1 | INTRODUCTION

On March 17, 2011, the United Nations Security Council passed Resolution 1973 on the crisis in Libya, demanding a cease-fire, imposing a no-fly zone, and authorizing all necessary measures to protect civilians and civilian-populated areas while explicitly prohibiting a “foreign occupation force” (United Nations Security Council, [UN], 2011). While the resolution itself justified these actions by invoking Chapter VII of the UN Charter, UN officials, policymakers, and commentators identified the reference to civilian protection with the emerging principle of responsibility to protect. Secretary-General Ban Ki-Moon called the resolution a “historic affirmation of the global community’s responsibility to protect people from their own government’s violence,” and urged immediate action in order to implement the resolution (UN News, 2011). Just two days after the passage of Resolution 1973, NATO members and allies would answer this call by launching airstrikes targeting Libyan military sites. The strikes lasted for 7 months and ended with the death of Muammar Qaddafi, the fall of his regime, and the installation of a provisional government.

The responsibility to protect had emerged from debates about humanitarian intervention in the 1990s and was articulated as an alternative to “the right to intervene” in the early years of the new millennium. In 1996 the lawyer and [South] Sudanese diplomat Frances Deng, along with his colleagues at the Brookings Institution, drew on the experiences of postcolonial conflict in Africa to argue for a model of responsible sovereignty where the international community holds states accountable for guaranteeing minimum standards such as “basic health services, food, shelter, physical security, and other essentials” (Deng, Kimaro, Lyons, Rothchild, & Zartman, 1996, p. 32). Five years later, the International Commission on Intervention and State Sovereignty (ICISS) organized by the Canadian government extended Deng’s early interventions and made the case that sovereignty as responsibility highlights the state’s instrumental role in protecting citizens, suggests that states have commitments internally to citizens and externally to the international community, and offers an account of sovereignty in keeping with the growing centrality of international human rights norms (ICISS, 2001, pp. 13–14). In this redefinition, sovereignty was no longer attached to the principle of non-intervention to which it had been linked since the end of World War II. According to the International Commission’s report, “If a state is unable or unwilling to end [humanitarian] harm, or is itself the perpetrator, the responsibility to protect falls on the international community” (ICISS, 2001, p. 17).

In 2005 the UN Word Summit unanimously endorsed a definition of the responsibility to protect that contained three pillars to guide UN action. The first pillar identifies individual states as the primary institutions charged with protecting populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Pillar two empowers the international community to “encourage and help States to exercise this responsibility.” This pillar also calls for “establishing an early warning capability” that would allow the UN to identify when individual states need further international assistance or intervention to fulfill their responsibility to protect. Finally, the third pillar calls for “collective
action, in a timely and decisive manner, through the Security Council when a state manifestly fails to meet its responsibility to protect (UN General Assembly, 2005). By limiting its focus to the four mass atrocity crimes listed in the first pillar and requiring Security Council approval for international action in the third pillar, the World Summit narrowed the scope of the responsibility to protect.

The 2011 intervention in Libya was viewed as a testing ground for this newly developed principle. Resolution 1973 was celebrated as "the first time that the Security Council has authorized the use of military force for human protection purposes against the wishes of a functioning state" (Bellamy, 2011, p. 263). According to Gareth Evans, the Australian politician who helped to develop the responsibility to protect principle, the intervention in Libya was a successful instance of its invocation. Military force was used only as a last resort, "decisively cutting across centuries of state practice treating sovereignty almost as a license to kill." He concluded that "if the Security Council had acted as quickly and decisively in the 1990s, the lives of 8,000 others would have been saved in Srebrenica and 800,000 in Rwanda" (Philips, 2012). At the same time, the ways that the intervention soon bled into regime change raised critical questions about the scope of the responsibility to protect. The reference to "all necessary measures" in Resolution 1973 appeared to sanction NATO’s expansive definition of its role, as it moved beyond protecting civilians to active support of the groups fighting against the Qaddafi regime (Adams, 2012). Responsibility to protect and regime change were further blurred as President Barack Obama, Prime Minister David Cameron, and President Nikolas Sarkozy declared in a joint op-ed that that the protection of Libyans entailed an end to Qaddafi’s government (Obama, Cameron, & Sarkozy, 2011). Pointing to the rapidity with which regime change emerged as the aim of the intervention, critics situated the intervention in a long history of military intervention in the Middle East and North Africa through which the United States and its allies have sought to secure their strategic and economic objectives in these regions (Bâli & Rana, 2011).

In response to critics of the Libya intervention and the subsequent political impasses that prevented a similar intervention in Syria, proponents of the responsibility to protect have staked out two paths for reforming and further institutionalizing the principle. First, the Global Centre for the Responsibility to Protect, organized in 2008 to promote and institutionalize the responsibility to protect, together with other international actors have called for the development of clear and transparent criteria for military intervention to ensure that this practice remains a rare but legitimate invocation of the responsibility to protect. Second, political theorists, international lawyers, and policymakers have pointed to the adoption and institutionalization of the principle by various actors ranging from non-governmental organizations and UN officials to developing states and argued that an interpretive emphasis on the primacy of state responsibility can shift attention away from intervention to the international community’s role in supporting and enhancing states’ capacities to protect human rights (Lafont, 2016, p. 437; Orford, 2010). Aimed on the one hand at further institutionalizing and delimiting military intervention and on the other at strengthening the first pillar of state responsibility, both approaches understand the limits of the responsibility to protect as questions emerging from the translation of theory into practice; as problems of misuse and misapplication. Efforts at reforming and reinterpreting the responsibility to protect thus leave the principle intact while considering alternative mechanisms and means of implementing it.

In contrast, this article contends that the limits of the responsibility to protect are embedded in the very redefinition of sovereignty as responsibility. This definition displaces more expansive accounts of sovereignty that emphasize ideals of self-government and independence to render the concept of sovereignty instrumental and paternalist. I argue that this minimalist approach marks the normative diminution of sovereignty, by which I mean that the moral and political significance of sovereignty is eroded and undermined when it is understood as responsibility. The erosion of the normative significance of sovereignty generates practical entailments that interpretive choices and procedural checks cannot fully contain. Specifically, I trace how the instrumentalism and paternalism that are at the center of the responsibility to protect make the international recognition of sovereignty conditional on the fulfillment of state responsibility, which in turn generates new forms of international hierarchy between states. From this perspective, the pitfalls of the Libya intervention are not simply failures of application, but instead are embedded and entailed by the equation of sovereignty with responsibility.

In the following section, I propose a more dynamic relationship between the theory and practice of responsibility to protect via an account of institutional and practical entailments rather than misuse and misapplication. This reorientation sets the stage for section three, where I develop the tripartite critique that when sovereignty is redefined...
as responsibility it is rendered instrumental, paternalist, and conditional. In section four, I argue for returning to a more normatively expansive concept of sovereignty developed during the high point of decolonization. In this period, anticolonial nationalists challenged paternalism and hierarchy between states by centering domestic self-government and international non-domination in their account of sovereignty. While we cannot simply recuperate this anticolonial model, it suggests directions for rethinking sovereignty beyond the responsibility to protect. Moreover, I suggest in the conclusion that the anticolonial account of sovereignty can reorient our contemporary debates about sovereignty by drawing attention to the central role of empire and sovereign inequality in the development of the international order.

2 | RESPONSIBILITY TO PROTECT IN THEORY AND PRACTICE

Since 2011 proponents of the responsibility to protect principle have acknowledged that the Libya intervention raised important questions about the principle’s scope and maintain that military intervention should always be a last resort. In doing so, they have emphasized the primary role of states in protecting populations and reiterated that the international community should initially support states by providing development and capacity-building assistance in order to prevent humanitarian crises. These recommendations reiterate the World Summit outcome document, which recommends that the international community should initially help “States build capacity to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity and assisting those which are under stress before crises and conflicts break out” (UN General Assembly, 2005, p. 30). Moreover, military intervention in the case of these four crimes requires Security Council approval in accordance with Chapter VII of the UN Charter.

For proponents of the responsibility to protect, if particular mobilizations of the principle raise questions of illegitimacy or overreach, as critiques of the Libya intervention indicate, the problem lies not in the theory of sovereignty as responsibility but in its application in political practice. This notion stems from the view that the responsibility to protect is now a universal principle that has achieved international consensus. In both UN General Assembly debates and the scholarly literature, the universalism of the responsibility to protect is specifically posed against concerns of cultural relativism and neo-imperialism. According to Mónica Serrano and Tim Weiss, “R2P is not a Western construct but embedded in a universal principle” (Serrano & Weiss, 2014, p. 4). Moreover, its universalism stems from its non-Western origins. In UN discussions, responsibility to protect’s origins are situated in Deng’s pioneering work and the African Union’s constitutive act, which included the norm of non-indifference that shaped ICISS’s formulation of the responsibility to protect and the World Summit agreement.¹ The putatively African origins of the responsibility to protect as well as the global consensus it has generated are meant to indicate that first, commitment to “robust humanitarian action’ transcends cultural division and second, that charges of neo-imperialism are red herrings that distract from the work of implementation (Serrano & Weiss, 2014, p. 6).

International consensus and universal appeal thus are intended to assure us that the principle of the responsibility to protect itself need not be revisited. Instead, its implementation in practice is seen as the primary object of concern. To this question of implementation, two kinds of responses have been offered. First, reformers have argued the use of military intervention requires better criteria, more transparent evaluations of cases, and greater accountability measures for the countries that initiate military interventions. The crimes that may legitimately attract the invocation of the responsibility to protect need to be specified with greater clarity. Brazil’s introduction of a supplementary notion of “responsibility while protecting” is one effort at greater specificity. This proposal recommends that the Security Council should debate and implement a set of criteria for judging the severity of a crisis before approving of the use of military force and should establish enhanced monitoring and review processes to ensure accountability during an intervention (Herz, 2014; Philips, 2012). These procedural reforms are meant to ensure that military intervention remains a rare, limited, and legitimate use of the responsibility to protect principle.

A second approach to the implementation of the responsibility to protect emphasizes the centrality of state responsibility. Because the international community’s first responsibility is not to intervene but instead to assist states in fulfilling their responsibilities, the responsibility to protect requires developing a broader range of international
assistance and capacity-building mechanisms designed to ensure that genocide, war crimes, ethnic cleansing, and crimes against humanity are prevented. Moreover, by focusing on state capacity, the responsibility to protect would not be connected only to humanitarian crimes, but could also be mobilized to ensure that international human rights law is institutionalized at the state level (Serrano, 2011, p. 107). When the responsibility to protect is understood as primarily concerned with state capacities, the principle can generate practices that strengthen weak states rather than making them vulnerable to intervention at the hands of superpowers.

Cristina Lafont has offered the most compelling account of how the responsibility to protect could be interpreted in defense of weak states. In her account, the first pillar of state responsibility can be employed to pursue policies that empower states to “respect, protect and fulfill human rights” in a context where the actions of third parties such as transnational corporations, non-governmental actors, international institutions, and other states impede the protection of human rights (Lafont, 2015, p. 74). Lafont argues that ensuring that the state can fulfill its responsibility to protect could thus include “strengthening their ability to prevent violations by third parties” (Lafont, 2015, p. 75). The growing international consensus around the responsibility to protect would also allow states to claim their responsibility to protect human rights and thereby challenge the structural conditions of international inequality. For example, developing countries have challenged the intellectual property rights regime agreed to under the auspices of the World Trade Organization by arguing that the protections offered to pharmaceutical companies have prevented states and the international community from protecting the right to health. Rather than making weak states vulnerable to intervention, in this case the responsibility to protect is mobilized to strengthen their sovereignty (Lafont, 2015, pp. 72–74, 2016, pp. 433–436).

It is worth noting that these reconsiderations of the responsibility to protect offer two different visions of the principle. The efforts to develop criteria for military intervention suggest that the responsibility to protect is “special and exceptional” while the effort to emphasize the responsibility to protect’s broader implications for realizing international human rights’ guarantees indicates that it is “routine and non-threatening” (Luck, 2011, p. 12). On the international stage it has been celebrated as “narrow and deep” because it focuses attention on the four crimes and emphasizes prevention, reaction, and rebuilding (UN General Assembly, 2009a). At the same time, since its inception, the responsibility to protect has also been connected to a broader agenda of addressing human rights violations and humanitarian crises that fall beyond the purview of the four crimes (Orford, 2010, p. 337). Despite these divergent interpretations, however, the effort to circumscribe military intervention and the effort to emphasize and strengthen the first pillar of state responsibility prioritize the question of translating the responsibility to protect principle into practice. In both cases, the relationship between principles and practices are viewed as a form of applied ethics where norms are first elaborated and agreed to and then applied and implemented in practice. In the persistent focus on interpretation and implementation, the limits of the responsibility to protect are continuously posed as limits of application, as questions of the translation of theory into practice. As a result, the principle itself escapes critical scrutiny.

However, the application model misunderstands the relationship between principles and practices in two respects. First, principles emerge from political questions and practices rather than from antecedent normative commitments to be applied later to political problems. In the case of the responsibility to protect, the failure of the international community to intervene in Rwanda as well as the aftermath of international intervention in Kosovo, which was deemed to be illegal under international law, but judged to be morally justified, prompted calls to rethink sovereignty. In this context, the principle was used to institutionalize humanitarian intervention by establishing the thresholds above which coercive action would be triggered and reasserting that the Security Council was the legitimate authority to decide in such cases. Second, the view that we might reinterpret the responsibility to protect in ways that move beyond the question of intervention treats principles as if they were formulas easily detached from their context and refashioned for new applications. Such a view cannot capture how principles are themselves “forms of political action” that engender certain kinds of practices while foreclosing and displacing others (Graf, 2015, p. 2). Principles are already forms of action insofar as they provide legal authorization, confer authority and agency, and allocate and redistribute power among differently positioned actors (Graf, 2015, p. 3; Orford, 2011, pp. 25–26). As we shall see, the claim here is that even as the responsibility to protect’s first pillar prioritizes the state, it does so in ways that limit and erode the normative
significance of sovereignty. And in doing so, the principle creates the conditions of possibility in which the intervention in Libya unfolded.

Given the imbrications between the theory and practice of the responsibility to protect, we should set aside the question of how the responsibility to protect is applied and interpreted and instead ask what it means to say sovereignty is responsibility, who is empowered or disempowered in this redefinition, and what kinds of authority and action are being legitimized. This approach to principles as forms of political action understands the relationship between norms and practices through the language of entailment rather than application. We can think of entailment in two different, but related ways. First, practical entailments call attention to the empirical consequences and effects that, while not intended or logically necessary, recur alongside certain kinds of action (Mantena, 2012, p. 460). These consequences are “concomitant with and, in some compelling sense, intrinsic to” a particular action (Mantena, 2010, pp. 185–186). We might think here of the practical consequences of the Libya intervention. Though celebrated as a limited intervention, cleared through the UN process and backed by a multilateral coalition, which marked a departure from the United States’ preemptive war in Iraq, the practical consequences of the intervention were regime change, domestic and regional instability, and cycles of displacement and violence. These consequences are not evidence of an intervention that has gone wrong, but constitutive features of military intervention. However they are couched and constrained, interventions generate these recurring practical entailments.

This set of practical entailments, however, must be situated in a second median level of institutional entailments. At stake here are not the empirical consequences, but the institutional contexts and structural conditions that constitute the backdrop of the practical entailments. As political action, principles distribute power and restructure authority. This in turn produces new institutional contexts and conditions. At this level, the principle of the responsibility to protect engenders and reproduces international hierarchy through its normative diminution of sovereignty. When principles are viewed as forms of action rather than formulas to be applied, the relationship between the theory and practice of the responsibility to protect appears as one of cascading entailments. On this view, the responsibility to protect engenders forms of authority that diminish the normative significance of state sovereignty while empowering institutions such as the Security Council. These institutional transformations reinforce a hierarchical international order, which in turn creates the conditions for specific practices. These institutional and practical entailments cannot be fully contained by procedural checks and interpretive choices.

3 | THE NORMATIVE DIMINUTION OF SOVEREIGNTY

To explain what I have called the institutional and practical entailments of the responsibility to protect, in this section I take up the implications of redefining sovereignty as responsibility. I argue that seeing sovereignty as responsibility reduces it to the instrumental role of protecting human rights, represents the relationship between the state and citizens as paternalist, and seeks to make the external rights of sovereignty conditional on their internal exercise. I draw on Deng et al.’s 1996 book Sovereignty as Responsibility, ICISS’s 2001 report, and the arguments of international lawyers and international relations scholars to make the argument that the responsibility to protect erodes the normative significance of sovereignty. While the narrowly construed version of the responsibility to protect articulated in the UN General Assembly’s 2005 World Summit Outcome document is the official basis of UN discourse and action, this set of sources offers a more extensive account of the entailments of the responsibility to protect. Because the principle is conceived as both “narrow and exceptional,” as defined in the Outcome document, as well as “routine and non-threatening,” it is worth considering how even routine invocations of sovereignty as responsibility diminish the normative force of the concept. The claim here is that conceiving of sovereignty in paternalist and instrumental ways creates the conditions that render sovereignty conditional upon the evaluations of international institutions and specifically the Security Council, which is empowered to decide when a state has failed to fulfill its responsibility to protect. This conditionality in turn legitimizes hierarchies between states that have fulfilled their responsibilities and those that have not and are, as a result, subject to international intervention. Thus, while interventions of the kind we witnessed in Libya may be rare, they are embedded in and entailed by this normative diminution of sovereignty.
As noted above, one of the innovations of the responsibility to protect in the debate about humanitarian intervention was to jettison a framework focused on the “right to intervene” in favor of one that centered on state responsibility as its first pillar and involved international intervention only as a secondary response when states “manifestly fail to protect their populations” from the four crimes (UN General Assembly, 2005, p. 30). While this is often presented as a novel account of sovereignty that departs from the Westphalian model, historians of international law have argued that the idea of sovereignty as a responsibility to protect has a long history that goes back to early modern theorists of sovereignty, especially Thomas Hobbes. In the context of civil and religious war, Hobbes associated sovereignty with the institution of either monarchy or the assembly, which was capable of “procuring the safety of the people” (Orford, 2011, p. 113). In this prioritization of safety and protection, “nothing of importance turns on the nature of the link between ruler and ruled” (Orford, 2011, p. 115). For this reason, legitimate political authority could come into being by covenant or conquest as long as the instrumental end of protection was achieved.

While the effort to locate a secondary responsibility to protect in the international community distinguishes the contemporary principle, elements of this Hobbesian model persist in the responsibility to protect. Like its 17th-century antecedent, the responsibility to protect also identifies lawful authority with the actor or agent that protects and sets aside other considerations about the relationship between the sovereign and those who fall under its authority (Orford, 2011, pp. 119–120). This instrumental orientation means that the question of who should exercise sovereignty is the same as who efficaciously fulfills the function of protection. According to the ICISS report, the responsibility to protect resides primarily with the state because the “domestic authority is best placed to take action to prevent problems” and “to understand them and deal with them” when problems emerge (ICISS, 2001, p. 17). Here domestic authority is associated with expertise and specialized knowledge due to proximity. The state’s privileged status, its position as the first pillar of the principle, is predicated on these characteristics. However, should we be able to make the case that third-party actors (including private actors) are in fact better suited to the function of protection, on its own this standard of efficacious protection gives us no reason to oppose transferring sovereignty to these actors.

We could contrast this with an account of state sovereignty that prioritizes the central role of the ruled in self-government. If the responsibility to protect privileges the state because it is the agent best equipped to realize the function of protection, a model of the democratic state understands the state’s privileged role in the protection of human rights emerges from its relationship to popular sovereignty. Drawing on Kant and Rousseau, instead of Hobbes, Anna Stilz argues that the equal freedom of individuals understood as independence requires the state as “a mechanism for defining and securing rights” (Stilz, 2009, p. 53). For the state to be a legitimate political authority that provides the institutional conditions of equal freedom, it must enact impersonal laws that are decided by democratic procedures (Stilz, 2009, p. 84). On this view, the state’s legitimacy, and by extension, an argument for its privileged status as the primary site of political authority, is not adjudicated by reference to efficacious protection. Rather, the democratic state is uniquely positioned to secure the equal freedom of persons. It plays a “constitutive role … in realizing a condition of justice” (Stilz, 2009, p. 88). The view that the state has a constitutive role in securing the rights of individuals is opposed to one where the state plays only a contingent role. In the former case sovereignty cannot be simply transferred or delegated to the agent that is most able to bring about protection.

To be sure, many states fall short of Stilz’s model of a democratic legal state without raising the kinds of humanitarian concerns to which responsibility to protect is primarily directed. But this more robust normative defense of the state reveals the ways that a standard of efficacious protection displaces questions of democratic self-government and accountability to envision rule as a form of expertise. According to Deng et al., “if sovereignty is responsibility, governing is managing conflict … among policy options and groups” (Deng et al., 1996, p. 34). The equation of government with conflict management and casting the state in the role of manager render the relationship between the state and its citizens paternalistic. Armed with the appropriate conflict management strategies and expertise, the state stands above and beyond the people, and its primary role is mediation. Due to this emphasis on management, efforts to strengthen and enforce the first pillar of state sovereignty emphasize capacity-building in the executive and bureaucratic branches of the state. In the efforts to implement the responsibility to protect in national institutions, both what sovereign responsibility requires and what protection entails are not viewed as subject to popular contestation.
The hierarchical and paternalistic relationship between the state and its citizens is further reinforced in the deployment of the term populations. In much of the literature on the responsibility to protect, including the 2005 World Summit agreement, the state’s function of protection is to be discharged towards “its populations”, not its citizens. For proponents of the principle, this expression is meant to ensure that the responsibility to protect is also extended to migrants, refugees, and minority groups that are denied citizenship rights by their host state, but are still owed a minimum standard of protection. In this way, the category of population contributes to the universal scope of the responsibility to protect (Bellamy, 2014, p. 15). However, while population offers a more capacious category, it also depoliticizes those entitled to protection. As populations to be protected rather than political subjects to be engaged, they are rendered passive recipients of the protection of the state or international community. In this depoliticization, the responsibility to protect shares in the emergence of what Didier Fassin calls humanitarian government, which depends on an unequal relationship between those who dispense and receive aid (Fassin, 2012, p. 3). In this framework, those who dispense aid and intervention are armed with expertise and transform questions of injustice into sites of administrative rationality that involve “the maintenance and management of persons and populations” (Gündoğdu, 2015, pp. 78–79).

In contrast, the language of citizenship imagines that the persons to be protected have political relationships with each other and to the state. Rather than passively receiving protection, they are political subjects whose political activity constitutes the state and who make a range of demands on it that include but also exceed the function of protection.

The identification of sovereignty with the function of responsibility thus tends to equate government with expertise and capacity while rendering citizens subjects of governmental management. These two features—instrumentalism and paternalism—are attached to the first pillar of state responsibility. They also inform the second pillar of international assistance where capacity-building programs designed to enhance state responsibility emphasize management and expertise. Returning to the tension between the routine and exceptional character of the responsibility to protect, we could say that an instrumental and paternalist recasting of sovereignty accompany the regular invocations and institutionalization of the principle. At the same time, these two features lay the groundwork for an account where the international recognition of sovereignty is a conditional entitlement. This final feature of sovereignty’s normative diminution is closely linked with the third pillar of the responsibility to protect—the international community’s responsibility to intervene when a state fails to meet its responsibilities, which is designed to be a rare and exceptional exercise of the principle.

By delimiting when humanitarian intervention is warranted and empowering the Security Council as the site of authorizing it, both the ICISS report and the World Summit agreement sought to overcome debates about the illegality of humanitarian intervention after Kosovo. The principle of the responsibility to protect achieved this in part by breaking with postwar conceptions of sovereignty, in which each state is endowed with the rights of autonomy, equality, and non-intervention. According to its critics, this model of sovereignty endowed states and national borders with moral significance. As a result, it secured the domestic exercise of sovereignty from critique and rendered international involvement of any kind suspect (Tesón, 2003, p. 97). It was, to use Gregory Fox’s evocative phrase, a “fortress-like conception of state sovereignty” (Fox, 1992, p. 545).

Although it is associated with the UN Charter and is often described as Westphalian, this model of sovereignty, particularly the claim that all sovereign states have equal legal standing, is best understood as the achievement of decolonization. In the rapid expansion of the state system following World War II, anticolonial nationalists challenged the hierarchical and exclusionary international order that went hand in hand with colonialism by claiming equal membership of all states in the then newly constituted UN. Thus, sovereign equality emerged as a “counter-concept of empire” (Cohen, 2012, p. 200). By insisting on the formal equality of states, anti-imperialists fashioned a universal society of states that was characterized by legal and political pluralism and set strict limitations on the exercise of foreign interference (Bain, 2003, p. 163; Cohen, 2012, 200).

The redefinition of sovereignty as responsibility marks a departure from this model of sovereignty. Recasting sovereignty as merely “instrumental” rather than “intrinsic” or universal has permitted an account of external sovereignty that depends on the state having efficaciously exercised its function of protection (Slaughter, 2005, p. 628; Tesón, 2003, p. 93). According to Anne-Marie Slaughter, because sovereignty accrues to the state as a means of providing security, “sovereignty misused, in the sense of failure to fulfill this responsibility, could become sovereignty denied”
For Slaughter, the innovation of the responsibility to protect was to override what were considered rights of sovereignty, especially the right to non-intervention from external powers, by making the external attributes of sovereignty conditional on its domestic exercise. This conditional form of sovereignty, Robert Keohane argues, requires an international order that permits gradations of sovereignty and abandons “the classic ideal-type of Westphalian sovereignty even as an aspiration” (Keohane, 2003, p. 279).

At first glance, the ICISS report and other UN documents resist the conclusion that sovereignty is rendered conditional when it is defined as responsibility. Instead, they argue with Lafont and others that the responsibility to protect strengthens rather than weakens sovereignty (ICISS, 2001, p. 35). According to the 2009 Secretary General Report, “responsibility to protect is a friend of sovereignty not an adversary” (UN General Assembly, 2009a, p. 51). Yet taken to its logical conclusion, the idea that sovereign responsibility unfulfilled gives grounds for denying sovereignty entails a hierarchical world where the sovereignty of largely postcolonial and weak states can be curtailed or denied. Rather than an international order predicated on the formal equality of states, this vision of conditional sovereignty sanctions sovereign inequality. It marks an abandonment of the “strictly egalitarian world order that emerged out of decolonization” (Bain, 2003, p. 164).

If sovereign equality was meant to protect and preserve legal and political pluralism in the international system, the revival of conditional sovereignty marks a turn away from such pluralism (Simpson, 2004, p. 67). Proponents of the responsibility to protect have explicitly defended this anti-pluralism. Slaughter, for instance, argues, “Liberal theory permits more general distinctions among different categories of states based on domestic regime type” (Slaughter, 1995, p. 509). Moreover, according to Fernando Tesón, a “liberal conception of state legitimacy” should be the international standard and its violation could trigger intervention (Tesón, 2003, p. 99). In this endorsement of forms of legalized hierarchy, Slaughter and Tesón echo the broad developments in international relations and international law in the last three decades. The conditional dimensions of sovereignty as responsibility are akin to the arguments in favor of quasi-sovereignty and neo-trusteeship that have resurfaced since the end of the Cold War. Arguments of this kind are often explicitly connected to a critique of the universalization of sovereignty established during decolonization and they harken back to 19th and early 20th-century arguments that mobilized the standard of civilization or the ideal of trusteeship to argue for the unequal status of nations in international society.

Importantly, however, the conditional sovereignty of the responsibility to protect is a much more limited standard concerned with the four crimes. The responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity is viewed as the “minimum content of good international citizenship” (ICISS, 2001, p. 8). But, as I have argued, despite its minimalism, the paternalist, instrumental and conditional characteristics of sovereignty as responsibility constitute a normative diminution of sovereignty that have significant political implications. Shorn of its earlier attachment to claims of popular sovereignty and equal membership in international society, sovereignty as responsibility reproduces and legitimizes an international order where the sovereignty of some is conditional, non-state actors and international organizations can perform sovereign functions, and a democratic politics of human rights is displaced by efficacy, administration, and expertise. What we have in the responsibility to protect then is less the reconciliation of sovereignty and human rights but a drastically reshaped definition of sovereignty and a limited view of human rights as humanitarian governmentality. When viewed from this perspective, the pitfalls of the Libyan intervention are not ones of mission creep, or instances of the misapplication of a principle. Instead, they are entailments of the diminution of the norm of sovereignty that in turn contribute to an international order in which legal hierarchy is once again permitted.

4 | RETURNING TO SOVEREIGNTY AS NON-DOMINATION

In light of the ways in which sovereignty as responsibility erodes the normative significance of sovereignty and permits the existence of modes of international hierarchy, it is worth returning to the anti-imperialism of the 20th century, which offered a sustained critique of and alternative to international hierarchy. Anticolonial nationalists understood sovereignty as the claim of democratic self-government domestically and non-domination internationally.
The anticolonial demand for popular sovereignty was explicitly directed at the paternalistic justifications and arbitrary power of imperial rule, while the ideal of international non-domination sought to overcome legal, political, and economic hierarchies between states. These two faces of the anticolonial account of sovereignty pointed towards a domination-free international order and were linked to the right to self-determination, which was universalized in the 1960s and successfully incorporated into the 1966 Covenant of Civil and Political Rights as well as the Covenant of Economic, Social and Cultural Rights. While the right to self-determination is associated with the culmination of a Westphalian regime of sovereignty, I argue that the emphasis on non-domination exceeds the bundle of rights (autonomy, formal equality, and non-intervention) associated with Westphalia. However, the argument advanced here is not that we can recuperate in any straightforward way an anticolonial account of sovereignty. Instead, returning to the age of decolonization may help reorient the questions we ask about sovereignty and offer avenues for overcoming the limits of sovereignty as responsibility.

In making the case for the contemporary relevance of the anticolonial account of sovereignty, it is worth noting that it shares affinities with the contemporary efforts to reconcile sovereignty and human rights. In the 1950s and 1960s nationalists mobilized the nascent language of human rights to press for independence and self-government. For instance, as early as 1943 Kwame Nkrumah, who would go on to lead the independence movement in Ghana, argued that the nationalist struggle in Africa was a new phase in the universal quest for human rights (Nkrumah, 1943). In transnational networks and organizations such as the West Indies National Emergency Committee and the Fifth Pan-African Congress, this quest was primarily framed as a demand for the recognition of colonized people’s “inalienable human and democratic right of self-determination” (West Indies National Emergency Committee, 1992, p. 264). And this right of peoples was linked to individual rights, such as “the right to education, the right to earn a decent living; the right to express our thoughts and emotions, to adopt and create forms of beauty” (Padmore, 1963, p. 5). By the 1955 Afro–Asia Conference held in Bandung, Indonesia, this link was expressed in the formulation: “the rights of peoples and nations to self-determination is conceived as a prerequisite for the enjoyment of all fundamental human rights” (Asian–African Conference of Bandung, 1955). It was this account of the right to self-determination that anti-colonial nationalists introduced to the UN, and it became the basis for the prominent inclusion of self-determination as Article 1 in the 1966 covenants.

For Nkrumah, independence and self-government were prerequisites of human rights because they created the institutional and political conditions in which human rights could be realized. Having led Ghana to become the first sub-Saharan African country to gain independence in 1957, Nkrumah urged fellow nationalists to “seek ye first the political kingdom” (Nkrumah, 1963, p. 50). He argued that a “complete and absolute independence from the control of any foreign government” and the “establishment of a democracy in which sovereignty is vested in the broad masses of the people … offers the most opportunities to every individual in the state to express his personality to the fullest and to enjoy all the basic human rights” (Nkrumah, 1960). The democratic form of government was predicated on the equal liberty of all citizens and their rights to political membership and participation. Only when citizens had the right to decide with full freedom could their human rights be protected and their needs fulfilled. In the absence of democratic self-government, “no matter how benevolent that government may be,” the rights of persons would not be protected (Nkrumah, 1960). In situating rights within democratic self-government, Nkrumah resisted the paternalism of imperial rule. Benevolent rule by others could not displace self-rule, “the [people’s] right to decide, in full freedom, the nature of their needs and how they can best be satisfied” (Nkrumah, 1960). From Nkrumah’s perspective, without self-government, rights were not rights, but privileges bestowed by an unaccountable political authority, which could always unilaterally withdraw its guarantees.

This vision of democratic self-government rejected a paternalistic account of human rights and situated them in a politics of postcolonial citizenship where former colonial subjects that had become citizens collectively constituted the institutional and political frameworks in which their rights might be secured. But if this account of domestic sovereignty offers a compelling vision of the ways in which popular sovereignty and rights are co-constituted, it is also difficult for us to share in Nkrumah’s optimistic faith in the democratic political kingdom. Removed by half a century from the height of decolonization, we are witness to the many ways in which majoritarianism as well as ethnic, religious, and racial conflicts have eroded the promise of postcolonial citizenship. Indeed, the principle of the responsibility to protect and
other contemporary efforts to rethink sovereignty are responses to the humanitarian crises that have arisen from the ways in which the politics of citizenship and statehood have failed to coincide with the protection of individual human rights.

However, while we cannot simply reinstate the anticolonial vision of rights as dependent on democratic self-government, the underlying intuition of this line of thinking—that securing the human rights of individuals requires collective political practices—constitutes an alternative to the paternalistic account of rights entailed in the responsibility to protect. If the responsibility to protect casts human rights as the state’s guarantees to its population, the emphasis on popular sovereignty rethinks rights as bottom up demands that are articulated through collective politics. Anticolonial nationalists viewed the demand for independence as a struggle for “individual liberty and equality,” but one that required collective emancipation from imperialism and that would have to create “the constitutional and other arrangements … necessary to the safeguarding of life and liberty” (Julius Nyerere, quoted in Terretta, 2013, pp. 409–410). This vision of rights that are secured through collective claim-making and democratic self-government resonates with recent calls for a politicized account of human rights that can overcome the limits of a humanitarian approach that centers on administrative rationality and military intervention (Gündoğdu, 2015, p. 88).

A politicized account of human rights is not only an aspirational vision of popular sovereignty but can also inform contexts where states have failed and non-governmental and international organizations play a dominant role in governance. As I noted above, from the perspective of the responsibility to protect, these contexts are primarily conceived in terms of management and expertise. For example, in describing how a state’s responsibility to protect can be restored after international intervention, the ICISS report identifies security, justice and reconciliation, and economic development as the central elements of rebuilding efforts. It outlines a set of best practices in each of these areas and suggests a repertoire of policies that can be replicated from case to case (ICISS, 2001, p. 42). This designation of mobile best practices represents governance as one where “scientifically valid impersonal procedures” are readily applicable to different contexts (McFalls, 2010, p. 322). Governance and the protection of human rights are viewed here as “above and beyond the discussions, debates and contestations of ordinary politics” (McFalls, 2010, p. 331). In contrast, an account of rights that emphasizes collective claim-making prioritizes the democratic accountability of governing institutions and the participation of the governed over efficacy and expertise. This would mean that rather than a standard repertoire of policy prescriptions that international actors implement, the incorporation of local actors that represent different sectors of the country should be the starting point of any rebuilding effort.

If this domestic face of the anticolonial account of sovereignty offers alternatives to the instrumentalism and paternalism of the responsibility to protect, its international face, understood as non-domination, can reorient the responsibility to protect’s conception of external sovereignty as conditional on fulfilling the function of protection. The anticolonial emphasis on non-domination emerged from a concern that legal, political, and economic hierarchies could always undermine democratic self-government. For instance, more powerful states and private actors could subvert and interfere in domestic political processes—an anxiety that emerged in the context of the Cold War and continues to be a central feature of our international order. For Nkrumah, these conditions of international hierarchy required an international system that guaranteed the “complete and independent sovereignty” of new postcolonial states. On this view, sovereignty as non-domination was imagined as a shield against external encroachment (Roth, 2011, pp. 15–17). These formal shields created what Jean Cohen has argued are the external conditions for “political and legal relationships within a polity by establishing domestic jurisdiction and differentiating among distinct legal and political systems” (Cohen, 2012, p. 199). In this sense, self-determination set formal limits on domination in the international sphere. Without international institutions that guaranteed non-intervention and equality, the efforts at self-rule domestically were always subject to foreign intervention and encroachment.

Importantly, however, the anticolonial account of non-domination was not only a defensive invocation of formal sovereignty. In fact, while anticolonial nationalists are credited with universalizing a Westphalian regime of sovereignty, they were also acutely aware of its limits in a context of political and economic hierarchy between states. For Nkrumah and others, international domination did not always entail direct intervention or encroachment from an external power. According to his account of neocolonialism, even when non-intervention was guaranteed, relations of economic dependence and inequalities of political power would continue to create the conditions in which
postcolonial states would be subject to the arbitrary wills of powerful states and other international actors (Nkrumah, 1965). While they are important shields, legal principles like non-intervention and formal equality could not fully secure non-domination because they did not address the substantive forms of inequality that persisted after the end of formal imperialism. Thus, in a context where postcolonial states were economically dependent on particular states (often former imperial states and superpowers) and distinctively vulnerable to international trade and finance, powerful states, international institutions, and private corporations retained a capacity for arbitrary interference in the domestic affairs of new postcolonial states.

To overcome this mode of domination, Nkrumah argued, postcolonial states had to delegate and disperse sovereignty in regional political and economic institutions. Thus, while he argued for “complete and independent sovereignty,” Nkrumah also made the case for a pan-African federation. In 1960 he successfully fought for a clause in the new republican constitution of Ghana that granted parliament “the power to provide for the surrender of the whole or any part of the sovereignty of Ghana” once a union of African states was formed (Government of Ghana, 1960). By creating new linkages of trade, redistribution, and governance among themselves, postcolonial states organized in a regional federation could gradually erode the relations of dependence that subordinated them in the international sphere. Here, non-domination was not secured by insisting on national sovereignty as a shield against external encroachment, but instead was seen to be possible only through the reconfiguration of sovereignty in a regional federation. While member states like Ghana could lose certain sovereign prerogatives in a future Union of African States, Nkrumah argued that what they gained in terms of freedom from international domination outweighed their circumscribed sovereignty (Nkrumah, 1963, p. 85).

I use the republican term non-domination to characterize this anticolonial account of sovereignty because it retains and extends the republican tradition’s insight that the domestic capacity to exercise self-government depends on overcoming external domination (Skinner, 1998, pp. 49–50, 2010, pp. 100–101). From the republican perspective, “no matter how free a people is on the inside—no matter how far individual citizens control their states—a people can only be free insofar as an outside condition is satisfied too” (Pettit, 2016, p. 61). In the age of decolonization, this outside condition of international non-domination was envisioned as both requiring an external sovereignty that functioned as a defensive shield and an alternative picture where sovereignty offered only limited protections and would have to be reconfigured through regional and international institutions. Elsewhere I detail why this second strategy failed and how its failure prompted nationalists to embrace more thoroughly the model of sovereign non-domination as a shield to defend against external encroachment (Getachew, 2019, forthcoming). But while this second model was unrealized in the age of decolonization, like the domestic linking of popular sovereignty and human rights, here too the anticolonial account of sovereignty as international non-domination offers critical resources in our contemporary efforts to rethink sovereignty.

First, we might productively contrast the relationship between external and internal sovereignty embedded in the ideal of non-domination with that offered in the responsibility to protect principle. As I noted in the previous section, the responsibility to protect conceives of external sovereignty as conditional on the internal exercise of protection. In order words, a state’s claim to sovereignty in the international sphere depends on its willingness and capacity to fulfill its responsibilities to those it governs and to the international community. The account of international non-domination asks us to consider the flipside of this conditional mode of sovereignty by illuminating the ways that the internal exercise of self-government requires a context of international non-domination, which includes international institutions that can mitigate, undo, and circumvent the entrenched substantive hierarchies of the international order. On this view, the hierarchical features of the international order, which range from the outsized power of the Security Council to the structural inequality of international trade, the protections provided to private corporations and the unfair conditions attached to loans and foreign aid, impinge on and directly shape the character of domestic politics. An engagement with the entanglements of domestic and international politics reframes what we take to be internal failures or crises of sovereignty by illuminating how conditions of international domination may enable and exacerbate domestic domination (Orford, 2003).

Second, and relatedly, examining the failures of democratic self-government and the humanitarian crises these failures have engendered through a perspective that begins with the entanglements of domestic and international
politics refires what responsibility in the international context might mean. Proponents of the responsibility to protect have celebrated the ways that the principle locates the state as the bearer of primary responsibility. Though viewed as setting a limit on intervention and expanding the scope of international assistance, it also saddles states—often weak states—with the burden of responsibility for political, economic, and humanitarian crises that are not fully of their own making. If the interactions between and intersections of domestic and international politics contribute in important ways to the crises that are often viewed as internal to states, this account of responsibility obscures the ways in which the international community is always implicated and should be understood as already responsible. To speak, then, of international responsibility as a backup responsibility when the state fails to protect human rights divorces state failure from the constitutive backdrop of the inequitable international distribution of power.

The idea of sovereignty as a shield, which I noted was part of the anticolonial account of international non-domination, might play a similar role of obscuring the central role of international hierarchy in the domestic crises to which the responsibility to protect is a response. According to Lafont, “insisting upon the nominal sovereignty of states” releases external actors “from taking responsibility for the role that their actions might play in bringing about some of the ‘extraordinary injustices occurring within state boundaries’” (Lafont, 2016, p. 433). Moreover, as Jennifer Pitts notes, the view that we inhabit a world of formal sovereignty only recognizes encroachments on independence and equality in the exceptional cases of military intervention and obscures the routine and persistent ways in which international hierarchy undermines self-government. The view that our world consists of autonomous states is “dangerously misleading today in its failure to convey the depth of states’ mutual influence and dependence in a globalized economy and a thick, variegated, and asymmetrical international legal order” (Pitts, 2013, p. 148–149).

Sovereignty as non-domination, however, points beyond this conundrum in two respects. First, it should be clear that sovereignty’s role as a shield has never been a fully realized feature of the international order and was at best an aspiration. The formal rights of sovereignty are not a “pre-existing political ‘fact’ of absolute and impermeable state power,” but instead an anti-imperial demand from peripheral and colonized states for equal membership that was only partially secured (Cohen, 2012, p. 201). The persistence of forms of legalized inequality after decolonization illustrates the ways in which sovereignty’s formal protection remains elusive for most states (Anghie, 2005, p. 239–244; Grovogui, 1996). Second, from the anticolonial perspective, even if the formal barriers against intervention could be fully realized, the question of substantive political and economic hierarchies requires thinking non-domination beyond sovereignty as a shield. As the example of Nkrumah’s project of pan-African federation suggests, achieving non-domination can also entail the disaggregation of sovereignty and the creation of robust regional and international institutions that not only guard against direct forms of external encroachment, but can also meaningfully reconfigure relations of hierarchy.

Together, the international and domestic dimensions of an anticolonial account of sovereignty offer theoretical avenues out of the normative diminution of sovereignty entailed in the responsibility to protect. As I have argued above, the responsibility to protect renders sovereignty instrumental, paternalist, and conditional. This normative diminution of sovereignty entails an international order that permits legalized hierarchy, which constituted the institutional backdrop of the Libya intervention. While proponents of the responsibility to protect have sought to introduce procedural checks and reinterpret the principle in ways that distance it from its invocation in military intervention, I have argued that the institutional and practical entailments of sovereignty’s normative erosion cannot be easily contained. The twin emphasis of anticolonial sovereignty recovered here—that individual rights need to be nested in collective self-government and that the practice of collective self-government in turn requires international institutions that realize non-domination—points toward a politicized account of human rights and suggests that the international order is deeply implicated in and responsible for the domestic domination and humanitarian crises associated with internal state failure. This does not provide a straightforward answer to the question of what we ought to do in instances of humanitarian crises that demand an international response. But the aim here is to make the case that envisioning a world where such crises are prevented and human rights are secured requires asking additional questions about the ways that the inequalities of the international order fuel domestic domination. International responsibility from this perspective cannot be limited to interceding when a state manifestly fails, but instead requires undoing the hierarchical economic and political relations that continue to structure our international order.
BEYOND POST-WESTPHALIA

Beyond offering alternatives to what I have called the normative diminution of sovereignty as responsibility, recovering this anticolonial account of sovereignty illustrates the importance of centering the historical legacies and more recent configurations of empire in our efforts to rethink sovereignty. We have come to understand our contemporary international order as a post-Westphalian order. This designation indicates the ways that economic globalization has undermined the nation-states’ capacity to steer a national economy meaningfully. Moreover, the rise of international institutions and human rights law since 1945 have set normative limits and constraints on the exercise of sovereignty. In this account, the transition and transformation from a Westphalian to a post-Westphalian order operates as both a historical and conceptual marker. Historically the regime of Westphalian sovereignty is said to have come into being with the 1648 Treaty of Westphalia and the rise of the European state system, which was progressively expanded beyond Europe in a process that culminates with decolonization in the 20th century (Benhabib, 2007; Cohen, 2012, p. 80; Habermas, 1998; Held, 2002). From a conceptual point of view, Westphalia stands for a regime of sovereignty where autonomy, equality, and non-intervention are prioritized and privileged.

The historical and conceptual accounts sit uneasily with each other insofar as the conceptual understanding of Westphalian sovereignty does not map on to the historical period with which it is associated. Indeed, the ideal of a world of sovereign and equal states was belatedly attributed to the Treaty of Westphalia during the mid-20th century (Schmidt, 2011). Moreover, the international order has only ever approximated the conceptual model during the 20th century age of decolonization that universalized inclusion in the UN. But even in the UN system, legal inequality has always been an institutionalized feature of the international order (Simpson, 2004). The persistence of not only a substantive but also a legal hierarchy in the international sphere suggests that the conceptual model of Westphalian sovereignty has never been part of the practices of international society. As a result, invocations of the emergence of a post-Westphalian world order are often accompanied by an acknowledgment that a world of autonomous equal states, now in decline, is more a conceptual foil rather than any reflection of lived reality.

However, continuing to pose our present predicament as post-Westphalian even as we acknowledge that a Westphalian world order never existed invites an exaggeration of contemporary transformations. This binary elides the persistence of international hierarchy, obscures the ways that contemporary curtailments of sovereignty harken back to the long history of imperialism, and delinks the contemporary experience of economic globalization from the imperial economic networks that preceded it and make it possible. In short, the Westphalian/post-Westphalian distinction elides the way that empire was and continues to be constitutive of our international order.

If it is the case that Westphalian sovereignty not only no longer exists, but also never did, we might give up a picture in which an international order, guided by the principles of autonomy, equality and non-intervention has come to a sudden and well-earned demise. Doing so would open conceptual and critical space to wrestle with the recurring features of sovereign inequality and international hierarchy. Such an engagement with the past and present of an imperial world order suggests that our efforts to rethink sovereignty cannot be limited to overcoming the conceptual trappings of a Westphalian model of sovereignty but also require outlining the contours of a post-imperial international order. It is here that an engagement with the project of decolonization will prove instructive. While we cannot return to and reproduce the political projects of anticolonial nationalists, their attunement to the multiple modes of international hierarchy and their ambitious efforts to secure an egalitarian international order, which ranged from projects of regional federation to the New International Economic Order, provide critical and normative resources to think with and think against.

NOTES
1 In the 2009 report on implementing the responsibility to protect, Secretary-General Ban Ki-Moon praised Africa as a model, noting, “The evolution of thinking and practice in Africa in that regard has been especially impressive” (UN General Assembly, 2009a, pp. 6). Representatives from the USA, South Korea, Egypt, France, Costa Rica, New Zealand, Monaco, Rwanda, Sri Lanka, Sierra Leone, Kazakhstan, and Tanzania all pointed to the African Union’s pioneering role in promoting the responsibility to protect during the July 2009 General Assembly debate. For transcripts of the debate, see UN General Assembly, 2009b.
For a critique of an applied ethics model of politics focused on the dominance of neo-Kantian ideal theory in political theory and political philosophy, see Geuss (2008).

On the question of Kosovo’s illegality and moral legitimacy, see Habermas (1999) and Buchanan (2001).

For a long history of sovereignty as responsibility, see Glanville, (2011). On the specifically Hobbesian antecedents, see Orford (2011), pp. 112–125.

For example, the Global Centre for the Responsibility to Protect has successfully propelled the institutionalization of “R2P Focal Points” in 60 states, which are charged with national implementation of the principle. Either an individual civil servant or office, the focal points are housed in the office of the chief executive or in the ministries and are to be insulated from electoral cycles (Global Centre for the Responsibility to Protect, 2012).

For a critique of decolonization, see Jackson (1990). On the continuities between contemporary discussions and earlier iterations of trusteeship, see Bain (2003) and Wilde (2008).

For an account of Westphalia as conceptual construct, see Schmidt (2011). For an acknowledgement that Westphalia is an ideal type or does not fully capture the history of sovereignty, see Held (2002), pp. 4 and Lafont (2016), pp. 23.

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2001 casts a long shadow on contemporary global politics. The War on Terror, announced the day after the September 11, 2001 terrorist attacks would be, Secretary Donald Rumsefeld warned, “a long war… that is not going to go away … is not going to be settled with a signing ceremony on the USS Missouri.”1 And indeed it has been America’s longest war—one made possible by a defection from international constraints on state action that sanctioned unilateralism and preemptive war. As Asli Bâli and Aziz Rana have argued in these pages, we should understand the War on Terror not as an unprecedented project but an escalation and intensification of American global power since the end of the Cold War.2 This intensification would lead in the Iraq invasion to what Edward Said called “the most reckless war in modern times.” It was “all about imperial arrogance unschooled in worldliness, unfettered either by competence or experience, undeterred by history or human complexity, unrepentant in its violence and the cruelty of its technology.”3

Presenting himself as a radical departure from the American foreign policy establishment, Donald Trump has only sped the exit from international institutions already set in motion by previous policymakers. The illegal bombing of Syria, the withdrawal from multilateral agreements like the Iran nuclear deal, the sanctioning of Israeli expansion, and the recognition of Juan Guaidó as the president of Venezuela continue to project an American empire unmoored and unfettered. This

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1 Nikhil Singh, *Race and America’s Long War*, 2
2 Asli Bâli and Aziz Rana, “America’s Imperial Unraveling,” *Boston Review* 16 October 2017
   [https://www.lrb.co.uk/v25/n08/edward-said/the-academy-of-lagado](https://www.lrb.co.uk/v25/n08/edward-said/the-academy-of-lagado)
context of bewildering foreign policy decisions has occasioned a much needed debate about the crisis of American power and alternative visions of global order.

In this moment of “imperial unraveling,” we should remember that the year associated with the reckless American War on Terror also gave rise to two alternative visions couched in the idiom of international responsibility. At the United Nations World Conference against Racism held in Durban from August 25 to September 8, 2001, Caribbean states and non-governmental organizations from the global south demanded reparations for slavery and colonialism. And in December 2001, the International Commission of Intervention and State Sovereignty (ICISS) organized by the Canadian government with United Nations representation articulated an international principle of responsibility to protect (R2P). As America’s war raged on, the architects of international responsibility worked in its shadow, seeking to realize their competing visions of international politics.

Central to both R2P and reparations is an effort to create an international order where states are held accountable for injustice. Yet these two models of responsibility understand the character of that injustice and the scope of responsibility in radically different ways. They draw on divergent intellectual and political genealogies and offer competing conceptions of global justice. If R2P seeks to reconstitute a rule-based liberal international order, the Caribbean movement for reparations recovers a tradition of anticolonial internationalism that connects historical injustice to the present.

These models of responsibility map out two paths for how we might reimagine international order. R2P exemplifies the recent calls of international lawyers and international relations scholars to defend a liberal international order. 4 In an earlier moment, this approach imagined reasserting international law against American empire. Yet it arrives at a limited understanding of what

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4 [https://docs.google.com/forms/d/e/1FAIpQLSesHzdZWxpp13plS4nkLOSMHly4Dg1aksBrCC6kWv6OFVAmO5g/viewform](https://docs.google.com/forms/d/e/1FAIpQLSesHzdZWxpp13plS4nkLOSMHly4Dg1aksBrCC6kWv6OFVAmO5g/viewform) This was published as a paid advertisement in the *New York Times* on July 27, 2018.
international responsibility requires. Beginning with a view of domestic and international politics as bifurcated, it can only imagine international responsibility as duties of assistance and intervention. Yet from climate change to migration, the scale of the crises that confront us requires a far more robust model of international responsibility. Reparations offers an alternative starting point for building a left internationalism. Reimagining the anticolonial internationalisms of the twentieth century, thinking in terms of reparative justice situates responsibility in the historically entangled relationships between the domestic and international.

Whose responsibility?

The responsibility to protect was a product of debates over humanitarian intervention in the aftermath of the Cold War—when the capitalist West and especially the United States could credibly present the projection of their power as universal rather than self-interested. It emerged especially after the 1999 NATO intervention in Kosovo as a way of institutionalizing international responses to humanitarian crisis. The intervention was found to be illegal under international law. At the same time, it was perceived as morally legitimate. For the then-Secretary-General of the UN, Kofi Annan and members of ICISS, the problem of squaring morally legitimate international action and the dictates of international law rested on rethinking sovereignty itself. Pointing to Kosovo and the perceived failure of the international community in Rwanda, Annan argued, “The world cannot stand aside when gross and systematic violations of human rights are taking place, [but] if it is to enjoy the sustained support of the world’s peoples, intervention must be based on legitimate and universal principles.”

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If what made intervention illegal was the UN Charter’s principles of sovereign equality and non-intervention, Annan called for a redefinition of sovereignty in keeping with the demands of international morality. After the publication of the ICISS report in 2001, the United Nations World Summit unanimously endorsed the principle of “responsibility to protect” at the 2005 meeting. According to the outcome document from the Summit, the primary responsibility to protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity rested with the state. The international community had a back-up responsibility—first to “encourage and help states exercise this responsibility” and second for “collective action in a timely and decisive manner, through the Security Council” when a state fails to meet its responsibility to protect.6

The ICISS report of 2001 and the 2005 Word Summit Outcome both emphasize that state sovereignty entails legal and political responsibility to protect populations. With humanitarian commitments newly embedded in the definition of sovereignty, international intervention then appears not as a violation of sovereignty, but rather a mechanism for realizing its underlying principles. This effort to overcome the contradiction between sovereignty and international intervention made a departure from the 1990s debates over “the right to intervention.” International action was reframed as a duty and responsibility, in defense of the existing world order. Military intervention could only be exercised under specifically circumscribed instances of state failure.

Especially in the context of America’s War on Terror, this institutionalized understanding of humanitarian intervention promised an alternative to unilateralism and preemptive military action. R2P won unanimous assent at the 2005 World Summit during the second year of the illegal war in Iraq. Against this background, the idea that intervention might be legally and institutionally circumscribed was a rebuke of America’s war. It offered the possibility of reasserting international

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law and the UN system after over a decade of their marginalization. It promised to put the genie of American imperialism back in the bottle of international law.

But while R2P aims to delimit the scope of intervention and reassert humanitarian law, it springs from an impoverished account of international responsibility. The idea that states hold the primary responsibility for humanitarian crisis within their borders relies on a concept of the international order in which domestic politics can be disentangled from their international context. On this model, we conceive of states as products of a domestic social contract and frame international politics as a second-order social contract, into which states enter after their domestic constitutions are settled. Understood in this way, the international community can be positioned as a wholly external actor that only intervenes once a crisis ensues.

To call this concept a fiction would be polite. From transnational financial and trade regimes to global governance institutions, the international and domestic spheres are impossible to disaggregate. Indeed, the basic order of operations is wrong: the international order as a rule has preceded the nation-state, which took its shape within an already imperialist and hierarchical system.

The entangled character of national and international politics make it impossible to view humanitarian crises as solely domestic. International institutions constitute the conditions in which humanitarian crisis emerge. They are present prior to and during the forms of violence that then justify intervention. For instance, in the period before the Kosovo intervention, Yugoslavia and its successor states were subject to decades of IMF structural adjustment that exacerbated economic instability, diminished constitutional minority protections, and undermined social cohesion. Similarly, in the exemplary case of international inaction, Rwanda, international development programs and foreign aid helped to create a “model developmental state” prior to the genocide. These policies exacerbated inequality and deepened political divisions. At the same time, they strengthened administrative capacity of the state, contributing to the scale and speed of the
The point here is not to identify international institutions as the primary causal actors in instance of ethnic cleansing and genocide. We need not absolve local actors of responsibility. But we cannot understand the origins of their actions if we treat the nation-state as an enclosed cell. To do so makes as much sense as blaming violence within an oppressive prison solely on other prisoners and their “gangs.” The people of the world’s “failed states” have been locked within those borders by the prison guards of the global order, the ministers and security forces of the world powers.

The wider point that international institutions shape and structure domestic politics extends beyond the case of humanitarian crisis. The globalized economic order reinforces and exacerbates authoritarianism, state weakness, and domestic inequality. To argue in this context that the onus for violations of human rights fall first and foremost with states burdens them with responsibilities for political, economic, and humanitarian conditions that are not of their own making. It assumes that all states are sovereign in the same way, saddling weak and poor states with responsibility for structural problems that they have limited power to transform.

At the same time, the “backup responsibility” of the international community both relieves powerful states of burdens and enhances their authority. Under R2P’s framework, international responsibility amounts to a limited duty of assistance or intervention. Responsibility for the origin of crises in underlying political and economic structures does not enter the picture. Viewing the international community as external to humanitarian crisis also endows international institutions—in particular the unrepresentative Security Council—with the power to decide when and how to discharge that responsibility. Citing the “geopolitical interests at work within the Council,” the Bolivia representative to the UN declared in 2009, that “the application of this concept is discretionary and not universal.”

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R2P enhances the authority of the Security Council while offering only a limited vision of international responsibility. It is no surprise then that the one instance of R2P’s invocation in military action—the NATO bombing of Libya—replayed the reckless American war in Iraq. Although touted at the time for its multilateralism and use of the UN Security Council process, it contributed to civil war and further destabilization of the region.

**International Responsibility for what?**

The reparations demand instead requires that we wrestle with a more expansive account of international responsibility. Since the 2001 Durban conference, reparations have moved from the margins of political debate to the center. Victories in the case of sterilization in North Carolina, police torture in Chicago, and British compensation for torture during the anticolonial Mau Mau rebellion in Kenya have given advocates of reparations a renewed sense of political possibility. As Britain agreed to pay £20 million to over 5,000 Kenyan victims, a reparations movement emerged in the former British West Indies. In 2013, Hilary Beckles the Vice Chancellor of the University of West Indies, published *Britain’s Black Debt*, which systematically outlined Great Britain’s “criminal enrichment” through slavery and colonialism. Beckles’ book has served as the basis of the demands outlined by the Caribbean Reparations Commission organized under the auspices of the Caribbean Community (CARICOM). Representing fifteen island-states, CARICOM announced in 2013 that it would be seeking reparations from Britain, France, and the Netherlands through the International Court of Justice in The Hague.

Beyond considering a legal case, the Reparation Commission has outlined an ambitious 10-point program for redress. It includes political and economic demands associated with the Global

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South including debt cancellation for the region, technology transfer, and investments in an indigenous people’s development program. These demands have an uphill legal and political battle. When the Caribbean Reparations Commission was formed, the British Treasury was still repaying debt from its 1835 bailout of slave owners. The £20 million paid to slave owners to compensate them for the loss of property after emancipation amounted to 40% of the British government’s yearly income at the time and would be equivalent to more than £300 billion today. Ignoring this history and the demand for reparations during his July 2015 visit to Jamaica, former Prime Minister David Cameron urged West Indians to “move on from this painful legacy and continue to build for the future.”

Central to reparations claims, however, is an argument that building a Caribbean future depends on redressing the past. The islands are what they are because of slavery and colonialism. The book is not closed on these relationships. For instance, the debt of islands states derives from efforts at overcoming the colonial legacies of poverty and underdevelopment. Since independence, they have had to borrow to try to lift social standards from the abject levels produced by colonialism. They have, in the process, accumulated “unsustainable levels of public debt that now constitute their fiscal entrapment.” This debt, the Commission argues, “properly belongs to the imperial governments who have made no sustained attempt to deal with debilitating colonial legacies.” Caribbean debt is here transformed into European debt. It is Europe’s “black debt”—a debt accrued through “criminal enrichment.” European wealth and Caribbean poverty are tethered by a long a history of exploitation and domination.

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The colonial past is present not only in the structural relations between the European and Caribbean states. It is inscribed on Caribbean bodies. According to the Commission, the Caribbean is home to the “highest incidence in the world of … hypertension and type two diabetes.” These are the “direct result of the nutritional experience, physical and emotional brutality, and overall stress profiles associated with slavery, genocide, and apartheid.” The “painful legacy” of slavery cannot simply be relegated to the past as Cameron suggests. It is inherited and transmitted, carried on the bones of the descendants of the enslaved and colonized.

Reparations here becomes not just a demand for a settling of past accounts, but entails an argument that overcoming the entrapments of colonialism is the only path toward an egalitarian and just Caribbean future. The long-standing structural conditions that have generated political, economic and social crises in the Caribbean are products of a global and imperial world order. As a result, the international community cannot be pictured as an external actor with a supervisory responsibility to protect in instances of unprecedented violence. Because powerful states, international institutions, and private corporations are continuously implicated in ongoing structures of domination, international responsibility is routine. It goes beyond assistance and intervention and involves undoing the mechanisms that produce hierarchy, poverty, and violence.

The starting claim for reparations that the domestic and international are entangled—that Caribbean poverty and European wealth are products of the same colonial theft—can provide the grounds for building a broader left alternative to liberal internationalism. Taking seriously the idea that hierarchy and domination are structural and historical features of the international order entails a more expansive account of political responsibility. This would require responsibility for redressing histories of domination and for creating global economic and political democracy. From within the American empire, a political project that embraces this vision of international responsibility reframes

12 http://caricomreparations.org/caricom/caricoms-10-point-reparation-plan/
policies from militarism to migration. Rather than asking when military intervention is warranted, we
should demand the demilitarization of global politics. From bases to arm sales, the United States
remains, as Martin Luther King put it, “the greatest purveyor of violence in the world today.” As
should now be beyond dispute, American militarism fuels civil wars and destabilizes whole regions.
The idea that violent response to humanitarian crisis represents an act of responsibility is a complete
inversion of reality. It is possible only in the context of a forgetting of the past that, as James
Baldwin observed, white supremacy always seems to entail.

Alongside militarism, the global economic order, which privileges corporate property rights,
demands privatization and enshrines free trade, has deepened global inequality and dislocated
existing forms of life. The unevenly distributed effects of climate change recently exemplified in
Cyclone Idai’s destruction offer just one sign of these dislocations. The hardest hit regions in
Mozambique lie not far from ExxonMobil’s recent efforts to develop gas deposits. In this and other
contexts, international responsibility also entails the responsibility of private corporations and
international financial institutions. Like the Caribbean demands for reparations, calls for
ExxonMobil to pay its “climate debt” insist that the burdens of creating post-carbon economies be
borne by those who have benefited from the current economic order.

Beginning from the web of economic relations in which we are all embedded also reveals
migration patterns as products of global structures of violence and inequality. Seen from this
perspective, the closure of borders and violent policing of migrants in the United States and Europe
is not only inhumane and immoral. It is also a dereliction of responsibility. The foreign policies of
western states have contributed enormously to the increasing numbers of refugees and migrants.
From violent repression in Central America to the North American Free Trade Agreement that has
transformed the conditions of Mexican agriculture to the wars in the Middle East, the connection
between American foreign policy and displacement is direct. Migration policies that redress this past
are indispensable in the broader effort to transform economic and political relations between states. To abandon the human products of imperial irresponsibility is to contribute to the further destabilization of the world. The persistence of the question of Palestinian refugees seven decades after the Nakba illustrates this danger.

Liberal internationalism demands little of us. It conceives of responsibility primarily in the form of a gun. To take genuine responsibility, on the other hand, requires historical self-knowledge and the international solidarity that it implies—both taxing undertakings. Rather than duties to distant others in distress, international responsibility emerges from the ways we are already embedded in global political and economic structures. As daunting as it may seem, we have much to gain from embracing this perspective. To redressing histories of domination and create new global institutions will do more than alleviate the conditions of others. It is not a question of altruism or charity. From demilitarization to global economic transformation, realizing our international responsibilities is a necessary part of remaking democracy at home—a task that will remain impossible so long as we cling to a view of ourselves as benign sovereigns, white saviors, the cavalry who arrive just in time.