

The humanisation of security? Towards an International Human Protection Regime

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Abstract

Over the past few decades, genocidal killing and other mass atrocities have become less frequent and less lethal. At the same time, collective international responses have become more common and more comprehensive. What explains these two phenomena, and are they connected? This article suggests that the evidence of declining mass violence and growing international activism is not only compelling but that the two phenomena are connected by the emergence of a new international human protection regime. The article proceeds in three parts. The first examines the evidence for thinking that the world is experiencing both a decline in mass violence and an increase in international activism in response to such violence. The second outlines the emergence, scope, and limits of the human protection regime. The third considers whether the regime itself is associated with the changing practices of third parties to mass violence. The fourth part contrasts this explanation with potential alternatives.

Keywords

Mass Violence; Armed Conflict; UN, Human Security; International Regimes

Over the past few decades, mass violence such as genocidal killing and other atrocity crimes have become less frequent and individual episodes generally less lethal. At the same time, collective international responses have become more common and more comprehensive. What explains these two phenomena and are they connected? Steven Pinker claims that the recent downward trend is unexceptional and a product of broader social changes resulting from cultural and material transformations in the *longue durée* that promote cooperation over conflict.¹ Others posit more proximate causes for the decline in violence nevertheless unconnected to the rise in international activism such as the collapse of communism or decline of civil wars.

This article suggests that not only is the evidence of declining mass violence and growing international activism compelling, but that the two phenomena are connected by the emergence of a new international regime focused on human protection.² According to the UN secretary-general, Ban Ki-moon, human protection is a ‘subset of the encompassing concept of human security’, which

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¹ Steven Pinker, *The Better Angels of our Nature: The Decline of Violence in History and its Causes* (New York: Allen Lane, 2011).

² The claim that the two are connected is not new, see Joshua Goldstein, *Winning the War on War: The Decline of Armed Conflict Worldwide* (New York: Dutton, 2011).

relates to the 'more immediate threats to the survival of individuals and groups'.³ Since the end of the Cold War, an International Human Protection Regime (IHPR) has emerged comprising 'principles, norms, rules, and decision-making procedures' and focused on the protection of individuals and groups from the most immediate threats to survival: widespread and systematic arbitrary violence. This regime, best understood as an 'overlapping' regime, to borrow a phrase from Oran Young, developed in an *ad hoc* and uneven fashion but nevertheless has had the effect of both regulating the behaviour of armed combatants and establishing commitments, norms, and decision-making procedures related to how international society ought to respond to mass violence.⁴ Thus, it may be understood as an 'International Protection Regime' of the sort described by Bruce Cronin in that it protects 'clearly defined classes of people within sovereign states' though it was not 'designed' *per se*, but rather evolved through diplomatic, juridical, and other practices.⁵

This is significant for both practical and theoretical reasons. Practically-speaking, the emergence of an international human protection regime attests to important changes in the way that international society conceives and practices security that have bearing on behaviour. In relation to theory, this argument calls for a rethinking of the place of 'human security' within the broader field of security studies. Since the end of the Cold War, our understanding of security has been broadened and deepened by a variety of new theoretical approaches. One of the most prominent of these was 'human security', an approach prefaced on the normative claim that the ultimate referent for security ought to be the human individual, not the state or some other collective.⁶ But while the policy utility of human security was forthrightly criticised for lacking precise definition and for being excessively expansive and vague, *practices* of human security have progressed apace, with the international human protection regime being only one manifestation.⁷ As such, this experience lends support to calls for a more practice-based approach to international security that pays less attention to abstract concepts and more to what states and other security actors actually *do*.⁸

The article proceeds in four parts. The first examines the evidence for thinking that the world is experiencing both a decline in mass violence and an increase in international activism in response to such violence. The second outlines the emergence, scope, and limits of the human protection regime. The third considers whether the regime itself is associated with the changing practices of third parties to mass violence. The fourth contrasts this explanation with potential alternatives.

³ Ban Ki-moon, 'Human Protection and the 21st Century United Nations', Cyril Foster Lecture, University of Oxford, 2 February 2011, available at: {http://www.un.org/sg/selected-speeches/statement_full.asp?statID=1064} accessed 6 October 2015.

⁴ Oran Young, 'Regime dynamics: the rise and fall of international regimes', *International Organisation*, 36:2 (1982), pp. 277–97.

⁵ See Bruce Cronin, *Institutions for the Common Good: International Protection Regimes in International Society* (Cambridge: Cambridge University Press, 2003), p. 3. On the role of practice in shaping norms and politics, see Emmanuel Adler and Vincent Pouliot, 'International practices: Introduction and framework', in Emmanuel Adler and Vincent Pouliot (eds), *International Practices* (Cambridge: Cambridge University Press, 2011).

⁶ See Fen Osler Hampson, Jean Daudelin, et al., *Madness in the Multitude: Human Security and World Disorder* (Oxford: Oxford University Press, 2001); Mary Kaldor, *Human Security* (Cambridge: Polity, 2007); and S. Neil MacFarlane and Yuen Foong Khong, *Human Security and the UN: A Critical History* (Bloomington, IN: Indiana University Press, 2006).

⁷ For this critique, see Roland Paris, 'Human security: Paradigm shift or hot air?', *International Security*, 26:2 (2001), pp. 87–102.

⁸ Vincent Pouliot, *International Security in Practice: The Politics of NATO-Russia Diplomacy* (Cambridge: Cambridge University Press, 2010).

Two global trends

Is there a global decline in mass violence and concomitant rise in international activism in response to such violence? Confronted with myriad contemporary crises, it would be tempting to argue that these basic indicators of international security are moving in the wrong direction. Indeed, some of the figures most associated with Responsibility to Protect (R2P) have reached precisely that conclusion: Michael Ignatieff warned of a ‘new world disorder’ characterised by a rise of ‘violence and hate’ whilst Louise Arbour argued that international society’s preferred approach ‘just doesn’t work’.⁹ But despite recent setbacks, a number of studies confirm a downward trend in mass violence against civilians.

The case for decline is relatively straightforward to sustain, thanks to a proliferation of work on the subject.¹⁰ Noted for his tendency for high-end casualty estimates, R. J. Rummel’s multiple surveys of ‘democide’ – the mass killing of people by their own government – in the twentieth century show a clear pattern of decline from a peak around the time of the Second World War.¹¹ This general trend is also found in the data presented by the Political Instability Task Force (PITF), which focuses on the incidence of government-sponsored mass killings and shows a sustained decline since 1993.¹² A similar view is presented by the Uppsala Conflict Data Programme (UCDP). UCDP provided data on one-sided violence for the 2013 Human Security Report that showed a steady decline in the number of cases from a peak in 2001 and a decline in the number of violent deaths globally.¹³ Whilst both scales registered a recent upswing caused by the conflict in Syria, this was not sufficient to reverse the overall trend. Usefully, the report also disaggregated the data by region, revealing marked declines in the Americas, Central and South Asia, East Asia and Oceania, Europe, and sub-Saharan Africa, and an upturn in the Middle East and North Africa.¹⁴ Pinker, meanwhile, aggregated the data from these sources and controlled for population growth to draw a clear picture of decline during the twentieth and early-twenty-first centuries.¹⁵ Smaller datasets point in the same direction, towards a decline in both the overall frequency and lethality of mass violence against civilians.¹⁶

⁹ Michael Ignatieff, ‘The new world disorder’, *The New York Review of Books* (25 September 2014), available at: <http://www.nybooks.com/articles/archives/2014/sep/25/new-world-disorder/?pagination=false> accessed 15 December 2015; Doug Saunders, ‘Why Louise Arbour is thinking twice’, *Globe and Mail* (28 May 2015), available at: <http://www.theglobeandmail.com/globe-debate/why-louise-arbour-is-thinking-twice/article23667013/> accessed 15 December 2015.

¹⁰ Taylor B. Seybolt, Jay D. Aronson, and Baruch Fischhoff (eds), *Counting Civilian Casualties: An Introduction to Recording and Estimating Nonmilitary Deaths in Conflict* (Oxford: Oxford University Press, 2013).

¹¹ R. J. Rummel, *Death by Government* (Piscataway, NJ: Transaction, 1994); R. J. Rummel, *Statistics of Democide* (Piscataway, NJ: Transaction, 1997).

¹² Benjamin A. Valentino, ‘Why we kill: the political science of political violence against civilians’, *Annual Review of Political Science*, 17 (2014), p. 100.

¹³ Human Security Report, *Human Security Report 2013: The Decline in Global Violence: Evidence, Explanation and Contestation* (Burnaby, BC: Simon Fraser University, 2013), p. 107.

¹⁴ *Human Security Report 2013*, pp. 107–13.

¹⁵ Pinker, *The Better Angels of our Nature*, pp. 338–43.

¹⁶ Alex J. Bellamy, ‘Mass Atrocities and Armed Conflict: Links, Distinctions and Implications for the Responsibility to Protect’, Policy Analysis Brief for the Stanley Foundation (February 2011); Alex J. Bellamy, *Massacres and Morality: Mass Killing in an Age of Civilian Immunity* (Oxford: Oxford University Press, 2012); Benjamin A. Valentino and Paul Huth, ‘Mass killing of civilians in time of war’, in J. Joseph Hewitt, Jonathan Wilkenfield, and Ted Robert Gurr (eds), *Peace and Conflict* (Boulder, CO: Paradigm, 2008), pp. 79–92; and Scott Straus, *Making and Unmaking Nations: War, Leadership and Genocide in Modern Africa* (Ithaca, NY: Cornell University Press, 2015), pp. 96–7. Though Straus does not, himself, draw inferences about change over time, we can extrapolate this from his dataset (Table 4.2).

Most recently, one of the leading forecasters of mass violence, Jay Ulfelder, observed that the data pointed towards a clear downwards trend and argued that ‘the spell of global political instability that began in the late 2000s has not yet produced a significant increase in the severity of one-sided violence around the world, at least as of the end of 2013’.¹⁷ The PITF reached a similar conclusion, charting a general decline between 1950 and 2011 and more recently a slight upturn towards levels experienced in the 2000s but not (yet) sufficient to change the overall trend.¹⁸ All of these datasets and observations relate specifically to the intentional use of lethal force against civilians, rather than to casualties of armed conflict generally. Indeed, a significant proportion of cases of one-sided violence against civilians occurs outside a context of armed conflict.

From this, it seems fair to suggest that the evidence points towards the decline of mass violence against civilians, a trend which may have begun before the end of the Cold War but which has become more apparent since. It is a trend that has been able to sustain individual shocks. Contemporary debates, therefore, tend to focus more on the *causes* of decline than on the *fact* of decline.¹⁹ It is important, of course, to recognise the limits of the data we have to hand and to acknowledge that it represents only our best approximation. For example, detailed qualitative and quantitative studies suggest that within-case patterns of mass violence are complex and uneven.²⁰ Moreover, some feminist scholars complain, rightly, that datasets do not take sufficient account of gender-based violence.²¹

The question of whether there has been a concomitant rise in global protection practice is somewhat more difficult to answer. Nonetheless, this question cannot be avoided since it lies at the heart of the issue of whether an IHPR has emerged in international society. To answer that question we need to look not just at the rhetoric of states but at their *practice*. Are they committing more physical resources to the protection of populations from atrocity crimes than before? A number of writers doubt whether there has been a change in this regard and thus question the practical salience of human protection norms.²²

It is possible to devise systematic tests to measure international society’s response to atrocity crimes over times. We can measure both the frequency and scale of collective responses over time. That is, we

¹⁷ Jay Ulfelder, ‘Genocide is going out of fashion’, *Foreign Policy*, 14 May (2015).

¹⁸ Monty G. Marshall and Benjamin R. Cole, *Global Report 2014: Conflict, Governance and State Fragility* (Vienna, VA: Center for Systemic Peace, 2014), pp. 18–19.

¹⁹ See, for example, Bradley Thayer, ‘Humans, not angels: Reasons to doubt the decline of war thesis’, *International Studies Review*, 15:3 (2013), pp. 411–16; Jack Levy and William R. Thompson, ‘The decline of war? Multiple trajectories and diverging trends’, *International Studies Review*, 15:3 (2013), pp. 405–11. Debate does persist on the fact of the decline too, however. Douglas Fry suggests that human life prior to 10,000 BCE was largely warfare-free. See Douglas P. Fry, *War, Peace and Human Nature: The Convergence of Evolutionary and Cultural Views* (Oxford: Oxford University Press, 2013).

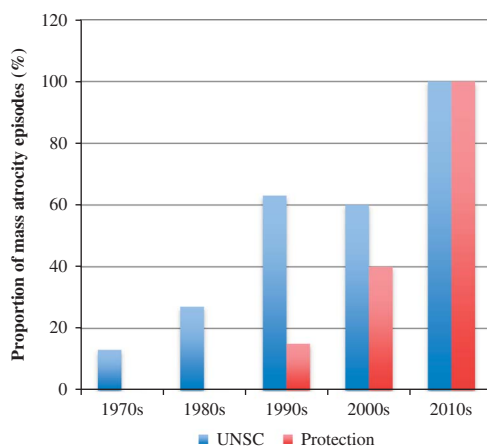
²⁰ Gerald Schneider and Margit Bussmann, ‘Accounting for the dynamics of one-sided violence: Introducing KOSVED’, *Journal of Peace Research*, 50:5 (2013), pp. 635–44.

²¹ Jacqui True, ‘Winning the battle but losing the war on violence: a feminist perspective on the declining global violence thesis’, *International Feminist Journal of Politics*, 17:4 (2015), pp. 554–72; Sara E. Davies and Jacqui True, ‘Reframing conflict-related sexual and gender based violence: Bringing gender analysis back in’, *Security Dialogue*, 46:6 (2015), pp. 495–512.

²² See, for example, Aidan Hehir, ‘The Responsibility to Protect: Sound and fury signaling nothing’, *International Relations*, 24:2 (2010), pp. 218–39; Aidan Hehir, ‘The permanence of inconsistency: Libya, the Security Council and the Responsibility to Protect’, *International Security*, 38:1 (2013), pp. 137–59; and Justin Morris, ‘Libya and Syria: R2P and the spectre of the swinging pendulum’, *International Affairs*, 89:5 (2013), pp. 1265–83.

Table 1. International responses to mass killing, 1970–2015.

Decade	New onsets	UNSC action	Protection
1970s	23	3	0
1980s	15	4	0
1990s	19	12	3
2000s	5	3	2
2010s	6	6	6

**Figure 1.** International responses to mass killing, 1970–2015.

can ascertain whether international society is becoming more or less likely to respond to mass atrocities and we can compare the scale of those responses in terms of the resources committed to them. There are a number of ways in which this might be done, but given that much of the debate about international society's responsiveness to mass atrocities focuses on the practices of the UN Security Council, I will do the same. To measure international responsiveness over time, I asked whether the UN Security Council reacted to cases of mass violence by passing a resolution and whether that response included a specific focus on protection. In other words, I focused not on the *rhetoric* used by the Security Council and its members (thus I do not count presidential statements and press statements) but on its tangible *practice* – the issuing of legally binding resolutions containing specific demands or measures intended to protect populations from atrocity crimes. These resolutions give rise to *actions* such as the deployment of peacekeepers and humanitarian workers or the disarmament of armed groups or removal of specific weapons and facilitate the allocation of *resources*. Comparing Security Council practices to a dataset of major episodes of atrocity crimes, I then charted the Council's performance since the 1970s.²³

Table 1, which includes the raw figures, and Figure 1, which illustrates change over time demonstrate that before the end of the Cold War, the UN Security Council's response to atrocity crimes was very limited. More often than not, it chose to not respond at all to mass atrocities. Even if we include

²³ Cases based on Bellamy, 'Mass Atrocities and Armed Conflict', and updated to take account of the most recent cases.

measures taken outside the Council, evidence suggests that during the Cold War, international society most often decided to not adopt measures to protect populations from atrocity crimes. This was principally because perpetrators were shielded by superpower politics, state sovereignty, and because of the weakness of relevant norms and institutions.²⁴ As a result, in a majority of cases where states perpetrated mass violence they were able to achieve their intended goals.²⁵

It is well known that with the end of the Cold War, the Security Council became more active, peacekeeping developed in form and size, and military interventions were often contemplated though still only rarely executed. Although some described this period as a 'golden age' of humanitarianism, international responses to mass violence remained fleeting.²⁶ In the 1990s, the Council issued resolutions in response to less than two-thirds of the major episodes of mass violence and where it did engage, the protection of populations from these crimes was seldom a priority, with the Security Council making specific provision for such protection only rarely. In the great majority of cases, therefore, to the extent that it was a consideration at all, the protection of people from mass violence was not a specified priority.²⁷ Although in the 1990s we can see the seeds of the emergence of an international human protection regime, protection practices themselves remained nascent until the very end of the decade.

Practices of human protection did not, therefore, emerge from nowhere at the end of the Cold War. They developed gradually through the 1990s, a decade that culminated in NATO's controversial intervention in Kosovo (1999) and the much less controversial Australian-led intervention in East Timor (1999), collective recognition of the world's failure in Rwanda and Kofi Annan's challenge for international society to resolve the tensions between sovereignty and human rights that so often relegated human protection to the margins of international concern.²⁸ Matters improved significantly during the 2000s as both the likelihood of response and the focus on protection increased, an upward trend that has continued into the 2010s (see Figure 1).

Since early 2011 especially, and the adoption of a series of landmark Security Council resolutions on Libya (Resolutions 1970 and 1973) and Côte d'Ivoire (Resolution 1975), mass atrocities have generated almost habitual international responses with the Security Council issuing resolutions in response to all six of the qualifying crises since that time. This occurred despite deep controversies concerning the implementation of these resolutions and the Council's perceived failures in Syria.²⁹ What is more, in each of these cases, the Security Council's response has included a discrete focus on the protection of civilians from harm. Indeed, in South Sudan (UNMISS), the Democratic Republic of Congo (MONUSCO), Central African Republic (MINUSCA), and Mali (MINUSMA), the protection of civilians is identified as the UN's *primary* objective. The same might also be said of the Security Council's divided and lukewarm efforts concerning Syria. Where the Council has come together on Syria, it has been to

²⁴ Bellamy, *Massacres and Morality*; Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society* (Oxford: Oxford University Press, 2000).

²⁵ Alex J. Bellamy, 'When states go bad: the termination of state based mass atrocities', *Journal of Peace Research*, 52:4 (2015), pp. 565–76; Alex de Waal and Conley-Zilkic, 'Reflections on how genocidal killings are brought to an end', *Social Science Research Council* (22 December 2006).

²⁶ Thomas G. Weiss, 'The sunset of humanitarian intervention? The Responsibility to Protect in a unipolar era', *Security Dialogue*, 35:2 (2004), p. 135.

²⁷ Wheeler, *Saving Strangers*, pp. 143–4.

²⁸ See Kofi Annan, *Interventions: A Life in War and Peace* (New York: Penguin, 2013), pp. 81–134.

²⁹ See Ramesh Thakur, 'R2P after Libya and Syria: Engaging emerging powers', *The Washington Quarterly*, 36:2 (2013), pp. 61–76; Thomas G. Weiss, 'Military humanitarianism: Syria hasn't killed it', *The Washington Quarterly*, 37:1 (2014), pp. 7–20.

focus on the question of protecting civilians – including the removal of specific threats to civilians (chemical weapons), the assurance of humanitarian relief even without the government’s consent, and the issuance of demands that the parties to the conflict comply with international humanitarian law.

We can therefore see an emerging pattern of practice towards heightened activism. Looking across the full range of the Security Council’s work, the NGO *Security Council Report* found that protection concerns were evident in ‘nearly all’ the Council’s resolutions and presidential statements.³⁰ There is therefore good reason to think that international protection practices have become more common over the past few decades. Not only is a Security Council response to mass violence much more likely than it was in the past, this response will almost certainly focus on protection, once considered a peripheral concern. These are tangible practices, not mere rhetoric. At the time of writing, in 2015, the UN has more than 100,000 military, police, and civilian personnel deployed around the world specifically mandated to protect civilians from harm. This compares to less than half that figure a decade ago and a total of zero personnel specifically mandated to protect civilians two decades ago. The daily lived reality of not only peacekeeping, but also peacebuilding and humanitarian work has changed over the past two decades as a result of the increasing focus on protection.³¹

Focusing on the Security Council captures only one part of international society’s response to mass violence. Evidence from other sectors, however, further confirms the general trends found here. For instance, regional organisations are getting more, not less, engaged in their own peacekeeping operations and those operations are also becoming larger, more complex, and more focused on protection.³² Given that both the AU missions in Somalia (AMISOM) and Central African Republic (MISCA) and NATO and EU missions in the former Yugoslavia included protection advisors, it seems fair to suggest that the prioritisation of protection practices applies to these organisations as well. Elsewhere, it is well recognised that an increasing proportion of violent conflicts and episodes of one-sided violence attract international mediation arising from both regional organisations and the UN, and sometimes (as in Kenya 2007–8 and Syria 2011–) both simultaneously, as well as from more informal sources.³³ Meanwhile, international peacebuilding has expanded in breadth and depth;³⁴ despite problems, international society’s human rights machinery has expanded, as have regional processes in the Global South, international criminal justice, transitional justice and truth commissions have proliferated;³⁵ and widespread or systematic sexual and gender based violence has come under the spotlight through regular UN reporting, targeted collective actions, a specifically targeted UK-led initiative to prevent sexual violence (PSVI), and a range of regional programmes.³⁶

³⁰ Security Council Report, *Protection of Civilians in Armed Conflict: Cross Cutting Report* (New York: Security Council Report, 2015), p. 28.

³¹ Lisa Hultman, Jacob Kathman, and Megan Shannon, ‘United Nations peacekeeping and civilian protection in civil war’, *American Journal of Political Science*, 57:4 (2013), pp. 875–91.

³² See Arthur Boutellis and Paul D. Williams, *Peace Operations, the African Union and the United Nations: Toward More Effective Partnership* (New York, International Peace Institute, 2013); Paul F. Diehl and Alexandru Balas, *Peace Operations* (2nd edn, Cambridge: Polity, 2014), pp. 74–5.

³³ Peter Wallensteen and Isak Svensson, ‘Talking peace: International mediation in armed conflicts’, *Journal of Peace Research*, 51:2 (2014), pp. 315–27.

³⁴ Alexandru Balas, Andrew P. Owsiak, and Paul F. Diehl, ‘Demanding peace: the impact of prevailing conflict on the shift from peacekeeping to peacebuilding’, *Peace and Change*, 37:2 (2012), pp. 195–226.

³⁵ See, for example, Kathryn Sikkink, *The Justice Cascade: How Human Rights Prosecutions are Changing the World* (New York: Norton, 2011).

³⁶ Sara E. Davies, Kimberly Nackers, and Sarah Teitt, ‘Women, peace and security as an ASEAN priority’, *Australian Journal of International Affairs*, 68:3 (2014), pp. 333–55.

Whilst practice has often lagged behind rhetorical commitment, and nowhere more so than with respect to gender equity, practices have typically moved in the direction of the commitments made.³⁷

Each of these has engaged in protection-related activities in the context of mass violence and all of these examples relate to *practices* not mere rhetoric – that is, the allocation of tangible resources for the specific purposes of protection populations from violence. Looking at it from the opposite perspective, it is difficult to think of a major international organisation that has become *less* engaged in the protection of populations from atrocity crimes in the past two decades.

Taken together, these practices lend credence to the claim that international society is becoming more proactive in its response to mass violence. Given that this increased activism coincides with a decline in the incidence of mass violence, there would also seem to be a *prima facie* case for thinking that the two are connected in that increased activism is contributing to declining mass violence. At the very least, this coincidence tells us that growing international engagement is not demand-driven, since global ‘demand’ for responses to mass violence was in decline. To understand the relationship between these two phenomena, we must therefore consider supply-side explanations that account for why states might be more willing than they once were to respond to mass violence by trying to protect the victims. The next section turns to one such possibility: the emergence of an IHPR.

An International Human Protection Regime

International regimes are sets of interconnected ‘principles, norms, rules, and decision-making procedures’ that govern state behaviour in specific issue areas.³⁸ In other words, they are prime examples of rules-based cooperation in world politics. International *protection* regimes are regimes focused on protecting ‘defined classes of people within sovereign states’.³⁹ Although most schools of thought in International Relations accept that regimes influence the behaviour of states, precisely how they do so remains the subject of debate. For neoliberals, the IHPR would be best understood as cooperation aimed at maintaining order in world politics by managing some of its deadly conflicts. For them, international regimes help states solve inefficiencies caused by uncertainty, imperfect information, and collective action problems and therefore persist by promoting and regulating cooperation. They are, Robert Keohane tells us, instruments established by states to help them achieve their interests and it is this commonality of underlying interest that explains their capacity to influence behaviour as states recognise that their interests are better served by common adherence to a set of rules than by short-term advantages that might be accrued by defection.⁴⁰ In practice, as Oran Young points out, once institutions are established they are not easily changed, creating additional incentives for compliance.⁴¹ Although somewhat convincing, since it points to the

³⁷ See, for example, Sahana Dharmapuri, ‘More than just a number game: Increasing women’s participation in UN peacekeeping’, International Peace Institute, Providing for Peacekeeping Project, thematic paper no. 4 (New York, 2013).

³⁸ Steven D. Krasner, ‘Structural causes and regime consequences: Regimes as intervening variables’, in Steve D. Krasner (ed.), *International Regimes* (Ithaca, NJ: Cornell University Press, 1983), p. 2.

³⁹ Cronin, *Institutions for the Common Good*, p. 3.

⁴⁰ Robert Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, NJ: Princeton University Press, 1984), pp. 80–1.

⁴¹ See Oran Young, ‘International regimes: Toward a new theory of institutions’, *World Politics*, 39:1 (1986), pp. 104–22; Oran Young, *International Cooperation: Building Regimes for Natural Resources and the Environment* (Ithaca, NY: Cornell University Press, 1989).

collective action and coordination problems that helped give rise to new institutions and practices associated with protection, it is prefaced on an assumed prior recognition of shared interests in limiting mass violence that cannot be explained by rational self-interests alone.

Others might see the IHPR as simply an outgrowth of Western hegemony. A common realist/neorealist explanation is that regimes are established by hegemonic powers to advance their own interests or to protect the *status quo*.⁴² From this perspective – one that is shared by some ‘critical’ scholars⁴³ – the IHPR is simply an extension of Western influence into the non-Western world designed to impose order on the periphery and (by some accounts) export Western liberalism. The problem in this case is that the regime developed without significant great power support and even in the face of pronounced opposition to some aspects of it, such as US opposition to the International Criminal Court (ICC), and aspects of it were actively championed by states in the Global South (such as Guatemala).

Viewing the international as essentially social, constructivists maintain that social structures help constitute actors’ identities, that these identities tell actors who they are, what they want, and what they are prepared to do to get it, and that these actors form societies governed by norms, which establish appropriate behaviours and condition that types of actors and actions will be considered legitimate.⁴⁴ With legitimacy comes support; with illegitimacy comes opprobrium and opposition. As such, actions that correspond with a society’s shared norms will attract fewer costs than those that violate shared norms, and these calculations influence behaviour. Regimes arise out of shared *ideas* about the world (for example, the idea that civilians ought not be targeted by mass violence) and operate in this context by shaping beliefs about identities, appropriate behaviours, and legitimate responses to non-compliance through processes of learning and socialisation.⁴⁵ By focusing on ideas, this account has the virtue of tying the IHPR to ideas about the prohibition of civilian targeting in war and can explain how great powers were bound into a framework that, although not of their own creation, has exerted influence of their behaviour.

To some extent, however, the emergence of the IHPR confounds each of these expectations, since the regime emerged not from a particular state or group of states but rather from a set of interrelated practices pioneered by different sets of actors. Instead, the IHPR evolved from at least eight interconnected streams of norms, rules, practices, and institutional developments that emerged, in a variegated way, in response to different aspects of civilian suffering during war: (1) the extension of international humanitarian law; (2) the UN Security Council’s focus on civilian protection and

⁴² For the former see Steven Krasner, *Sovereignty: Organized Hypocrisy* (Princeton, NJ: Princeton University Press, 1999); for the latter see Robert Gilpin, *War and Change* (Cambridge: Cambridge University Press, 1981).

⁴³ Such as Tara McCormack, ‘The Responsibility to Protect and the end of the Western century’, *Journal of Intervention and Statebuilding*, 4:1 (2010), pp. 69–82; and Jeremy Moses, *Sovereignty and Responsibility: Power, Norms and Intervention in International Relations* (London: Palgrave, 2014).

⁴⁴ See Christian Reus-Smit, *The Moral Purpose of the State: Culture, Social Identity and Institutional Rationality in International Relations* (Princeton, NJ: Princeton University Press, 1999); Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999).

⁴⁵ See Peter Haas, ‘Do regimes matter? Epistemic communities and Mediterranean pollution control’, *International Organization*, 43:3 (1989), pp. 377–403; Emmanuel Adler and Peter Haas, ‘Conclusion: Epistemic communities, world order, and the creation of a reflective research program’, *International Organization*, 46:1 (1992), pp. 367–90. For an example of the application of this type of thinking to a related regime see Nuket Kardam, ‘The emerging global gender equality regime from neoliberal and constructivist perspectives in International Relations’, *International Feminist Journal of Politics*, 6:1 (2004), pp. 85–109.

incorporation of protection into the mandates of peace operations; (3) the development of international regimes focused on specific vulnerabilities, including those faced by refugees, displaced persons, women, and children; (4) the strengthening of global human rights promotion; (5) the development of international criminal justice; (6) an emerging focus on protection amongst humanitarians; (7) the embracing of protection by some regional organisations; and (8) the political commitment to R2P in 2005 and its implementation thereafter. These streams, which were in the main developed without specific regard for the broader human protection regime, reflect the varied concerns and interests of the various norm entrepreneurs and carriers and thus emphasise different components of protection. They were all, in some ways, connected to rise of theories and practices of human security.⁴⁶ Some of these streams, notably IHL, have roots stretching back beyond the Cold War. But it is their collective force, not each individual stream, that instantiates the IHPR and this began in earnest only after the Cold War and accelerated significantly in the early twenty-first century. This was facilitated by the strengthening norm of civilian immunity, itself assisted by the rise of global communications, which established a transmission belt of information about atrocity crimes that made it more difficult for the realities of mass violence to be obscured.⁴⁷ This uneven set of developments produced a comprehensive regime that deals with many specific types of vulnerability in the face of mass violence but (owing to the fact that there is no overall design) it has also left important gaps, which are discussed below.

The first stream, which arguably lays the foundation for all the rest, is IHL.⁴⁸ After the Second World War, IHL was developed and codified in a series of international treaties. In 1947, the newly established UN General Assembly approved the Genocide Convention, which prohibited the crime of genocide and assigned all states a legal duty to prevent it and punish the perpetrators. The laws of war were further codified in the four Geneva Conventions (1949), two additional protocols (1977), and in a range of protocols covering the use of Certain Conventional Weapons (1980, 1995, 1996, 2008). Of particular importance were Common Article 3 of the 1949 Geneva Conventions, which committed parties to respect the human rights of all those placed *hors de combat*, and the Convention on the Protection of Civilian Persons (Convention IV), which offered legal protection to non-combatants in occupied territories.⁴⁹ The Geneva Protocols (1977) extended the legal protection afforded to non-combatants to situations of non-international armed conflict. IHL thus established a normative standard of civilian protection that not only prohibited attacks on non-combatants and restricted the use of certain weapons but also called for the prevention of atrocity crimes (genocide) and punishment of perpetrators.

The second stream relates to the adoption by the UN Security Council of a thematic agenda on the protection of civilian in armed conflict and the translation of this agenda into protection mandates for UN peacekeeping operations. Since 1998, the UN Security Council has adopted a relatively broad civilian protection agenda that encompasses demands for compliance with IHL, operational issues connected to peace operations and humanitarian access, international responses to humanitarian emergencies, disarmament issues, and peacebuilding.⁵⁰ Since then, the Council has held a series of

⁴⁶ MacFarlane and Khong, *Human Security and the UN*.

⁴⁷ See Bellamy, *Massacres and Morality*.

⁴⁸ Alex J. Bellamy and Paul D. Williams, 'Protecting civilians in uncivil wars', in Sara E. Davies and Luke Glanville (eds), *Protecting the Displaced: Deepening the Responsibility to Protect* (The Hague: Martinus Nijhoff, 2010), p. 142.

⁴⁹ See Alwyn V. Freeman, 'War crimes by enemy nationals administering justice in occupied territory', *American Journal of International Law*, 41:3 (1947), pp. 579–610; Oliver Durr, 'Humanitarian law of armed conflict: Problems of applicability', *Journal of Peace Research*, 24:3 (1987), p. 268.

⁵⁰ See UN Doc. S/1998/318, 13 April 1998. For a recent overview see Security Council Report, *Protection of Civilians in Armed Conflict*.

open meetings on the protection of civilians, establishing it as one of its major thematic interests. These meetings established a shared understanding that the protection of civilians from mass violence is a matter of international peace and security that legitimately falls under the purview of collective security. In 1999, the Council unanimously adopted Resolution 1265, expressing its 'willingness' to consider 'appropriate measures' in response 'to situations of armed conflict where civilians are being targeted or where humanitarian assistance to civilians is being deliberately obstructed' and expressed the Council's willingness to explore how peacekeeping mandates might be reframed to afford better protection to endangered civilians. In 2006, it adopted another landmark resolution (Resolution 1674) on this theme which demanded that parties to armed conflict grant unfettered humanitarian access to civilians, restated the Council's willingness to take action in cases where civilians were deliberately targeted and reaffirmed R2P.

Perhaps the principal way in which the Council has lent practical support to civilian protection agenda is through its peacekeeping operations. Starting in 1999 with the UN mission in Sierra Leone (UNAMSIL), the Security Council has invoked Chapter VII of the UN Charter with increasing regularity to authorise peacekeepers to use all means necessary to protect civilians.⁵¹ Today, civilian protection and the authorisation of 'all means necessary' to that end are core aspects of UN peacekeeping and central to many of its new mandates, such as those for the Central African Republic (MISCA), Mali (MINUSMA), and South Sudan (UNMISS). In the Democratic Republic of Congo (DRC), the Security Council went even further by tasking a 'Force Intervention Brigade' to take the fight to those non-state armed groups that employ mass violence against civilians.

The third stream is the development of international regimes focused on specific vulnerabilities, including those faced by refugees, displaced persons, women, and children. Since the end of the Second World War, international society has periodically recognised groups that are exposed to particular vulnerabilities and has established mechanisms aimed at addressing or reducing those vulnerabilities. Of these, the best developed is the international refugee regime governed by the 1951 Refugee Convention and subsequent 1967 Protocol and overseen by the UN High Commissioner for Refugees (UNHCR). This system grants people facing persecution the right to claim asylum and receive resettlement in third-party countries and mandates the UNHCR to ensure that refugees have access to protection and durable solutions to their displacement.⁵² During the 1990s, it became apparent that this system was unable to cope with a new displacement crisis – that of *internal* displacement: people forced from their homes by mass violence and other ills but remaining within their host country. As a largely 'domestic' issue there was little appetite for an international convention governing the displaced, so instead the UNHCR extended its mandate to cover the protection of all displaced persons and UN officials developed 'guiding principles' for their treatment based on the human rights they already enjoyed.⁵³

Other groups made especially vulnerable by mass violence have also been made subject to specific protection regimes. One longstanding facet of mass violence that gained political prominence only in

⁵¹ See Kofi Nsia-Pepira, *UN Robust Peacekeeping: Civilian Protection in Violent Civil Wars* (London: Palgrave, 2014); Benjamin De Carvalho and Ole Jacob Sending, *The Protection of Civilians in UN Peacekeeping: Concept, Implementation and Practice* (Berlin: Nomos, 2012); and Siobhan Wills, *Protecting Civilians: The Obligations of Peacekeepers* (Oxford: Oxford University Press, 2009).

⁵² Gil Loescher, Alexander Betts, and James Milner, *The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the Twenty-First Century* (London: Routledge, 2008), pp. 2–3.

⁵³ Roberta Cohen, 'Developing an international system for internally displaced persons', *International Studies Perspectives*, 7:2 (2006), pp. 87–101.

the 1990s was sexual and gender based violence. The use of rape as a weapon of war in Bosnia and elsewhere helped shine a light on this practice and pushed the UN Security Council to establish the protection of women and girls as one of the principal elements of its ‘Women, Peace and Security’ agenda adopted in Resolution 1325 (2001).⁵⁴ Since then, the UN has established a number of mandates focused on the prevention of sexual and gender based violence, including the post of special representative of the secretary-general focused on the issue, and has instituted a series of annual reports that identify where these crimes are committed and advocate for steps to be taken in response. The global organisation has also begun to mainstream the protection of women and girls through, for example, the deployment of women’s protection advisers.⁵⁵ Beyond the UN, the British government launched a Prevention of Sexual Violence Initiative (PSVI). These developments have been paralleled by a range of initiatives focused on protecting children in armed conflict. Also led by the UN Security Council, the UN has appointed a Special Representative on the protection of children, which reports on the unique protection challenges facing children and related issues such as the recruitment of child soldiers.

The fourth stream relates to those elements of the global human rights system that relate to mass violence. Whilst human rights as a whole constitutes its own regime whose reach is wider and deeper than that of the IHRP, principles, norms, and decision-making structures connected with human rights do make an important contribution.⁵⁶ Two aspects in particular stand out but these are illustrative rather than definitive since the overlap is extensive and complex. First, emerging principles and practices of peer-to-peer review are helping to create expectations about the types of steps that states ought to take in order to protect their populations from various forms of abuse, including mass violence. Whilst the most intransigent states remain largely unmoved, there is increasing evidence that peer review activities are influencing many states towards greater compliance with their human rights obligations.⁵⁷ The second aspect relates to human rights investigations that inform decision-making within the IHRP. Over the past two decades, international society has made increasing use of permanent and *ad hoc* arrangements for human rights monitoring and reporting in its decision-making on mass violence. Through a variety of different mechanisms, such as independent commissions and inquiries, the appointment of special rapporteurs to report on thematic or country situations or fact-finding missions established by the UN secretary-general, international society is increasingly utilising human rights mechanisms to monitor and prevent mass violence. Most obviously, this reporting helps support decision-making on mass violence and promotes norm compliance.⁵⁸ The fifth stream is the development of international criminal justice, notably through the International Criminal Court (ICC) and a series of special and *ad hoc* tribunals.

⁵⁴ Janie L. Leatherman, *Sexual Violence and Armed Conflict* (Cambridge: Polity, 2011).

⁵⁵ See Louise Olsson and Theodora-Iseme Gizelis, *Gender, Peace and Security: Implementing UN Security Council Resolution 1325* (London: Routledge, 2015); Sara E. Davies, Sarah Teitt, Eli Stammes, and Zim Nwokora (eds), *Responsibility to Protect and Women, Peace and Security: Aligning the Protection Agendas* (The Hague: Brill, 2013).

⁵⁶ See 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).

⁵⁷ Roland Chauville, ‘The universal periodic review’s first cycle: Successes and failures’, in Hilary Charlesworth and Emma Larking (eds), *Human Rights and Universal Periodic Review: Rituals and Ritualism* (Cambridge: Cambridge University Press, 2014), pp. 87–108.

⁵⁸ According to Risse and Ropp, the gathering of information is key for applying pressure on governments and mobilizing action. See Thomas Risse and Stephen C. Ropp, ‘Introduction and overview’, in Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds), *The Persistent Power of Human Rights: From Commitment to Compliance* (Cambridge: Cambridge University Press, 2014), p. 8.

These institutions have proliferated since the mid-1990s and contribute to protection by holding individual perpetrators accountable for their actions. Proponents argue that by ending impunity such institutions help deter would-be perpetrators and give some legal protection to the victims.⁵⁹ The Rome Statute establishing the ICC in 1998 held that the court's jurisdiction could be invoked when a state party proved unwilling or unable to investigate evidence pointing to the commission of widespread and systematic war crimes, crimes against humanity and genocide. The ICC prosecutor could initiate proceedings in cases where s/he was able to persuade a panel of judges, where a complaint was made by a signatory state, or when the Security Council referred a case to the prosecutor. The Security Council also reserved the right to postpone investigations by one year. To date, the Security Council has referred situations in Darfur and Libya to the ICC and the governments of the DRC, Uganda and the Central African Republic have requested that the ICC investigate and prosecute crimes committed in their countries. An investigation into Kenya was triggered by the fact that this country is a signatory to the Rome Statute. It remains too early to comment on the court's effectiveness or its potential to deter mass violence, though evidence is emerging that the ICC can deter some would-be perpetrators.⁶⁰ More broadly, evidence suggests that transitional justice not only makes reoccurrence less likely whilst improving general human rights within the target country, but also has deterrent effects that spill over into other countries.⁶¹

The sixth stream relates to principles of humanitarian action that state that civilians should be provided with life-sustaining relief on the basis of need. The notion that civilians ought to receive humanitarian assistance in wartime dates back to the nineteenth century and was integral to the development of humanitarianism. Those rights and expectations were incorporated into IHL but their applicability gradually expanded during the 1990s. The UN Security Council began authorising peacekeeping missions to support the delivery of humanitarian aid and, in the cases of Somalia and Bosnia, authorised the use of force to achieve this end. What is more, in a series of resolutions the Council *demand*ed that parties to armed conflict grant unfettered access to humanitarian agencies. In Resolution 2165 (2014) the Council took this one step further, authorising the delivery of humanitarian aid into Syria without that government's consent.

Human protection agenda has also been fostered at the regional level, and this is the seventh stream. The foundations for Europe's engagement with civilian protection, for example, were laid in the 1970s with the Helsinki Accords. Over time, these provided the basis for a Conference on Security and Cooperation in Europe (CSCE) mechanism and when, in 1995, the CSCE was transformed into the OSCE it was given additional responsibility and capacities to protect human rights.⁶² The EU also started to develop a civilian protection role, exemplified by the French-led multinational force in eastern DRC (*Operation Artemis*, 2003), EUFOR T/chad/RCA deployed into Chad and Central African Republic (CAR) in 2007 to protect civilians, and the 2014 EUFOR operation in the CAR (*EUFOR RCA*). For its part, the African Union (AU) has established a comprehensive regional system for crisis management and response that includes a specific focus on the protection of civilians from mass violence. Article 4(h) of the AU's Constitutive Act enshrines the Union's right to intervene

⁵⁹ William Schabas, *Unimaginable Atrocities: Justice, Politics and Rights at the War Crimes Tribunals* (Oxford: Oxford University Press, 2012), p. 57.

⁶⁰ Hyeran Jo and Beth A. Simmons, 'Can the International Criminal Court deter atrocity?', *Social Science Research Network* (2014).

⁶¹ Hunjoon Kim and Kathryn Sikkink, 'Explaining the deterrence effects for human rights prosecutions in transitional countries', *International Studies Quarterly*, 54:4 (2010), pp. 939–63.

⁶² Walter Kemp, *The OSCE in a New Context* (London: Royal Institute of International Affairs, 1996).

in the affairs of its member states in issues relating to genocide and mass atrocities. The AU's peacekeeping operation in Darfur (AMIS) included a civilian protection mandate and the Union's missions in Mali, CAR, and Somalia have also supported civilian protection. In Latin America, states have established a comprehensive regional human rights mechanism and even the sovereignty-minded region of Southeast Asia has become to develop its own mechanisms for promoting human rights and protection through the ASEAN Intergovernmental Commission on Human Rights.⁶³

The eighth stream is the Responsibility to Protect (R2P) principle. In late 2005, world leaders unanimously adopted R2P in paragraphs 138–40 of the UN World Summit Outcome Document. This commitment was subsequently reaffirmed by both the UN Security Council and General Assembly, which also committed to ongoing consideration of its implementation. The secretary-general, Ban Ki-moon identified the implementation of R2P as one of his main priorities oversaw its institutional development within the UN.⁶⁴ Meanwhile, the principle has become part of the working language framing international engagement on atrocity crimes.⁶⁵ The Security Council has referred to R2P in more than thirty resolutions and has employed the principle in a variety of different ways.

These eight streams of practice, which were developed along parallel but distinct trajectories by different collections of actors, coalesce to form an IHPR that regulates the behaviour of combatants in armed conflict and international responses. In particular, the regime increases the likelihood of international responses to mass violence, ensures that protection concerns are central to those responses, and guides the form of response. By inhibiting actors through normative pressure and increasing the likelihood of response, the rise of the IHPR makes a substantial contribution to the decline in mass violence described earlier.

To understand how these streams hang together in the IHPR, it is useful to borrow Steven Krasner's classic definition of an international regime and work through each of its elements. Krasner's basic definition of a regime as comprising four elements (principles, norms, rules, and decision-making practices) has rightly been criticised for being conceptually thin because it offers little guidance on how to identify and distinguish between the different elements of a regime.⁶⁶ Our purpose here, though, is to use the framework only for illustrative purposes – to show how the elements hang together rather than to provide a comprehensive account of the regime with all its intricacies. A detailed accounting and assessment of the IHPR would require lengthier analysis than is possible here.

The first are *principles*, which Krasner defines as 'beliefs of fact, causation, and rectitude'.⁶⁷ We might suggest that the IHPR rests on four such principles. First, a normative principle, shared by all the world's major religions and ethical codes, that non-combatants ought not to be subjected to mass violence.⁶⁸ Second, a causal principle that connects mass violence against civilians with heightened levels of international disorder. Third, a principle that recognises that as well as relations between

⁶³ See Paul D. Williams, 'From non-intervention to non-indifference: the origins and development of the African Union's security culture', *African Affairs*, 106:423 (2007), pp. 253–79; Boutellis and Williams, *Peace Operations, the African Union and the United Nations*.

⁶⁴ Ban Ki-moon, 'Implementing the Responsibility to Protect: Report of the Secretary-General', UN Doc. A/63/677, 12 January 2009.

⁶⁵ Annan, *Interventions*.

⁶⁶ Young, 'International regimes', p. 106.

⁶⁷ Krasner, 'Structural causes and regime consequences', p. 2.

⁶⁸ See Bellamy, *Massacres and Morality*.

states, what occurs within states has normative and practical implications for international peace and security. Fourth, a principle of collective action (for example, the problem of mass violence can be mitigated only by cooperation between states).

The second characteristic of a regime are its *norms* – understood here as shared expectations about appropriate behaviour for an actor with a given identity.⁶⁹ The IHPR comprises a dense web of norms, proscribing and prescribing different courses of action for different actors. One set of norms, for example, restrain the behaviour of combatants. They include the principles of discrimination and non-combatant immunity (combatants must not target non-combatants); the principle of proportionality (combatants must not use disproportionate force); norms prohibiting or limiting the use of certain types of weapons that might cause undue harm to civilians; (chemical and biological, land mines, cluster munitions); norms prohibiting physical abuses other than intentional killing such as sexual violence, kidnapping, forced displacement, and torture; and norms prohibiting violence against certain groups (humanitarians, peacekeepers, children). Another set of norms require positive actions by combatants such as the granting of humanitarian access, respect for safe areas and ceasefires, and cooperation with international actors. A third set of norms set expectations about appropriate international responses by prescribing positive actions by different third parties. For example, the UN Security Council’s responsibility to take ‘timely and decisive action’ in the face of mass violence; the ICC’s responsibility to investigate and punish perpetrators within its jurisdiction; the responsibility of humanitarian agencies to provide aid to civilians; the responsibility of peacekeepers to protect civilians from attack within their areas of operations; the responsibility of human rights organisations to uncover and investigate alleged abuses; and the responsibility of regional organisations to contain and manage conflicts within their regions. It bears mentioning that each of these norms operates beneath a broader set of norms governing international behaviour – those associated with the UN system and its collective security system. The IHPR was developed *within* the UN’s collective security system and remains squarely part of that order, self-consciously so in many respects.

The third property of a regime, *rules*, are specific prescriptions or proscriptions that dictate how states (and other actors) should act in order to comply with the regime’s norms. Different parts of the IHPR are governed by different sets of rules, but each of the streams includes specific rules that guide behaviour. Some are complex and detailed, for example the rules governing the ICC’s criminal prosecutions, the status of forces agreements and rules of engagement that dictate what peacekeepers are able to do, or the rules that govern human rights operations within a particular country. Other rules, however, remain quite vague. Immense discretion is granted to the UN Security Council, by both the UN Charter and relevant aspects of the IHPR, to determine for itself when and how it will act to satisfy the shared norms and judge its own performance.

Mapping the various *decision-making structures* related to the IHPR is beyond the scope of this article. Because the IHPR developed from within, and is part of, the UN’s collective security system, it shares, to some extent, decision-making procedures and ‘prevailing practices for making and implementing collective choice’ with that order.⁷⁰ As such, key decisions about whether to deploy international forces, impose sanctions for non-compliance, authorise the delivery of humanitarian aid, or establish *ad hoc* international tribunals are taken by the UN Security Council, utilising

⁶⁹ See, for example, Martha Finnemore, *National Interests in International Society* (Ithaca, NY: Cornell University Press, 1996), p. 22.

⁷⁰ Krasner, ‘Structural causes and regime consequences’, p. 2.

powers granted to it in order to maintain international peace and security by the UN Charter in 1945. Other components of the regime are governed by their own decision-making structures but sometimes overlap with the authority of the Security Council. For example the Rome Statute of the ICC carefully prescribes the Court's decision-making but its jurisdiction can be imposed on non-parties to the Statute by the UN Security Council. Elements of IHL also have their own decision-making structures, such as conferences of the state parties and complaints procedures, as do regional organisations, the UN's human rights machinery, and complementary regional systems.

Because the IHPR has developed in a fragmented and *ad hoc* manner, there are inevitably gaps in its coverage. These include, first, the gap between *expectations and capabilities*. Whilst expectations about human protection have progressed apace, international society's capacity has not grown sufficiently to satisfy them. Some states simply lack the capacity to protect their populations, others lack the political will, and international actors can improve protection but not provide the degree of protection offered by stable states and societies owing to limited capacity and the complexities of comprehensive protection. Second, there are *geographic coverage* gaps. The global density of the IHPR is uneven owing, for example, to the nature and coverage of regional arrangements and the fact that not all states are signatories to all elements of IHL or the Rome Statute of the ICC. Third, there are *agency* gaps since the regime relates more to states than to non-state actors, resulting in a lack of clarity about the protection responsibilities of non-state armed groups but also with respect to the self-protection activities of local communities and the role of the private sector. Fourth, there remain *substantive* gaps. Whilst some indiscriminate weapons (such as land mines and cluster munitions) have been banned in some parts of the world, others (such as nuclear weapons) have not yet been banned anywhere. Likewise, whilst some protection practices have progressed apace, others – most notably the protection responsibilities of occupying powers – have not been developed beyond their starting positions (in this case, in the 1949 Geneva Conventions).⁷¹ Another substantive gap lies in the protection of women and children from sexual and gender-based violence – forms of violence that remain quite common in non-war settings. Fifth, there are *coherence* gaps. Not only does the lack of coherence and coordination across various streams of human protection produce inefficiencies, action in one protection stream might negatively impact upon activities in another stream.⁷² Understanding these gaps more precisely should be part of the IHPR's future research agenda; closing them will undoubtedly be part of its future political agenda.

Human protection and the decline in mass violence

Evaluation of the association of the IHPR with the decline in mass violence can be parsed into two specific questions: whether the international practices associated with the regime have positive effects in terms of reducing the extent of mass violence and the extent to which participation in those actions is influenced by the regime. If it were possible to answer both these questions in the affirmative, then there would be strong grounds for drawing an association between the regime and the decline in mass violence.

The first question is the most straightforward to answer owing to the abundance of studies, some already cited, demonstrating the positive effects of individual components of the IHPR. Amongst

⁷¹ Thakur, 'R2P after Libya and Syria', p. 331.

⁷² See, for example, Sarah Kenyon Lischer, 'Military intervention and the humanitarian "force multiplier"', *Global Governance*, 13:1 (2007), pp. 99–118.

other things, recent studies have demonstrated that: the deployment of peace operations to a country reduces the likelihood of conflict reigniting;⁷³ the deployment of peacekeepers with civilian protection mandates reduces the incidence of attacks on civilians within the areas of operations;⁷⁴ armed interventions targeting the perpetrators reduce the severity of genocide whilst impartial third-party interventions reduces the incidence of mass killing in the longer term;⁷⁵ effective humanitarian operations reduce casualties by providing life sustaining relief and sanctuary for displaced populations; naming and ‘shaming’ perpetrators of grave abuses of human rights tends to improve human rights practices especially when this is combined with pressure from third-parties and other factors;⁷⁶ and transitional justice mechanisms that hold perpetrators to account for their past crimes improve human protection within the country concerned and deter violations by others.⁷⁷ Although there are fewer studies on the effectiveness of the protection of women and girls from sexual and gender-based violence, the studies suggest that well-calibrated multi-actor initiatives can reduce the incidence of violence and that the *absence* of specific initiatives is associated with heightened risk.⁷⁸

Combined, these studies provide strong grounds for thinking that the regime as a whole exerts significant downward pressure on mass violence. It does this in three principal ways. First, by increasing the expected costs likely to be incurred directly by perpetrators, including the social costs associated with ‘naming and shaming’, the personal costs associated with criminal prosecution, and the heightened potential for third-party armed intervention. Second, by making it more difficult for perpetrators to achieve their goals through, for example, the interposition of peacekeepers and humanitarians, and the reporting of human rights monitors. Third, by increasing the direct protection afforded to vulnerable populations in the form of military peacekeepers, humanitarian action, or opportunities for flight.

But even if it is demonstrably the case that these, and other, practices exert downwards pressure on mass violence, it does not necessarily follow that the IHPR is having an effect. After all, these effects might be the unintentional by-products of actions taken for other reasons or simply a result of chance. How can we know why third-party states do what they? First of all, we can discount chance. We know that the effects described above are the result of deliberate choices by states and not simply the accumulation of random or ‘consistently inconsistent’ decisions. Lisa Hultman, for example, has demonstrated that the likelihood of the UN Security Council authorising a peacekeeping operation in the context of a civil war is greater in situations where the warring parties are targeting civilians.⁷⁹ Lending more support to the regime theory, she shows that although the pattern is evident across the

⁷³ Virginia Page Fortna, *Does Peacekeeping Work? Shaping Belligerents’ Choices After Civil War* (Princeton, NJ: Princeton University Press, 2008).

⁷⁴ Hultman, Kathman, and Shannon, ‘United Nations peacekeeping’.

⁷⁵ Matthew Krain, ‘International intervention and the severity of genocides and politicides’, *International Studies Quarterly*, 49:3 (2005), pp. 363–80; Jacob Kathman and Reed Wood, ‘Managing threat, cost, and incentive to kill: the short- and long-term effects of intervention in mass killing’, *Journal of Conflict Resolution*, 55:5 (2011), pp. 735–60.

⁷⁶ Amanda M. Murdie and David R. Davis, ‘Shaming and blaming: Using events data to assess the impact of Human Rights INGOs’, *International Studies Quarterly*, 56:1 (2011), pp. 1–16.

⁷⁷ Kim and Sikkink, ‘Explaining the deterrence effects’.

⁷⁸ J. Spangaro, C. Adogu, G. Ranmuthugala, G. Powell Davies, L. Steinacker, and A. Zwi, ‘What evidence exists for initiatives to reduce risk and incidence of sexual violence in armed conflict and other humanitarian crises? A systematic review’, *PLoS ONE*, 8:5 (2013).

⁷⁹ Lisa Hultman, ‘UN peace operations and the protection of civilians: Cheap talk or norm implementation?’, *Journal of Peace Research*, 50:1 (2013), pp. 59–73.

whole period between 1989 and 2006, it is particularly strong after 1999. These findings are supported by earlier studies showing that the severity of a crisis and risk of escalation are the best predictors of Security Council involvement.⁸⁰ From this, it would seem fair to suggest that third-party activism in response to mass violence is increasing because states are *choosing* to become more actively involved.

The best way of ascertaining *why* states are making this choice with increasing frequency is by looking at how they explain their actions. Over the past few years states of all varieties, and not just Western liberal states, have repeatedly explained their actions in diverse and sometimes highly politicised settings as being influenced by human protection concerns. Most obviously, states have recognised their own support for these norms. Among the most controversial of the norms associated with the IHPR is R2P. Yet, an overwhelming majority of states have pledged their support for it. At the September 2014 General Assembly dialogue on R2P, China described R2P as a 'prudential norm', argued that 'states should establish relevant policies and mechanisms' for its implementation, and noted the appropriateness of international measures to support R2P, including the use of force 'as a last resort'. At the same meeting, India noted that R2P 'was agreed [upon] by all' and Indonesia offered emphatic support, saying it 'fully subscribes to the finest purposes and objectives of the concept of R2P'.⁸¹ These statements – all from the global South and including governments often considered quite hostile to R2P – provide strong support for the idea that states accept and recognise norms associated with the IHPR.

But it is one thing to commit to a principle, another thing entirely to allow that principle to influence behaviour. But not only is there abundant evidence of compliant practices and matching rhetoric, demonstrated in part in the first section of this article and evident in the statements made by states to justify decisions to take collective action in crises such as South Sudan, Central African Republic, Mali, Democratic Republic of Congo, Somalia, and Darfur but there is also evidence to suggest that in the most difficult of cases, where geopolitical interests and countervailing norms are strongest, the IHPR may sometimes induce states to do things that they would not ordinarily do.

In February 2011, the UN Security Council reacted with unprecedented speed to the unfolding crisis in Libya. Within a few days of the upsurge of violence there, the Security Council unanimously imposed a range of coercive measures without the consent of the Libyan government, including financial and arms embargoes and a referral to the ICC. Why did states such as Russia and China, who would normally object to such measures at such an early stage in a crisis, support Resolution 1970? Russia's formal answer was characteristically direct: 'The Russian Federation supported Security Council resolution 1970 (2011) because of our serious concern over the events taking place in Libya. We sincerely regret the many lives lost among the civilian population. We condemn the use of military force against peaceful demonstrators and all other manifestations of violence and consider them absolutely unacceptable. We call for an immediate⁸² end to such actions. We exhort the Libyan authorities to comply with the demands of the international community'. Likewise, China explained its affirmative vote by noting that 'it is of the greatest urgency to secure the immediate cessation of violence, avoid further bloodshed and civilian casualties, restore stability and normal

⁸⁰ Kyle Beardsley and Holger Schmidt, 'Following the flag or following the charter? Examining the determinants of UN involvement in international crises 1945–2002', *International Studies Quarterly*, 56:1 (2012), pp. 33–49.

⁸¹ All cited in Alex J. Bellamy, 'The Responsibility to Protect turns ten', *Ethics and International Affairs*, 29:3 (2015), pp. 161–85.

⁸² UN Doc. S/PV.6491, 26 February 2011, p. 4.

order as soon as possible'.⁸³ In other words, although other factors were obviously at play, both states saw the crisis in Libya squarely in terms of the IHPR. These concerns were evident a few weeks later when both states took the momentous step of abstaining on a draft resolution authorising the use of force in Libya. Again, whilst other considerations impacted on their decisions, one cannot explain their choice to permit armed intervention in Libya without understanding the normative pressure exerted by the IHPR. Russia's explanation of its decision to acquiesce in the authorisation of force rather than block it was couched emphatically in human protection terms: 'I underscore yet again that we are consistent and firm advocates of the protection of the civilian population. Guided by this basic principle as well as by the common humanitarian values that we share with both the sponsors and other Council members, Russia did not prevent the adoption of this resolution.'⁸⁴ China observed that it is 'always against the use of force in international relations' but decided to abstain because of the 'special circumstances' in Libya, namely: 'China is gravely concerned by the continuing deterioration of the situation in Libya. We support the Security Council's adoption of appropriate and necessary action to stabilise the situation in Libya as soon as possible and to halt acts of violence against civilians.'⁸⁵

To show that Libya was not an exceptional one-off, we can consider international society's response to Syria. Even though the great powers are deeply divided on almost every aspect of this conflict, human protection imperatives have been at the fore of the Security Council's deliberations. Often, these imperatives have proven insufficient to change state behaviour, yet sometimes they have trumped self-interest. For example, the Security Council agreed to disarm Syria's chemical weapons and decided to authorise the delivery of humanitarian assistance without the government's consent. Russia explained its position thus: 'The Russian federation participated actively in the negotiation of this resolution, given the need to improve the humanitarian situation in Syria, alleviate the plight of the civilian population in the country and improve conditions for the work of humanitarian agencies. We were able to support the resolution after sponsors took into account our key priorities.'⁸⁶ Thus, Russia recognised the imperative of relieving civilian suffering in the face of mass violence, an imperative that is central to the IHPR. I am not suggesting that the IHPR 'caused' Russia's decision to permit action without its ally's consent, just that there is every reason to think that, without that imperative, Russia would not have supported Resolution 2165.

This section has advanced two claims. First, that *practices* of human protection exert significant downward pressure on mass violence. Second, that state *justifications* for these actions point clearly towards the principles and norms associated with IHPR. This both provides evidence of the regime itself and shows that the regime is associated with heightened international activism in response to mass violence and the corresponding decline in that violence. But what else might explain the decline of atrocities and increased response?

Alternative explanations

This section examines three alternative explanations and suggests that although each points to a significant part of the puzzle, none offers a sufficiently compelling alternative.

⁸³ Ibid.

⁸⁴ UN Doc. S/PV.6498, 17 March 2011, p. 8

⁸⁵ Ibid., p. 10

⁸⁶ UN Doc. S/PV. 7216, 14 July 2014, p. 5

The *general decline thesis* contends that the decline of mass atrocities is a long-term historical phenomenon not related to the emergence of the IHPR. Pinker maintains that the decline of mass violence is simply part of an evolutionary downwards trend in all forms of human violence that stretches back to 10,000 BCE.⁸⁷ Outwardly, then, this would appear to challenge the role of the IHPR in supporting the decline of mass violence. On closer inspection, however, the *general decline thesis* is consistent with the narrower thesis offered in this article. Pinker maintains that the general decline in human violence can be traced through five distinct stages, the latest one of which he characterises as the ‘new peace’ emerging out of the Cold War characterised by both the decline of great power competition but also the rise of international cooperation to counter violent conflict. In other words, from this perspective the IHPR is a contemporary manifestation of broader evolutionary trends against violence. More than that, however, the IHPR is a manifestation that appears to have accelerated these longer-term trends through being, as the Human Security Report notes, ‘remarkably effective in driving down the number and deadliness of armed conflicts’.⁸⁸ The general decline in human violence is not a self-fulfilling fact, but a phenomenon produced and reproduced by historically contingent forces. In the post-Cold War era, Pinker identifies international activism associated with the ‘new peace’, a range of practices associated with the IHPR’s, as the principal driver of a decline that has accelerated over the past few decades.

The second alternative explanation is the *end of communism thesis*. Some analysts maintain that the global decline in mass violence resulted from the collapse of communism at the end of the Cold War.⁸⁹ There is little doubting either that communist regimes themselves perpetrated massive violence against their own populations or that the global competition between communism and capitalism encouraged atrocities. But the collapse of communism alone cannot account for the entirety of the global picture described earlier. That is partly because the patterns of decline have been strong in East Asia, where a majority of communist regimes survived the end of the Cold War. In addition, patterns of violence in other global hotspots, such as sub-Saharan Africa and the Middle East, were not primarily driven by ideological struggles. What is more, the end of communism thesis cannot explain how downwards pressure on mass violence increased well after the collapse of communism in Eastern Europe.

A third explanation, the *consistent inconsistency thesis*, takes us close to the null hypothesis argument. It suggests that the forces that propel states and societies towards, and away from, mass violence are deep, historical, and therefore not subjected to direct human intervention. According to this account ‘our disposition to violence may well be a genetic function of our ancestral evolution’.⁹⁰ From this perspective, any decline in mass violence is not caused by human design but rather by chance. Decline is necessarily temporary. We can leave to one side the question of whether the decline in mass violence is temporary, since there is no suggestion here that it might not be. Based on what we do know about the historical trajectories of violence, the *consistent inconsistency* theory rests on implausible empirical grounds, given the strong evidence of long-term decline charted by Pinker and others. If humans are genetically disposed to violence, even the more recent accelerated general pattern of decline over the past three decades would seem difficult to explain. Moreover, although there are certainly inconsistencies across individual cases, there are discernible patterns of increased international engagement with mass violence and a series of distinct studies showing the downward pressure these engagements exert.

⁸⁷ Pinker, *The Better Angels of our Nature*.

⁸⁸ *Human Security Report 2013*, p. 3.

⁸⁹ For a discussion see Ulfelder, ‘Genocide is going out of fashion’.

⁹⁰ Aidan Hehir, *Humanitarian Intervention: An Introduction* (London: Palgrave, 2013), p. 318.

Finally, it is also commonly argued that the decline in mass violence is associated with the general decline of civil wars. Whilst this is certainly the case, the decline in the frequency and lethality of civil wars itself cannot be wholly explained without factors associated with the IHPR and nor is the decline of civil wars sufficient as an explanation since mass violence occurs not only in civil war but also in contexts outside armed conflict as well as in interstate war.

Conclusion

The decline of mass violence and increased international activism over the past three decades can be largely explained by the emergence of a fragmented international human protection regime (IHPR). Through at least eight distinct but connected streams of practice, this regime has codified norms of acceptable behaviour, established responsibilities for third-party states and international institutions, and contributed to the emergence of a range of practices aimed towards the protection of vulnerable populations. As a result, mass violence today is typically met with complex – if not always well-cohered or entirely effective – responses from a range of different types of actors focused on restraining the behaviour of armed combatants, limiting their capacity to harm civilians, and providing direct assistance to affected civilian populations. Many of the specific practices associated with the IHPR have been shown to have positive effect; cumulatively, therefore, they can be said to exert significant downward pressure on mass violence. Evidence for thinking that it is principles, norms, rules, and decision-making structures associated with a regime that is encouraging third-party states to become more proactive in human protection was found in how some non-Western states explained their responses to protection crises.

As I noted in the introduction, there are strong grounds for thinking of this as a case where the *practice* of international security has outpaced the theory: international society has established a thick web of norms and institutions for human protection in advance of our ability to understand and conceptualise it. In particular, it would appear that in this narrow subset, at least, the *practice* of human security has developed apace without concomitant developments in the relevant theories and concepts. However, important gaps remain and the future trajectory of the regime will depend greatly on the extent to which international society works to close these gaps by ensuring that commitments to protection are met with adequate physical resources, the regime is dispersed into different parts of the world where coverage is currently limited, armed non-state actors are brought under its ambit, the regime's substantive elements are expanded to include all sources of violent threats to civilians such as nuclear weapons and sexual and gender based violence, and great coherence is brought to bear.

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