Sovereignty as Responsibility, Responsibility to Protect and International Order: On Responsibility, Communal Crime Prevention and International Law

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ABSTRACT

This paper examines the international order envisioned by Responsibility to Protect (R2P). With a heuristic tool it argues that particular international activities can be perceived as communal crime prevention efforts against internationally condemned crimes. Second, it proposes how the R2P framework challenges the wider international order. For example, the full implementation of the world envisioned from within the R2P framework might require a significant functional transformation of international law. R2P is not only a re-characterization of sovereignty as responsibility but an alternative world order.

Keywords: Sovereignty as Responsibility, Responsibility to Protect, International Order, Communal Crime Prevention, Challenges to International Law.

Yükümlülük Olarak Egemenlik, Koruma Sorumluluğu ve Uluslararası Düzen: Yükümlülük, Toplumsal Suçları Önleme ve Uluslararası Hukuk Üzerine

ÖZET

Bu çalışma Koruma Sorumluluğu'nca (R2P) öngörülen uluslararası düzeni ele almaktadır. Bir takım uluslararası faaliyetler, uluslararası toplumca kınanan suçlara karşı toplumsal suçlardan korunma biçiminde algılanabilir. Makale R2P çerçevesinin kapsamlı bir uluslararası düzene nasıl meydan okuyabileceğini kurgulamaktadır. R2P çerçevesinin tam olarak uygulanması sonucunda ortaya çıkacak bir dünya düzeni, uluslararası hukukun üst düzeyde, fonksiyonel bir dönüşümünü gerektirecektir. Bu bağlamda R2P, sadece sorumluluk olarak egemenliğin yeniden tanımlanması değildir, alternatif bir dünya düzenidir.

Anahtar Kelimeler: Sorumluluk olarak Egemenlik, Koruma Sorumluluğu, Uluslararası Düzen, Toplumsal Suçtan Korunma, Uluslararası Hukuka Meydan Okuma.

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Introduction

Central in the responsibility to protect (R2P) framework is a re-characterization of sover-eignty "from *sovereignty as control* to *sovereignty as responsibility* in both internal functions and external duties of states."[1] This re-conceptualization has caused concern to a number of developing and developed countries.[2] Some have suggested that R2P "threatens" sover-eignty.[3] Yet, the UN Secretary-General emphasizes that during the 2005 World Summit "the assembled Heads of State and Government made absolutely clear, the responsibility to protect is an ally of sovereignty, not an adversary [...It] seeks to strengthen sovereignty, not weaken it."[4] The R2P framework "seeks to help States succeed, not just to react when they fail."[5] Yet, while the R2P framework may not contest sovereignty *per se*, it presents "a challenge to traditional *conceptions* of state sovereignty."[6]

Another challenge posed by the R2P framework relates to the function of public international law. Public international law concerns (mainly) relations between sovereign states. If the R2P framework's "sovereignty as responsibility" challenges traditional conceptions of sovereignty, by extension it may also confront the role played by international law. After all, public international law is premised on those "traditional" conceptions of sovereignty.

If the R2P framework presents challenges to conceptions of sovereignty and by extension to international law, it re-characterizes also international order. Both sovereignty and international law are fundamental aspects of the international level. A re-characterization of either (or both) implies a possible re-characterization of the wider international order.

This essay explores how international order is perceived from within the R2P framework. To this end, the next section introduces the framework. It is followed by a section on the meaning of responsibility within it in order to highlight the importance of a societal or communal context of R2P. Section four examines this communal aspect of R2P with the help of a heuristic "lens" or "sensitizing device". My argument is that by thinking about domestic neighborhood watches it is possible to characterize the R2P framework as communal crime prevention and to gain access to the world envisioned from within the R2P framework. As I argue in section two below, R2P framework presents the world as it should be. In this sense the heuristic lens enables us to perceive what this envisioned world might mean to the wider international order. Of special interest in this paper are the roles reserved for public international

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[1] International Commission on Intervention and State Sovereignty, "The Responsibility to Pro-tect", Ottawa, International Development Research Centre, 2001a. Para. 2.14, (Emphasis in original).

[2] Edward C. Luck, "Sovereignty, Choice, and the Responsibility to Protect", *Global Responsibility to Protect*, Vol. 1, No 1, 2009, p. 10.

[3] Ibid.

[4] United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secre-tary General*, 2009b, A/63/677. Para. 10(a).

[5] Ibid. Para. 10(a).

[6] Luck, "Sovereignty, Choice, and the Responsibility to Protect", p. 10 (My emphasis).

law and the international community within the envisioned order. Section five suggests that the R2P framework poses a challenge to international law, since it seems to imply that public international law should distance itself from being a coordinating and regulating tool among sovereigns and give primacy to moral concerns. Brief concluding remarks highlight the novel perspective offered by this paper on various international humanitarian efforts, my suggestion of seeing the R2P framework as an international communal effort to prevent crimes against humanity, and a possible internal contest within the R2P framework.

R2P Framework

The International Commission on Intervention and State Sovereignty (ICISS) introduced the R2P framework to the wider audience.[7] According to the ICISS report, the R2P framework contains three responsibilities: the responsibility to prevent, the responsibility to protect, and the responsibility to rebuild.[8] The framework extends to situations where "a population is suffering serious harm, as a result of internal war, insurgency, repression or state failure."[9] "The 'responsibility to protect' implies above all else a responsibility to react to situations of compelling need for human protection".[10] The threshold for international military action for the purposes of protection—an "exceptional and extraordinary measure"—requires "serious and irreparable harm occurring to human beings, or imminently likely to occur, of the following kind: […] large scale loss of life […] with genocidal intent or not […] or […] large scale 'ethnic cleansing'."[11] Note, however, that the 2005 World Summit narrowed R2P's scope to genocide, war crimes, ethnic cleansing, and crimes against humanity.[12]

The R2P framework contains two "levels" of responsibilities. First, individual states have the primary responsibility to protect through the sovereignty as responsibility concept. Second, when a state is unable or unwilling to fulfill its responsibility, or it commits atrocities against its own population, the international community has a collective responsibility to act in its place.[13] Thus, individual states have the primary responsibility to protect their own citizens within the R2P framework, but the international community is to operate as a final, collective protector:

> Each individual state has the responsibility to protect its populations […] The international community, through the United Nations, *also* has the responsibility to […] help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity.[14]

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7   International Commission on Intervention and State Sovereignty, "The Responsibility to Protect".
8   Ibid. Synopsis.
9   Ibid., p. xi.
10   Ibid. Para. 4.1.
11   Ibid., p. xii.
12   United Nations General Assembly, *World Summit Outcome*, 2005, A/RES/60/1. Para. 138.
13   International Commission on Intervention and State Sovereignty, "The Responsibility to Protect". Para. 2.29.
14   United Nations General Assembly, *World Summit Outcome*. Para. 138-39. My emphasis.

Many welcomed the R2P framework; the past decade witnessed increasing interest regarding it. The *World Summit Outcome* confirmed it in 2005, and in 2009 the General Assembly expressed its continued consideration of R2P.[15] The UN Secretary-General outlined an implementation proposal.[16] On many occasions, responsibility to protect has been labeled an emerging international norm.[17]

Yet, R2P's advancement as a norm has not been without setbacks. Although it "has shaped international responses to egregious violations of human rights,"[18] some argue that the framework has contributed little of substance and "fudged" key issues that remained unresolved in the earlier discussions.[19] Moreover, in 2008 some Latin American, Arab, and African delegates to the UN budget committee claimed variously that "the World Summit rejected R2P in 2005."[20] In the same year, for example Algeria, China, Cuba, Iran, Pakistan, Russia, Venezuela, and Zimbabwe voiced their objections and concerns strong enough for Alex Bellamy to describe them as a revolt.[21] Furthermore, Badescu and Weiss argue that R2P was misused in the cases of Iraq (2003), Burma after Cyclone Nargis (2008), and South Ossetia (2008).[22]

R2P's setbacks result from a number of concerns. Some of them are due to a perceived link between it and humanitarian intervention debates, although Gareth Evans rejects this perception as unjustified.[23] On the other hand, for example Cuba, Bolivia, and Iran expressed their reservations because the responsibility to protect concept's definition is unclear and imprecise.[24] Syria has requested further discussion on the protection of populations under foreign occupation.[25] Venezuela has iterated on occasion two

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[15] United Nations General Assembly, *General Assembly Resolution Number 63/308 of October 7, 2009*, 2009c, A/Res/63/308.. Some representatives emphasized that this decision was only procedural in United Nations General Assembly, *Sixty-Third Session, 105th Plenary Meeting, 14 September*, 2009a, A/63/PV.105.

[16] United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General.*

[17] On R2P's progression as a norm, see e.g. Cristina G. Badescu and Thomas G. Weiss, "Misrepresenting R2P and Advancing Norms: An Alternative Spiral?", *International Studies Perspectives*, Vol. 11, No 4, 2010; Jutta Brunnée and Stephen J. Toope, "The Responsibility to Protect and the Use of Force: Building Legality?", *Global Responsibility to Protect*, Vol. 2, No 3, 2010.

[18] Badescu and Weiss, "Misrepresenting R2P and Advancing Norms: An Alternative Spiral?", p. 356.

[19] E.g. Aidan Hehir, "The Responsibility to Protect: 'Sound and Fury Signifying Nothing'?", *International Relations*, Vol. 24, No 2, 2010.

[20] Gareth Evans, "The Responsibility to Protect: An Idea Whose Time Has Come ... And Gone?", *International Relations*, Vol. 22, No 3, 2008, p. 288.

[21] Alex J. Bellamy, "Realizing the Responsibility to Protect", *International Studies Perspectives*, Vol. 10, No 2, 2009, pp. 112-17.

[22] Badescu and Weiss, "Misrepresenting R2P and Advancing Norms: An Alternative Spiral?".

[23] Evans, "The Responsibility to Protect: An Idea Whose Time Has Come ... And Gone?".

[24] United Nations General Assembly, *Sixty-Third Session, 105th Plenary Meeting, 14 September*, pp. 4-5.

[25] Ibid., p. 4.

unresolved questions: "Who will be doing the protecting and how will they protect?"[26] In the background of many of these issues looms a concern regarding possible abuse or misuse of R2P.[27]

The "R" in R2P

Within the R2P framework the individual states' responsibility to protect is an inalienable responsibility arising from sovereignty as responsibility.[28] The ICISS report asserts the responsibility of national political authorities as agents of state to fulfill the state's responsibility to protect. Internally national authorities are responsible to their citizens, and externally they are responsible to the international community through the UN.[29] They "are accountable for their acts of commission and omission."[30] In the ICISS report, a state's responsibility to protect arises from membership in the international community: "in granting membership of the UN, the international community welcomes the signatory state as a responsible member of the community of nations […] the state itself, in signing the Charter, accepts the responsibilities of membership flowing from that signature."[31] When a state is "unable or unwilling to fulfill [its] responsibility, or is itself the perpetrator" of atrocities,[32] the international community's responsibility to protect is activated. For the international community "the responsibility to protect implies an evaluation of the issues from the point of view of those seeking or needing support."[33]

The ICISS report clarifies who are responsible and for what, but it is less explicit on what it means to act on one's responsibility to protect. To give an example, one of the report's supplementary volumes gives only a broad explanation: Those "with responsibilities should set out in more specific terms the nature of their obligations […] By beginning with responsibilities, attention turns to the practical measures that can be pursued by states and people who feel such an obligation."[34] Because the ICISS report is an initiator of the R2P framework, it is understandable that it is not explicit on all accounts. Nevertheless, from the above quotation one has the impression that those who "feel" they have a responsibility ought to know what measures to take.

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[26] The Venezuelan delegate reiterated President Chávez's questions from the 2005 World Summit in Ibid., p. 3.

[27] See especially Iran's objection in Ibid., p. 6. But cases of misuse may assist in defining R2P's boundaries by clarifying what falls outside of its scope. Badescu and Weiss, "Misrepresenting R2P and Advancing Norms: An Alternative Spiral?".

[28] International Commission on Intervention and State Sovereignty, "The Responsibility to Protect". Para. 2.14, 2.15.

[29] Ibid. Para. 2.15.

[30] Ibid. Para. 2.15.

[31] Ibid. Para. 2.14.

[32] Ibid. Para. 2.29, 2.31.

[33] Ibid. Para. 2.31, 2.32.

[34] International Commission on Intervention and State Sovereignty, "Supplementary Volume C: Rights and Responsibilities", *The Responsibility to Protect*, Ottawa, International Development Research Centre, 2001b, p. 148.

The *World Summit Outcome* reasserted the R2P framework in 2005, but the notion of responsibility could not be expressed in detail within the four paragraphs dedicated to the issue. In the *Outcome*, the General Assembly members express their intention "to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations." Yet, in terms of fulfilling the responsibility to protect, the *Outcome* refers only to "appropriate and necessary means" and "timely and decisive manner." Nonetheless, the Heads of State and Government mandated the Secretary-General to make more detailed proposals regarding R2P.

The Secretary-General's report suggests how to implement R2P. It structures the R2P framework into three pillars: Pillar one refers to "the protection responsibilities of the state," pillar two to "international assistance and capacity-building," and pillar three to "timely and decisive response."[35]

Pillar one explains that responsible "sovereignty is based on the politics of inclusion, not exclusion."[36] Here, respect for human rights is "an essential element."[37] Yet, even "relatively stable, developed and progressive societies need to ask themselves whether they are vulnerable" to "the seeds of intolerance, bigotry and exclusion" that might lead to "something horrific and self-destructive."[38]

Pillar two encourages states to meet their responsibilities. It emphasizes that the international community is to assist in this endeavor if and when needed. Practical assistance measures include "confidential or public suasion, education, training and/or assistance."[39]

Pillar three underlines "the need for an early and flexible response [to a crisis …], one both tailored to the circumstances of the situation and fully in accord with the provisions of the [UN] Charter."[40] Responses must not follow "arbitrary, sequential or graduated policy ladders that prize procedure over substance and process over results."[41] There "should be no hesitation to seek authorization for more robust measures if quiet diplomacy is being used as a delaying tactic when an earlier and more direct response could save lives and restore order."[42] Diplomatic sanctions ought to be fully and consistently implemented by UN members, leaders "responsible for […] atrocities […] should not be welcome among their peers."[43] Permanent members of the Security Council are urged to refrain from using their veto "in situations of manifest failure to meet obligations relating to the responsibility to protect."[44]

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[35] United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General.*
[36] Ibid. Para. 14.
[37] Ibid. Para. 16.
[38] Ibid. Para. 21.
[39] Ibid. Para. 30.
[40] Ibid. Para. 49.
[41] Ibid. Para. 50.
[42] Ibid. Para. 56.
[43] Ibid. Para. 57.
[44] Ibid. Para. 61.

The exact meaning of responsibility and being responsible are elusive in these three fundamental documents regarding the R2P framework. This is evident even in the Secretary-General's extensive report. While the Secretary-General offers some practical measures and suggestions, whence one might infer what responsibility would mean in practice, the report uses vague language: "appropriate," "timely," "flexible," and "tailored to circumstances." But one should not blame the Secretary-General for the difficulty in capturing responsibility to protect precisely, because responsibilities are context-dependent.

To understand responsibility within the R2P framework, one must consider the notion of responsibility more generally. Here, a capacity to deliberate and a social context are of particular interest.

First, responsibility denotes the "exercise of discretion by deliberate and thoughtful decision in the light of a sound calculation of probable consequences and a fair evaluation of claims."[45] Responsibility indicates a capacity to act independently and to make decisions without authorization. The central role played by deliberation distinguishes responsibilities from duties. A dutiful person needs only to fulfill his duties but to be called responsible would require judgment and discretion.[46] Some might object to this statement on the basis that all duties require deliberation like all rules require interpretation. Nonetheless, the reason for differentiating between responsibilities is that duties require significantly less deliberation. Duties are more context-independent than responsibilities, which are indeterminate and context-dependent. To illustrate, consider the difference between one's duty to stop at a red traffic light when driving a car and one's responsibility to drive safely. Although also the former has room for interpretation (Exactly where to stop?), it is to be followed under all circumstances. In contrast, the responsibility to drive safely is inherently more indeterminate and dependent on particular circumstances (Is it raining? Is there ice on the road?). Moreover, sometimes fulfilling one's responsibilities may even require not following particular duties. For example, not stopping at a red light would not be irresponsible on a clear day, when one can see that there are no other persons on the road, and a passenger is in dire need of hospital care.

Because responsibilities denote deliberation, for an agent to be responsible it must have this capability. Not all actors are considered capable of deliberation.[47] For instance under most (if not all) legal systems children are not considered to be similarly responsible as adults are responsible for the consequences of their actions. But when children learn to recognize right from wrong, when they develop an ability to perceive the consequences of their actions, and when they learn to deliberate over those consequences, we and the society at large can expect (and require) them to act responsibly. In other words, children are not born with responsibilities that are somehow transferred to their custodians until the age of legal adulthood. Rather, as one's capacities develop, one also develops capacity

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[45] J. Roland Pennock, "The Problem of Responsibility", Carl J. Friedrich (ed.), *Responsibility*, New York, Liberal Arts Press, 1960, p. 13.

[46] Ibid., pp. 9, 12.

[47] Note Toni Erskine (ed.), *Can Institutions Have Responsibilities? Collective Moral Agency and International Relations*, New York, Palgrave, 2003.

to be responsible and to act responsibly. In turn, most legal systems define an age at which point this development is formally recognized and required. Naturally, sophisticated legal systems recognize that some, despite their age, may not have the capacity to deliberate over the consequences of their actions and thus they make relevant provisions.[48]

Second, the social context required by the notion of responsibility is implied by both how one "learns" responsibility as one grows up and how legal systems require their subjects to behave responsibly. Moreover, consider how rights and responsibilities share similarities in being socially respected claims or assertions. For instance natural "rights" cannot exist in a state of nature, but they represent *de facto* assertions of control (to be defeated by equally illegitimate attempts to change the *status quo*). Rights, whether "natural" or others, require the existence of at least a primitive society, in which they are recognized as legitimate claims. It seems that this is the case also with responsibilities, and to that extent both rights and responsibilities have a social dimension.

Within the R2P framework, the social context is provided by the international community. Curiously though, the international community also holds the responsibility. To explain, states are recognized as sovereign through their membership in the international community. Through this recognition and the acceptance of sovereign status, states also accept their individual responsibility to protect.[49] But the international community remains collectively responsible for guaranteeing that those responsibilities are met. In this sense the international community is considered capable of deliberation because it has the responsibility to protect, but it also provides the social context for the responsibility's existence.

Communal Crime Prevention

The above discussion implies that the R2P framework relies on a societal or a communal understanding of international politics. In this section I use domestic neighborhood watches as a heuristic tool in order to explore the world envisioned from within the R2P framework and to argue that the framework itself represents communal crime prevention. For lack of a better word, I refer to this "sensitizing device" as an "analogy." Analogies compare and contrast between relationships within seemingly dissimilar cases for the purpose of drawing suggestions regarding the applicability of one case in understanding the other. I use this tool in an attempt to propose an innovative perspective on the R2P framework—in a way through its own lenses.

Domestic Neighborhood Watches

Neighborhood watches are volunteer-based communal efforts in order to prevent and reduce crime and vandalism. I choose them for three reasons. First, they aim to reduce socially condemned acts, namely crime. Compare this with how the R2P framework aims

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[48] Here, one example is mentally challenged people. In this context, consider Michel Foucault, *The History of Madness*, London: Routledge, 2006.
[49] International Commission on Intervention and State Sovereignty, "The Responsibility to Protect". Para. 2.14

to reduce, prevent, and alleviate crimes against humanity that have been condemned by the international community. Second, neighborhood watches are collective efforts; a neighborhood community is to act together. Similarly, the collective responsibility to protect falls on the international community as a whole. Third, neighborhood watches are volunteer efforts. Note how the R2P framework contains responsibilities, not absolute duties. It remains based on states acknowledging—in a self-enlightened fashion—their responsibility within their jurisdiction and through their membership in the international community.[50]

Residents of a neighborhood may organize a neighborhood watch in order to increase their own and the community's security through volunteer action in cooperation with but independent from the police and local authorities. A neighborhood watch engages in various activities with the aim of increasing the community's security. Many of these activities are preventative or based on perceptions of deterrence. For instance, there could be night patrols or decals on windows and lamp posts warning wrongdoers that someone will be watching. The aim of such efforts is to give an impression of a united stand by a vigilant community that is ready to defend itself.

Usually, neighborhood watches are formed under typical circumstances.[51] At first, a community is hit by an unusual crime wave within a small time-frame. Residents become concerned about the safety of their persons and property. A neighborhood meeting contacts a local crime-prevention officer who helps the community to organize a neighborhood watch program. Some studies indicate, however, that a prolonged crime wave might result in individualistic and self-protective action. This is particularly likely if the residents face life-threatening crime for a longer period.[52]

Neighborhood watches fall under the wider rubric of community crime prevention. Community crime prevention refers to changing the social and environmental conditions that are believed to be conducive to crime or that sustain it. Other communal crime prevention examples include resource mobilization and environmental modification.[53]

Significant Elements and Their Counterparts

Domestic neighborhood watches include many important elements but due to space restrictions I discuss six: the neighborhood, the residents, the crimes to be prevented, the neighborhood watch efforts, the neighborhood watch itself, and the wider notion of

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[50] Note the possible contradiction. This is similar to the tension between a conception of a right that is residually vested in a community and the notion of taking up voluntarily (at least some of) the obligations that the right implies. As convincing solutions to this puzzle remain unavailable, I can only admit its difficulty.

[51] James Garafalo and Maureen McLeod, "Improving the Effectiveness and Utilization of Neighborhood Watch Programs", unpublished report to the National Institute of Justice from the State University of New York at Albany, Hinderland Criminal Justice Research Center, 1986.

[52] John E. Conklin, *The Impact of Crime*, New York: Macmillan, 1975; Wesley G. Skogan, "Fear of Crime and Neighborhood Change", Albert J. Jr. Reiss and Michael Tonry (eds.), *Crime and Justice: A Review of Research*, Chicago, Chicago University Press, 1986.

[53] Tim Hope, "Community Crime Prevention", *Crime and Justice*, Vol. 19 1995, pp. 21-89.

community crime prevention. In the following paragraphs I examine each in turn together with their international "counterparts." My discussion is neither a one-to-one matching operation nor an act of inference. I make no claims that an element and its counterpart are two instances of the same. Rather, the following is a mental exercise aimed at seeing the international order through the lenses of the R2P framework.

"Neighborhood": To perceive the "neighborhood" within the R2P framework one must first distinguish between neighbors and a neighborhood.[54] A neighbor is someone who lives near or next door, but a neighborhood is a distinctive area whose residents identify themselves and each other as members of that particular neighborhood.[55] Two people living in the opposite edges of a neighborhood may not be neighbors if the neighborhood is large, but they could nevertheless identify themselves and each other as members of the same neighborhood. In other words, physical proximity by itself is not the only determining factor in understanding neighborhoods.

The R2P framework incorporates a universal dimension suggesting that the "neighborhood" is geographically the globe. Sovereignty as responsibility is to apply to all sovereign states, no matter their geographical location on our globe. Moreover, the international community's responsibility to protect is not limited to only some regions of the world. After all, grave humanitarian crises could happen on any continent.

The global interpretation of "neighborhood" is strengthened if one considers R2P's reliance on our common, universal humanity. As a concept, responsibility to protect seeks to save mankind from itself; the aim is the provision of human security. Innocent people are to be protected from becoming victims of crimes against humanity. Earlier in our history, "humanity" was restricted.[56] But particularly since the UN Charter and the Universal Declaration of Human Rights humanity has been understood in universalistic terms to cover all members of the human family. This is a given in the humanitarian intervention debates and in the R2P framework. Thus, in this meta-physical sense we are all part of the common humanity, both in good and in bad.

Yet, geography remains significant. Like some parts of a domestic neighborhood are more dangerous than others, some parts of the world are more likely to suffer grave humanitarian crises. Moreover, some members of a domestic neighborhood experience crime directly or next door, while others may remain unaffected in any direct way. Similarly at the international level some states neighbor a grave humanitarian crisis, while others

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[54] I use quotation marks when referring to the counterparts within the R2P framework.

[55] An example in international politics is the European Union's Neighborhood Policy, where the 1+16 "neighbors" are the EU and countries east of the EU and around the Mediterranean. See the homepage at URL: http://ec.europa.eu/world/enp/index_en.htm.

[56] Martha Finnemore, "Constructing Norms of Humanitarian Intervention", Peter J. Katzenstein (ed.), *The Culture of National Security: Norms and Identity in World Politics*, New York, Columbia University Press, 1996.

remain at the opposite side of the globe. Even if the R2P framework incorporates a global dimension and a meta-physically universal understanding of "neighborhood," it cannot do away with geography, location, and proximity.

"Residents": In domestic cases residents of a neighborhood organize themselves into a neighborhood watch after they have experienced crime either directly or indirectly. Considering states as the "residents" in the R2P framework faces the problem that it is people, not states, who experience the crimes against humanity, and that the responsibility to protect concerns the protection of peoples, not states.

How to consider the "residents" strikes at the core of debates on sovereignty and the "challenge" posed by R2P.[57] How is sovereignty understood within the R2P framework?

The R2P framework challenges "Westphalian" sovereignty[58] without erasing sovereignty *per se*.[59] The R2P framework follows Francis Deng's re-characterization of sovereignty as responsibility:[60] "when states are unable to provide life-supporting protection and assistance for their citizens, they are expected to request and accept outside offers of aid."[61] Sovereignty "means accountability […] internally, to one's own population […] and internationally, to the community of responsible states […] in the form of compliance with human rights and humanitarian agreements."[62] Within the R2P framework sovereignty is conditional.[63] It follows Ramesh Thakur in that the "doctrine of national sovereignty in its absolute and unqualified form, which gave rulers protection against attack from without

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[57] E.g. Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements*, Cambridge, MA: Harvard University Press, 1995; Thomas J. Biersteker and Cynthia Weber (eds.), *State Sovereignty as Social Construct*, Cambridge, Cambridge University Press, 1996; Stephen D. Krasner, *Sovereignty: Organized Hypocrisy*, Princeton: Princeton University Press, 1999; Carl Schmitt, *Political Theology : Four Chapters on the Concept of Sovereignty*, Chicago: University of Chicago Press, 2005.

[58] Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, New York: McGraw-Hill, 1948/1985; Mark W. Zacher, "The Decaying Pillars of the Westphalian Temple: Implications for International Order and Governance", James N. Rosenau and Ernst-Otto Czempiel (eds.), *Governance without Government: Order and Change in World Politics*, Cambridge, Cambridge University Press, 1992.

[59] "[…] the responsibility to protect is an ally of sovereignty, not an adversary." United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*. Para. 10(a).

[60] Francis M. Deng et al., *Sovereignty as Responsibility: Conflict Management in Africa*, Washington, DC: Brookings Institution Press, 1996.

[61] International Commission on Intervention and State Sovereignty, "Supplementary Volume A: Elements of the Debate", *The Responsibility to Protect*, Ottawa, International Development Research Centre, 2001c, p. 11. Similar thoughts were already expressed for instance by John Stuart Mill and even some scholars in ancient China. John Stuart Mill, "A Few Words on Non-Intervention", John M. Robson (ed.), *Essays on Equality, Law, and Education: Collected Works of John Stuart Mill*, Toronto, University of Toronto Press, 1859/1984; Luke Glanville, "Retaining the Mandate of Heaven: Sovereign Accountability in Ancient China", *Millennium*, Vol. 39, No 2, 2010.

[62] International Commission on Intervention and State Sovereignty, "Supplementary Volume A: Elements of the Debate", p. 11.

[63] Ibid.

while engaged within in the most brutal assault on their own citizens has gone with the wind."[64] Within the R2P framework, sovereign states exist for the people: "States are now widely understood to be instruments at the service of their peoples, and not vice versa."[65] Here lies a link to a liberal tradition, where the people "create" the state.[66]

The "residents," then, would seem to be the people as represented by sovereign states, but there is a reciprocal relationship between the two. Once created by the people, a sovereign state is to protect its people. Within the R2P framework a state's status as sovereign is tied to the fulfillment of its responsibilities. If a state is unable or unwilling to meet its responsibilities, or if it turns against its own population, the people may need external help in order to "re-create" the state.[67]

"Crimes"**:** Domestic neighborhood watches aim to prevent all kinds of crimes from minor offences and misdemeanors to serious crimes and felonies. Within the R2P framework the ICISS report is broader in its scope than the *World Summit Outcome*. The latter limited the scope to genocide, war crimes, ethnic cleansing and crimes against humanity.[68] These crimes have been codified for instance in the so-called Genocide Convention and the Rome Statute.[69] In general terms the R2P framework seeks to prevent and react to large-scale abuses of human life and dignity.

"Preventative efforts": In a domestic scenario, decals and other deterrence efforts like night patrols serve to demonstrate the neighborhood's united stand and vigilance. They also serve to remind what kind of behavior will not be tolerated. The international level has comparable examples. The Universal Declaration of Human Rights is often referred to as an authoritative document for understanding the contemporary standard of civilization.[70] The Genocide Convention stands as a firm declaration that genocide "is a crime under international law which [the Contracting Parties] undertake to prevent and to punish."[71]

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[64] Ramesh Thakur, "Global Norms and International Humanitarian Law: An Asian Perspective", *International Review of the Red Cross*, Vol. 83, No 841, 2001, p. 35. Note, however, that it contravenes e.g. Finnemore, "Constructing Norms of Humanitarian Intervention".

[65] Kofi A. Annan, "Two Concepts of Sovereignty", *The Economist*, 18 September 1999, http://www.un.org/News/ossg/sg/stories/kaecon.html (Accessed 8 June 2010).

[66] Consider Locke's conception of the civil society antedating the social contract that establishes government. John Locke, *Two Treatises of Government*, Cambridge: Cambridge University Press, 1689/1988.

[67] International Commission on Intervention and State Sovereignty, "The Responsibility to Protect". Para. 2.31; United Nations General Assembly, *World Summit Outcome*. Para. 139. Also, especially pillar two in United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*.

[68] United Nations General Assembly, *World Summit Outcome*. Also see earlier discussion above.

[69] United Nations General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*, 1948; United Nations General Assembly, *Rome Statute of the International Criminal Court*, 1998/2002.

[70] E.g. Jack Donnelly, "Human Rights: A New Standard of Civilization?", *International Affairs*, Vol. 74, No 1, 1998.

[71] United Nations General Assembly, *Convention on the Prevention and Punishment of the Crime of Genocide*.

Similarly, the ICC and international criminal tribunals affirm the "neighborhood's" determination to abide by such declarations and to prosecute perpetrators of crimes. Fact-finding missions, monitoring systems, and other efforts (including those by various humanitarian activist groups like Human Rights Watch or Amnesty International) prove the "neighborhood's" vigilance. Here, the suggestion that such non-state actors as Amnesty International might operate as "night patrols" implies that membership of the "international neighborhood watch" ought to extend beyond "residents."

"The neighborhood watch": In domestic circumstances people affected by crime form a neighborhood watch in order to prevent further crimes. Yet, neither all members of a neighborhood watch have been victims of crime, nor all who have experienced crime will become part of a neighborhood watch. Membership is volunteer-based; not all residents of a neighborhood become part of a watch. Moreover, there are differences in levels of membership. Some are nominal members, while others could be very active. Some post a decal on their window or raise awareness, while others patrol the streets.

At the international level states have various activity levels in relation to crimes against humanity and their prevention. Some have chosen to remain outside of particular treaties, conventions, or declarations, while others have ratified them. Some pursue active diplomacy aimed at improving humanitarian conditions worldwide, and others contribute troops and resources to humanitarian interventions.[72] These are volunteer-based activities.

But also other international actors engage in preventative humanitarian efforts worldwide. Many international non-state actors exist for the sole purpose of improving human rights or humanitarian conditions around the world. Their work can be seen as attempts to prevent crimes against humanity. Incorporating them in the metaphorical international "neighborhood watch" allows one to see their efforts in a new light. They can be incorporated because like in the domestic scenario, the international "neighborhood watch" need not be formed of those who have personally experienced crimes against humanity. After all, states do not experience crimes against humanity; their populations might. Moreover, although the R2P framework emphasizes states' and the international community's responsibility, it does not exclude non-state actors. For instance the Secretary-General's report recognized the role civil society can and should play within the R2P framework.[73]

In sum, the international "neighborhood watch" are the *preventative* measures taken by various actors (states, international organizations, humanitarian groups, and others) acting on behalf of the (possible) victims.

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[72] Here one thinks of Australia's "good international citizenship" under Gareth Evans and Britain's foreign policy under Robin Cook." E.g. Nicholas J. Wheeler and Tim Dunne, "Good International Citizenship: A Third Way for British Foreign Policy", *International Affairs*, Vol. 74, No 4, 1998.

[73] United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*. Para. 11(b). Also Frédéric Mégret, "Beyond the 'Salvation' Paradigm: Responsibility to Protect (Others) vs the Power of Protecting Oneself", *Security Dialogue*, Vol. 40, No 6, 2009.

The international "neighborhood watch" is metaphorical, but the level of abstraction allows one to group the various preventative measures under a common heading. Yet, I am not arguing that we can observe uniform, highly coordinated efforts by the various actors in preventing crimes against humanity. While of course some coordination exists—for instance through networks—the various actors do not always collaborate in their efforts.[74] This contradicts most domestic neighborhood watches because those are usually coordinated efforts. But, I argue that my heuristic tool offers a novel perspective on the connections between various humanitarian efforts by different kinds of international actors. Moreover, it addresses the "global community" assumption within those efforts and within the R2P framework.

The various efforts grouped together as an international "neighborhood watch" differ from such *ad hoc* efforts as humanitarian interventions. A difference between humanitarian interventions and international "neighborhood watches" is that an intervention implies a failure of prevention. Neighborhood watches aim primarily to prevent crime. Their purpose is neither to solve crime nor to administer justice. In contrast, forceful humanitarian interventions might be compared with calling in the police.[75] If and when a threshold for military intervention is reached, it is evident that prevention efforts had failed, "decals" like the ICC or the Genocide Convention had been ineffective deterrents, and the "night patrols" and other demonstrations of vigilance had been in vain.

When preventative measures have failed and for instance genocide takes place, the R2P framework recognizes the international community's responsibility to intervene. One might consider this to be functionally similar to a domestic neighborhood watch failing in its preventative measures and calling in the police. But a major difference between the domestic and the international scenarios is that the international level lacks a police force that is required to respond to calls for help. While for instance matters of international peace and security can be brought to the Security Council, it cannot be compared with a domestic police force. The R2P framework recognizes the Security Council as the first "port of call" when military intervention is required,[76] but it is also recognized that sometimes the Security Council may fail to act.

The difficulty in finding a counterpart for the domestic police force highlights the importance of the international community. Within the R2P framework there is the idea and option that when in need, one can call in an external force. The international community is supposed to answer the call when prevention fails. The Security Council may be the first but not the only representative of the international community, as is implied by the ICISS report's warning: Concerned states "may not rule out other means

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[74] On networks, see e.g. Anne-Marie Slaughter, *A New World Order*, Princeton: Princeton University Press, 2004.

[75] Or the fire department like in Michael Walzer, "The Argument About Humanitarian Intervention", *Dissent*, Vol. 49, No 1, 2002.

[76] International Commission on Intervention and State Sovereignty, "The Responsibility to Protect". Para. 6.28.

to meet the gravity and urgency of that situation."[77] Thus, the international community is not the "neighborhood watch" but one is to bethink it as something like the police who can be summoned when preventative measures have failed.[78]

"Community crime prevention": The R2P framework itself is comparable with the wider notion of community crime prevention. The responsibility to protect is a conglomerate of three responsibilities: the responsibilities to prevent, to react, and to rebuild.[79] The first and the third responsibility seem to represent the wider aim of transforming existing social conditions. The second responsibility corresponds best with the notion of humanitarian intervention and the need to react to grave humanitarian crises—by force if necessary. The R2P framework is only one example of efforts at "community crime prevention" with others being for instance the international human rights regime or emphasis on the rule of law. Often, these efforts fall under the wider rubrics of cosmopolitanism[80] and international liberalism.[81] They attempt to change the social conditions that are believed to be conducive to war, human insecurity, or absence of positive peace. Here, consider the democratic peace theory as an alleged "demonstration" of which social conditions (globally spread liberal democracy) provide the "solution."[82] After all, the claim is that certain social conditions are conducive to conflict while others promote development, peace, and prosperity.

The World According to R2P?

The above exercise implies a particular conception of the international level. To expand, there is a global "neighborhood" that is composed of various actors. This "neighborhood" is a proactive and social community whose members are connected through complex networks. The members interact in a socially meaningful fashion with each other. They

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77 Ibid., p. xiii.

78 On the international community, see e.g. "What Is the International Community?", *Foreign Policy*, Vol. September-October, No 132, 2002; Frank Schimmelfennig, "Goffman Meets IR: Dramaturgical Action in International Community", *International Review of Sociology*, Vol. 12, No 3, 2002; Barry Buzan and Ana Gonzalez-Pelaez, "'International Community' after Iraq", *International Affairs*, Vol. 81, No 1, 2005; David C. Ellis, "On the Possibility of 'International Community'", *International Studies Review*, Vol. 11, No 1, 2009.

79 International Commission on Intervention and State Sovereignty, "The Responsibility to Protect", pp. 11-46.

80 On cosmopolitanism, consider e.g. Charles R. Beitz, "Cosmopolitan Ideals and National Sentiment", *Journal of Philosophy*, Vol. 80, No 10, 1983; Daniele Archibugi, David Held, and Martin Köhler (eds.), *Re-Imagining Political Community: Studies in Cosmopolitan Democracy*, Cambridge, Polity Press, 1998.

81 Presumably the roots for both cosmopolitanism and international liberalism lie heavily in Immanuel Kant, *Perpetual Peace*, New York: Cosimo Classics, 1795/2005.

82 Consider the democratic peace theory, e.g. in Michael W. Doyle, "Kant, Liberal Legacies, and Foreign Affairs", *Philosophy and Public Affairs*, Vol. 12, No 3, 1983; Bruce Russett, *Grasping the Democratic Peace: Principles for a Post-Cold War World*, Princeton: Princeton University Press, 1994; Bruce Bueno de Mesquita et al., "An Institutional Explanation of the Democratic Peace", *The American Political Science Review*, Vol. 93, No 4, 1999.

even "visit" each other.[83] There are rules and norms that guide behavior as well as identify (punishable) misbehavior.[84] There are preventative measures aimed at ensuring compliance with the community's rules and norms. Some members participate more actively than others in advancing "good" behavior. A direct threat to security might not explain the variation in efforts, as it might to a good degree in the domestic case. In contrast, perhaps particular beliefs and principles do much of the explaining together with one's position (geographical or otherwise) in the "neighborhood."

Those, who do not fall in line with the general rules and norms, like tyrannical dictators, terrorists, or "rogue states," are part of this global "neighborhood," much like vandals can be part of the neighborhood they deface. They pose as a source of insecurity and as something to be eradicated. They are the targets for social conditioning and socialization efforts, if not for direct attacks in order to "re-create" them. In this sense, consider Afghanistan and Iraq, and how these societies are being *socialized* to fit the international "neighborhood" and its norms through "free elections" and "rule of law."[85]

Challenge to International Law?

In this section I discuss four incompatible aspects between the domestic and international scenarios in the mental exercise. I give special attention to implications to international law, because it is a fundamental part of the wider international order.

The four aspects arise from domestic neighborhood watches' reliance on the existence of an effective penal system that, in turn, requires several further conditions. First, crimes and their punishments must be codified *ex ante*. Second, the jurisdiction, in which the penal code is effective and over which the authorities administer justice, must be determined and accepted. Third, the appropriate authorities, who can judge and sentence, must be acknowledged. Fourth, there must be a minimal separation of powers so that those who judge and sentence are not the same who legislate or who apprehend the criminals—at least this is the general understanding in modern societies. A brief discussion of each point follows.

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[83] Consider e.g. official visits by the heads of state, exchanges of views (e.g. in summits and forums), exclusive clubs like the G20 that are important aspects of the "neighborhood."

[84] Particularly *ius cogens* are perhaps the best articulated set of such rules and norms. See Alfred von Verdross, "Forbidden Treaties in International Law: Comments on Professor Garner's Report On "The Law of Treaties"", *The American Journal of International Law*, Vol. 31, No 4, 1937; Alfred von Verdross, "Jus Dispositivum and Jus Cogens in International Law", *The American Journal of International Law*, Vol. 60, No 1, 1966. But obligations may also arise from international crimes that reach *jus cogens* level. M. Cherif Bassiouni, "International Crimes: "Jus Cogens" And "Obligatio Erga Omnes"", *Law and Contemporary Problems*, Vol. 59, No 4, 1996.

[85] Consider the more critical characterization "rule *through* law" in Nikolas M. Rajkovic, "'Global Law' and Governmentality: Reconceptualizing the 'Rule of Law' as Rule 'through' Law", *European Journal of International Relations*.

Examples of international efforts to codify crimes and their punishments include the Genocide Convention and the Rome Statute.[86] Yet, there is a qualitative difference between the *kind* of codification required for the neighborhood watch "analogy." For instance the Genocide Convention defines genocide and punishable acts and asserts the contracting parties' obligation to "enact […] the necessary legislation" (Article V). Persons charged with crimes are to be tried in national tribunals or by "such international tribunal as may have jurisdiction with respect to those Contracting Parties which have accepted its jurisdiction" (Article VI). The Convention remains in effect first for ten years and thereafter for "successive periods of five years for such Contracting Parties as have not denounced it" (Article XIV). Note how the contracting parties are the primary authorities who are to punish persons charged with crimes of genocide. The problem is often that it is exactly the very same authorities who perpetrate those crimes. Advance acceptance of an international tribunal's jurisdiction and the possibility of opting out of the Convention highlight two important differences between the domestic and the international realms. Despite being more advanced, also the ICC shares these characteristics.

The idea of a global "neighborhood" points to universal jurisdiction. Yet, contemporary international law is increasingly fragmented.[87] As an example relevant to crimes against humanity, consider the ICC. It has jurisdiction over the kinds of crimes that are included in the R2P framework (genocide, crimes against humanity, and war crimes) and over individuals. But the Court's jurisdiction is limited to states party to the Rome Statute.[88] Among others, three permanent members of the Security Council (China, Russia, and the United States)— prominent members of the "neighborhood"—are not party to the Rome Statute. Moreover, states where such crimes are more likely have not ratified the Rome Statute. The R2P framework seems to imply that such restricted jurisdiction should be overcome. In turn, this might entail empowering a global court with a universal jurisdiction independent of state consent. While that jurisdiction might be limited in subject matter, such changes would distance international law from being consent-based and contest such concepts as "persistent objection" that are derived from the law's consensual foundation.[89] It might also proliferate obligations *erga omnes* that bind subjects without their explicit consent.[90]

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[86] International Criminal Court, *Elements of Crimes*, September 9, 2002, CC-ASP/1/3[part II-B]. Also United Nations, *Principles of International Law Recognized in the Charter of the Nürnberg Tribunal and in the Judgment of the Tribunal*, International Law Commission, 1950/2005.

[87] See International Law Commission, "Fragmentation of International Law: Difficulties Arising from the Diversification and Expansion of International Law", 2006, http://untreaty.un.org/ilc/guide/1_9.htm (Accessed 4 January 2011). Also the forum in *Michigan Journal of International Law*, Vol. 25, 2003.

[88] United Nations General Assembly, *Rome Statute of the International Criminal Court*. Article 12.

[89] E.g. Camilla G. Guldahl, "The Role of Persistent Objection in International Humanitarian Law", *Nordic Journal of International Law*, Vol. 77, No 1-2, 2008.

[90] On obligations *erga omnes*, see e.g. Christian Tomuschat and Jean-Marc Thouvenin (eds.), *The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes*, Leiden, Martinus Nijhoff, 2006; Christian J. Tams, *Enforcing Obligations Erga Omnes in International Law*, Cambridge: Cambridge University Press, 2010.

Above I already referred to a global court. While the ICJ and the ICC are examples of such "world" courts, compliance to their jurisdictions and decisions remains ultimately consensual. This is despite the alleged (rule of) law's "compelling force."[91] A truly global court's jurisdiction would need to be universal and acknowledged but not on a voluntary basis. This would require either the creation of a new world court or a radical transformation of existing courts.

A truly global court might represent one part of an international separation of powers. While the judicial branch is already differentiated to some degree with the existence of such international courts as the ICJ and the ICC (although problematically), the executive and legislative branches are less so. For the most part, states remain both the legislatures and the executives at the international level.[92] Moreover, there is no "world police," and for example the enforcement of Security Council resolutions remains unreliable, since the Council's resolutions reflect political (dis)interests of its members and it has no independent resources of its own.

To summarize, the contemporary world poses several challenges to making a clear analogy with domestic neighborhood watches. Particularly the foundations of contemporary international law offer multiple reasons why my "analogy" does not "fit." Some might argue that these problems are exactly what needs to be addressed in order to ensure the R2P framework's operation. The solutions might include a codification of a penal code into international law, an assertion of the ICC's universal jurisdiction over its competencies regardless of membership to the Rome Statute, and the establishment of an independent world "police" or investigative unit.[93] If these were achievable, they would certainly bolster the R2P framework.

In this sense, the R2P framework's important documents have not presented the world as it is but as it should be. Here, the neighborhood watch "analogy" helps in envisioning that world. That vision could be achieved for example if international law distanced itself from being a coordinating and regulating tool among sovereigns, and if instead it gave primacy to moral concerns. Similar to liberalism,[94] public international law would begin with individuals as rational actors and their welfare rather than with relations between sovereign states.[95] After all, within the R2P framework the wellbeing of humanity is reflected in the wellbeing of individuals.

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[91] Consider in this context Christian Reus-Smit, "Politics and International Legal Obligation", *European Journal of International Relations*, Vol. 9, No 4, 2003; Terry Nardin, "Theorising the International Rule of Law", *Review of International Studies*, Vol. 34, No 3, 2008.

[92] Consider Michael Fremuth and Jörn Griebel, "On the Security Council as a Legislator: A Blessing or a Curse for the International Community?", *Nordic Journal of International Law*, Vol. 76, No 4, 2007.

[93] There have been calls to form an international "911" to respond to humanitarian crises. One sophisticated proposals is the SHIRBRIG. See http://www.shirbrig.dk.

[94] E.g. John Charvet and Elisa Kaczynska-Nay, *The Liberal Project and Human Rights: The Theory and Practice of a New World Order*, Cambridge: Cambridge University Press, 2008, pp. 1-16.

[95] There are good reasons not to proceed always to the individual level. For example, not only does this sometimes result in confused arguments, like when democracy (a way of organizing a polity) becomes an individual right, but it requires finding the principles on which the whole world would agree on, a rather utopian project in this multi-cultural and multi-religious world. On democracy as an individual right, see Thomas M. Franck, "The Emerging Right to Democratic Governance", *The American Journal of International Law*, Vol. 86, No 1, 1992. A famous effort to find universal principles: John Rawls, *A Theory of Justice*, Harvard: Belknap Press of Harvard University Press, 1971.

But one doubts the coming of this world, at least in the near future.[96] One would not think that states have an interest in abandoning consent as a foundational element of international law, especially because it would undermine their own position within contemporary international order. Moreover, apart from initiatives similar to Tobin Tax,[97] which could provide the funds, independent global branches of a real separation of powers would remain dependent on states—particularly wealthy states.[98] Telling is how Tobin Tax offers means to end world poverty, but we have seen little progress in its adoption.[99] Similarly, despite the attractive notion of the (rule of) law's "compelling force," only 108 states have recognized the ICC's jurisdiction. The remaining 84 states cannot be compelled to recognize it.[100] This is unlikely to change in the near future.[101] Lastly, such solutions miss the point of "enlightened self-interest" in behaving responsibly, inherent in the notion of sovereignty as responsibility and in the voluntary acceptance of some of the responsibilities implied by one's rights.[102]

Concluding Remarks

This paper examined the R2P framework by first addressing the notion of responsibility as it seems to be understood within the scheme. Any practical consideration of responsibility is contextual. For instance the Secretary-General explains that R2P responses to grave humanitarian crises must be tailored to the circumstances.[103] But the contextuality of responsibility needs to be understood also in another sense. Responsibilities, like rights, require a social context. I addressed that envisioned social context with the help of a sensitizing device that drew an "analogy" with domestic neighborhood watches. The roles to be played by the international community and international law were underlined as important in realizing the envisioned world. With these brief concluding remarks I propose three insights that are implied by my discussion.

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[96] These doubts exist even though for example "the obligations of States that underpin pillar one are firmly embedded in pre-existing, treaty-based and customary international law." United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*. Para. 18.

[97] Heikki Patomäki, *Democratising Globalization: The Leverage of the Tobin Tax*, New York: Zed Books, 2001.

[98] Rajkovic, "'Global Law' and Governmentality: Reconceptualizing the 'Rule of Law' as Rule 'through' Law".

[99] An exception is Canadian House of Commons, *Motion M-239*, 1999.

[100] The calculation is based on UN membership.

[101] Consider the ICC warrant for the arrest of President Omar Al Bashir, and the African Union's united support he received despite the warrant. African Union Peace and Security Council, "Communique of the 175th Meeting of the Peace and Security Council", 2009, http://www.africa-union.org/root/ua/conferences/2009/mars/psc/05mars/communique%20icc%20arrest%20warrant%20_eng.pdf (Accessed 10 January 2010).

[102] Note ft. 50.

[103] United Nations General Assembly, *Implementing the Responsibility to Protect: Report of the Secretary General*. Para. 49.

First, some merit may be seen in re-casting various international humanitarian efforts as something akin to domestic neighborhood watches, but this ought to be investigated further elsewhere. In this paper I only introduced this idea. Here, of particular interest could be how domestic neighborhood watches fall under the wider rubric of "community crime prevention," exemplified by the R2P framework. Often, such efforts focus on changing the social and environmental conditions that are believed to be conducive to crime. We should ask what kinds of efforts to change the social and environmental conditions we see at the international level, and what kinds of socialization measures can be observed. For example, to what extent is it true that a new international "'expertocracy,' allegedly "safeguarding" human dignity, [informs] the people what they actually ought to want'?[104] Alternatively we could consider how influential members of the international "neighborhood" have attempted to mold the (social) conditions to correspond with their own ideas of the world (note *Pax Britannica* and *Pax Americana*). In the case of R2P, however, the trump lies in "universal" morality and how its imperatives have the pride of place.[105]

Second, the R2P framework can be seen as part of international communal efforts to prevent crime, especially crimes against humanity. Yet, if my discussion is any indication, R2P's practical implementation questions traditional functions of international law. By extension, challenges to the functions of international law are also challenges to the wider international order. There may be a demand for international law to distance itself from being a coordinating and regulating tool among sovereigns to giving primacy to moral concerns of individuals. We may be required to recognize that international law exists to serve the interests of individuals in a similar vein to sovereignty being conditional as it is understood with the concept "sovereignty as responsibility." This implies that we ought to begin with the individual and his/her wellbeing. To what extent this is plausible should be debated.

Third, there may lie an internal contest within the R2P framework. A call to base public international law on the welfare of the individual may conflict with the framework's reliance on a communal approach. To expand, an insistence that international law is to serve the needs of individuals may result in the disappearance of a number of collective identities, of which "we, the people" may be one of the first casualties. There are good reasons for not proceeding always to the individual level. This is especially true within the R2P framework where the idea of being able to "call in" the collective international community is emphasized when preventative measures fail.[106] More generally, it may be the case that international socialization processes are used to ensure that states uphold the international community's norms and principles.[107] But to the extent that these international community's norms and principles are hailed as universal, they contain an internal conflict. After all, a community cannot be universal.

[104] Friedrich Kratochwil, "How (Il)Liberal Is the Liberal Theory of Law? Some Critical Remarks on Slaughter's Approach", *Comparative Sociology*, Vol. 9, No 1, 2010.

[105] In this context consider Beate Jahn, "Liberal Internationalism: From Ideology to Empiral Theory - and Back Again", *International Theory*, Vol. 1, No 3, 2009.

[106] The international community remains elusive. See ft. 78.

[107] Note Tony Blair, "Doctrine of the International Community", Chicago, Economic Club April 24, 1999.

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