissent rebels employ heavy weapons, powerful weaponry that may include chemical weapons.⁸⁸ “President Barack Obama declared on August 20th that use of chemical weapons could trigger an American intervention.”⁸⁹

V. THE HOW

After the “Why” and “When” have been evaluated, the “How” must then be determined. The United States and its allies should first approach the situation by “building partner capacity.”⁹⁰ In other words, help the state defend itself, if at all possible, by providing it “with equipment, training,” security intelligence, consulting, and strategic support.⁹¹ Improving the way the United States comes to the decision to intervene is critical, because the outcome and the impact on the country’s reputation is a critical “key and enduring test of U.S. global leadership and a critical part of protecting U.S. security as well.”⁹² Intervention “is an imperfect duty.”⁹³ The why and

81. *Russia, China Veto U.N. Action on Syria*, *supra* note 23.

82. *Id.* (quoting U.S. Ambassador Susan Rice).

83. *Id.* (quoting U.N. Secretary-General Ban Ki-moon).

84. *Id.*

85. *The Syrian Conundrum: Time to Get Tougher*, *ECONOMIST*, Apr. 28, 2012, at 16, available at <http://www.economist.com/node/21553443>.

86. *Id.*

87. *Id.*

88. *Syria’s Rebels: More Than They Can Chew*, *ECONOMIST*, Aug. 25, 2012, at 39, available at www.economist.com/node/21560919.

89. *Id.*

90. Robert M. Gates, *Helping Others Defend Themselves*, 89 *FOREIGN AFF.* 2 (May/June 2010) (discussing changes that have affected international security and how the United States should prepare a different strategy to ensure that US and global security issues are addressed effectively to deal with the imminent challenges to global safety and security).

91. *Id.* at 2.

92. *Id.* at 6.

93. Walzer, *supra* note 20, at 78.

when analysis will lead to the second part of the how, which will reveal that “different states are capable of acting,”⁹⁴ if military intervention is warranted. Nevertheless, “no single state is the designated actor.”⁹⁵ As discussed earlier, the United Nations should take the lead; if it does not, the “capable states” should seek support. When “the outside world, to its shame, has shown no such resolve” to intervene and provide relief to internal atrocities, some states must respond.⁹⁶

Like the international citizenry, in some instances, the UN Security Council may not respond:

[i]f the Council were to be fully faced with the issue, I am not sure whether there would be vetoes on the table or not. But we have to understand in recent history that wherever there have been compelling humanitarian situations, where the international community collectively has not acted, some neighbours have acted.⁹⁷

In the event that support is not forthcoming, then the “capable states” should act in such a manner that would leave the smallest military footprint in their effort to provide “relief.”⁹⁸ A commitment to a smaller military footprint would reduce civilian casualties, and lend credibility to the states that decided to intervene with or without UN support.⁹⁹ Additionally, if the United States is to be regarded as a serious advocate for human rights,¹⁰⁰ it should insist that all operations are undertaken with civilians’ safety as a seminal goal.

Member states should pressure the United Nations to act, but if it does not, as suggested when UN sanctions have been deemed ineffective, “pressure from member states [should] become so great that [failure to act] will cease to be relevant,”¹⁰¹ and the capable states will take the lead. The Syria situation¹⁰² exemplifies an occasion that may lead to such action by “capable states.” Even though thirteen Security Council members voted in

94. *Id.*

95. *Id.*

96. *Leaders – How to Set Syria Free*, *ECONOMIST*, Feb. 11, 2012, at 11, available at <http://www.economist.com/node/21547243>.

97. CHESTERMAN, *supra* note 24, at 217 (discussing intervention and the use of force; quoting Kofi Annan, Jan. 1999 (UN Press Release SG/SM/6875 (26 Jan. 1999))).

98. *Id.* at 79.

99. Tirman, *supra* note 18 (discussing the total disregard, dismissal, and most of all the “forgetting” about civilian casualties).

100. *Id.*

101. Terence Duffy, *Sanctions and Human Rights: Humanitarian Dilemmas*, 2 *GLOBAL DIALOGUE* (2000) (discussing the morality of economic sanctions as well as emerging global opposition to their use).

102. *Russia, China Veto U.N. Action on Syria*, *supra* note 23.

favor of a resolution to condemn the Syrian regime, the majority's position was thwarted by two members' unfettered veto power.¹⁰³

The action must have a reasonable chance of success and do more good than harm. This may be considered in both the short and long term: an intervention that imperils the long-term political independence and territorial integrity of a state may fail¹⁰⁴ [but should be undertaken if the internal activities are "shocking to the conscience of mankind.]"¹⁰⁵

If at all possible, internal forces should be persuaded to unite. Safe havens should be "create[d] and defend[ed]"¹⁰⁶ in the most strategic locations inside the nation's border; if not possible, then safe havens should be created in neighboring states. This can be accomplished with the assistance of regional organizations. The UN Charter authorizes the collaboration and the use of "regional arrangements or agencies for dealing with . . . the maintenance of international peace and security."¹⁰⁷ For example, the United Nations has worked with or allowed regional organizations like the Economic Community of West African States,¹⁰⁸ the Organization of American States,¹⁰⁹ and the Organization of Eastern Caribbean States¹¹⁰ to deal with regional security issues. Clearly,

some problems handled initially at the regional level cannot be resolved at that level, but will require the greater

103. *Id.*

104. CHESTERMAN, *supra* note 24, at 229.

105. *Id.* at 228.

106. *Leaders – How to Set Syria Free*, *supra* note 96, at 11 (discussing the international community's failure to assist the Syrian people in spite of state violence, which at that time had led to a death toll of more than 7,000.). The current death toll in Syria at the time of publication is estimated to be more than 70,000. Michelle Nichols, *Syria Death Toll Likely Near 70,000, Says U.N. Rights Chief*, REUTERS (Feb. 12, 2013), <http://www.reuters.com/article/2013/02/12/us-syria-crisis-un-idUSBRE91B19C20130212>.

107. U.N. Charter, Ch. VIII, Art. 52(1). "The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council. Art. 51(2).

108. CHRISTINE GRAY, *INTERNATIONAL LAW AND THE USE OF FORCE* 206-207 (Oxford Univ. Press 2000) (At its creation, it did not include direct power for peacekeeping action. "But recently, as awareness of the possibilities of regional action has increased" many of the regional organizations "have made new agreements expressly providing for peacekeeping powers.").

109. *Id.* at 200, 202-203 (discussing regional peacekeeping and enforcement action as well as the significant increase in cooperation between such regional organizations and the United Nations).

110. *Id.*

authority and resources of the UN. Regional organizations were the first to become involved in Liberia, Sierra Leone, Tajikistan, and Georgia, but later were supplemented by the UN, partly to guarantee their impartiality and to remove fears of sphere of influence peacekeeping.¹¹¹

“Relief comes before repair, but repair, despite the risks it brings with it, should always be the long-term goal-- so that the crises do not become recurrent and routine.”¹¹² In other words, the goal should be to promote the state’s independence.¹¹³ Economic and political dependency must be avoided.¹¹⁴ The main objective is to create “self-determination”¹¹⁵ for the affected nation based on the underpinning of why the intervention was undertaken. In “the face of atrocity, one cannot simply do nothing.”¹¹⁶ The moral imperative dictates intervention in this manner; even though “varied capacity”¹¹⁷ exists, if the United Nations, the international community, or regional organizations fail to act, “capable states” have to act on their moral imperative.

VI. CONCLUSION AND RECOMMENDATIONS

The international community is currently faced with the situation in Syria,¹¹⁸ and other Syrian types of uprising and threats to world peace may be looming on the horizon. Thus, the United States, its allies, and others in the global community should adopt the “Why, When, and How,” or a similar protocol to decide when an intervention is unavoidably necessary. This Comment was intended to supplement the important dialogue about international interventions, which is critical dialogue that must continue. Current rules, processes, and protocols are only a starting point, but the international community must also employ new approaches to address the changing global environment, especially the recurring internal conflicts,

111. *Id.* at 237.

112. Walzer, *supra* note 20, at 79.

113. *Id.*

114. *Id.*

115. *Id.*

116. CHESTERMAN, *supra* note 24, at 236 (2002) (discussing intervention and the use of force).

117. GRAY, *supra* note 108, at 236.

118. “The United States [and the much of the global community] has strategic as well as humanitarian reasons to favor the fall of Assad [in Syria] and to encourage international diplomacy to that end. On the other hand, not every strategic interest rises to a cause of war; were it otherwise, no room would be left for diplomacy.” Henry A. Kissinger, *Syrian Intervention Risks Upsetting Global Order*, THE WASH. POST, June 1, 2012, available at http://articles.washingtonpost.com/2012-06-01/opinions/35460488_1_intervention-regime-change-national-interest.

instability, and threats to humanity that have become extremely commonplace. Internal turmoil is constantly percolating or actually exploding at an increasing rate around the world. A modern intervention analysis must consider that militants, dissidents, and peaceful protesters have access to new technologies, and many have had prior military training. These factors must be considered and integrated into an intervention analysis because resources are not only available to the good guys-- the potential interveners-- but are also available to the militants as well, which often results in devastating impacts on the local civilian population, especially when civil war or other internal conflicts break out.

In the United States, there is a growing resentment that the threat of terror has resulted in costly interventions in foreign places, resulting in billions of dollars spent both internally and externally defending and protecting other nations. Many Americans are not pleased with internal wiretapping endeavors, surveillance of civilians, and intrusive body searches at security points that have resulted in the aftermath of interventions and terror threats.¹¹⁹ Internal efforts have resulted in the United States becoming "a national security state."¹²⁰

Moving forward, the global community cannot avoid its responsibility. As the global citizenry, in various and sometimes obscure parts of the world, react as a result of their governments failing them and continue to assert their right to "self-determination," their desire for needed regime changes, their right to have equality in treatment, and their right to be safe, world leaders and their allies will be called on directly or indirectly to protect such inalienable rights.

International norms relating to intervention often result from the hue and cry of many around the world. Nations and international organizations are expected to heed the call and offer assistance during and after intervention.¹²¹ A model for help beyond interventions is the suggestion that the United States retain its influence in Afghanistan by carefully disbursing foreign aid and continuing its relationship with the Afghan National

119. *Terrorism: Too Much Vigilance?*, THE WK, Sept. 23, 2011 at 21, (discussing why Americans should not give up liberties under the hollow threat of terrorism, as well as the need for the United States not to continue to overreact to the often unwarranted reports from the government that plots abound).

120. See, e.g. Frederick A. O. Schwartz, Jr., *Secrecy, Fear, and the National Security State: A Lecture on American Democracy*, THE BRENNAN CENTER FOR JUSTICE (Nov. 22, 2010), <http://www.brennancenter.org/analysis/secrecy-fear-and-national-security-state-lecture-american-democracy>.

121. *Afghanistan and the United States: Agreement, at Last*, ECONOMIST, Apr. 28, 2012, at 43, available at <http://www.economist.com/node/21553467> (The United States and Afghanistan agreed to the "Strategic Partnership Agreement (SPA), which outlines how America will stand by Afghanistan after 2014, when most NATO troops are due to pull out.").

Security Forces.¹²² To ensure that the balance of power continues, “[t]he United States and its NATO allies would need to pay constant attention,” to prevent “unrestrained warlordism and civil war.”¹²³ A mixed sovereign model would ensure ongoing Western engagement.¹²⁴ “[I]t would require not only continued aid flows but also sustained political and military engagement. Regional diplomacy would be particularly important” to ensure that Afghanistan would not become “a magnet for foreign interference and a source of regional instability.”¹²⁵ The United States, Afghanistan, and NATO signed a partnership agreement to work with the International Security Assistance Force to transfer security and to establish a framework for future cooperation.¹²⁶ This cooperation, which could be replicated in other countries, would include support with the political transition, redoubling of efforts by the United States and its partners’ civilian and military officials “to establish a road map for negotiations that include not only the United States [other nations] and some combination of the Taliban [the opposition] and the Karzai [the affected country’s administration] but also other stakeholders, such as the parliament, domestic opposition groups, and women’s and civilian organizations.”¹²⁷ Most important, prior to ending an intervention, the interveners must establish negotiations and processes that “will gain traction only through sustained engagement by all the relevant parties.”¹²⁸ Once intervention has happened, the international community must ensure that “hard-earned gains and countless sacrifices”¹²⁹ by both the affected countries’ citizens and the interveners’ citizens are not squandered.¹³⁰

The bottom line is that decisions to intervene or not to intervene will also be judged by the international community’s interest. The author, in the words of Henry Kissinger, recommends the following caveat when the global community in a collective venture decides to intervene, “[i]n reacting to one human tragedy [which may be based on the hue and cry of global citizens], we must be careful not to facilitate another.”¹³¹ Accordingly, as important, the United States must ensure that all protocols are followed so that the United States will not be regarded as the “unilateral, international

122. Stephen Biddle, Fortini Christia, & J. Alexander Thier, *Defining Success in Afghanistan*, 89.4, FOREIGN AFF. 48, 57 (July/Aug. 2010).

123. *Id.* at 48.

124. *Id.*

125. *Id.*

126. Stephen Hadley & John Podesta, *The Right Way Out of Afghanistan*, 91.4, FOREIGN AFF. 41 (July/Aug. 2012).

127. *Id.* at 48.

128. *Id.* at 48, 49.

129. *Id.* at 53.

130. *Id.* at 53.

131. Kissinger, *supra* note 118.

interventionalist"¹³² that routinely fails to secure the global community's assistance and moves forward at its whim based on its "uncontested military superiority" and its "military hegemony."¹³³ One observer aptly noted:

those of us who have championed an idealistic foreign policy have been deeply chastened by the failure of so many fine hopes and have been forced to recognize both how much harm the United States can do with the best of intentions and how very hard it is to shape good outcomes inside other countries. So we must accept, if uneasily, the future which now seems to lie before us: We will do less good in the world, but also less harm.¹³⁴

132. Edieth Y. Wu, Professor of Law, coins the phrase.

133. Afzaal Mahmood, *The Bush Doctrine*, DAWN, Sept. 28, 2002 (Karachi, Pak.) *in*, WORLD PRESS REVIEW 8 (Dec. 2002) (discussing the Bush Doctrine, namely the use of unilateral military action).

134. Traub, *supra* note 8.