more balanced investment regime (at 228). Fourth, Kurtz addresses dispute settlement in the WTO and investor–state arbitration. Here, he identifies options for the reform of arbitral procedures, including the constitution of an appellate body to review arbitral awards.

Kurtz convincingly addresses the 'delicate question' of how the conflict between liberalizing trade and investment and state regulation for legitimate public purposes may be resolved (at 26). Throughout the book, he offers reform proposals addressed at government officials and adjudicators in order to guide the process of convergence into the direction of a justifiable and sustainable level of commonality between the two legal systems, which leaves enough policy space to regulate in the domestic sphere. Even though Kurtz focuses very much on what international investment law could learn from WTO law, the book aims to reform both pillars within the general field of international economic law.

The WTO and International Investment Law is an inspiring and rich book based on the assumption of a need for change in international investment law and arbitration. Clearly, comparative public law can encourage a reconsideration of the status quo. Such reconsideration might lead to a broader change in the framework of international investment protection, which was once intentionally isolated from the larger body of international law, making it more transparent and allowing for greater deference to governmental measures. However, it is questionable whether investment tribunals which favour investment protection over policy space for states to regulate would use the approach for a reconsideration of the investment regime. Moreover, from a normative perspective the contracting states should be the driving forces for reform of the investment regime. Without doubt, this book is a comprehensive and stimulating study by an expert in both fields that will deepen understanding of the relationship between trade and investment. The author masterfully brings together discourses that are taking place between scholars and practitioners in each regime but frequently in relative isolation from each other.

Rhea T. Hoffmann

University of Erlangen-Nürnberg
Email: rhea.hoffmann@fau.de

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Serena K. Sharma and Jennifer M. Welsh (eds). ***The Responsibility to Prevent: Overcoming the Challenges to Atrocity Prevention***. Oxford: Oxford University Press, 2015. Pp. 480. £60. ISBN: 9780198717782.

The failed and controversial responses to humanitarian crises, such as those in Yugoslavia (1992–1995), Somalia (1992), Rwanda (1994) and Kosovo (1999), urged the international community to tackle the problem of the protection of innocent people from gross violence. One response was the introduction of the doctrine of the responsibility to protect (R2P) by the International Committee of Intervention and State Sovereignty (ICISS) in 2001. According to the ICISS, R2P consists of three pillars: (i) the responsibility to prevent; (ii) the responsibility to react and (iii) the responsibility to rebuild. The ICISS report begins its formulation of the responsibility to prevent with the following statement:

> This Commission strongly believes that the responsibility to protect implies an accompanying responsibility to prevent. And we think that it is more than high time for the international community to be doing more to close the gap between rhetorical support for prevention and tangible commitment. The need to do much better on prevention, and *to exhaust prevention options before rushing to embrace intervention*, were constantly recurring themes in our worldwide consultations, and ones which we wholeheartedly endorse.[1]

[1] G. Evans and M. Sahnoun (Co-Chairs), *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (2001), at 19 (emphasis added).

The UN members endorsed R2P by consensus in 2005 in the World Summit Outcome Document.[2] This document delimits the application of this doctrine to four international crimes: genocide, war crimes, crimes against humanity and ethnic cleansing.[3] The responsibility to prevent these international crimes is the subject of the book under review (at 22).

Moreover, the above-mentioned documents reaffirmed that sovereign states have the primary responsibility to protect people from atrocities and that the equality of sovereign states needs to be respected. The international community only has a secondary responsibility to protect people if the sovereign state is unwilling or unable to fulfil its obligation – expressed with the principle of complementarity.[4] This division between national and international responsibility makes the doctrine theoretically vague and practically convoluted and results in difficulties of operationalization and institutionalization. Since 2001, numerous essays and books have been published on R2P.[5] However, scholarship has focused less on the responsibility to prevent and more on other issues (for example, the general theoretical framework, military intervention and the application of R2P in specific cases).[6] The book under review thus attempts to fill a gap within the existing R2P literature. It is an important work among few analyses of the preventive aspect of R2P.

The book consists of three parts: the first addresses conceptual issues, appropriate scope and the substance of prevention; the second addresses the tools and operational challenges of the responsibility to prevent and the third the application of preventive measures in specific cases. It attempts to combine theory and practice (at 11). As the editors emphasize, the book 'travel[s] back and forth between theoretical assumptions about prevention and empirical observation' (at 21). This is one of the strengths of the book; while the work aims at theoretical clarification, it also offers empirical findings.

In the first chapter, which focuses on the conceptual framework of the responsibility to prevent, the authors distinguish between strategies to prevent conflict and strategies to prevent crime. While crime prevention requires structural changes and therefore a wide array of tools, conflict prevention is more limited – as it only seeks to address immediate violence – to 'eleventh-hour actions' (at 28). The authors further recognize that there exists a tension between strategies to prevent crime and strategies to prevent conflict (at 25–26).

With respect to the prevention of crime, the authors divide crime prevention strategies into two distinctive categories. First, targeted strategies are designed to target a specific situation in which crimes occur, de-incentivize perpetrators and protect vulnerable people. They are thus context specific (at 28). Second, systemic strategies seek to eliminate 'risk factors' and change the structure of those societies that exhibit symptoms associated with atrocities (at 28). Due to insufficient empirical research on systemic strategies and the authors' goal to assist policy makers, they limit the scope of their book to the analysis of targeted strategies (at 29).

In Chapters 2 and 3, Ekkehard Strauss and Monica Serrano address the question how the responsibility to prevent can be operationalized through institutionalization. They adopt contrasting perspectives. Strauss focuses on international mechanisms for the prevention of atrocities. He

[2] 2005 World Summit Outcome, UN Doc. A/RES/60/1, 24 October 2005, paras 138, 139.

[3] *Ibid.*

[4] *Ibid.*; Evans and Sahnoun, *supra* note 1, at 17.

[5] See G. Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (2008); R. Cooper and J. Vonov Kohler (eds), *The Responsibility to Protect: The Global Moral Compact for the 21st Century* (2009); A. Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (2009); A. Orford, *International Authority and the Responsibility to Protect* (2011); A. Bellamy, *Global Politics and the Responsibility to Protect: From Words to Deeds* (2011); A. Hehir, *The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention* (2012).

[6] See A. Hehir and R. Murray (eds), *Libya, the Responsibility to Protect and the Future of Humanitarian Intervention* (2013); D. Fiott and J. Koops (eds), *The Responsibility to Protect and the Third Pillar: Legitimacy and Operationalization* (2014); A. Bellamy, *The Responsibility to Protect: A Defense* (2015); R. Thakur and W. Maley (eds), *Theorising the Responsibility to Protect* (2015).

adopts a top-down approach and goes through a long list of international and regional institutions to examine to what extent their mandates encompass the prevention of crimes (at 40–80). By contrast, Serrano takes a bottom-up approach to prevention and focuses on the creation of centres called 'national R2P home' to promote the implementation of R2P by means of cooperation between governments and human rights activists (at 90–100). This initiative of 'national R2P home' was put forward by Denmark and Ghana under the auspices of the Global Centre for the Responsibility to Protect (GCR2P). The underlying idea is to provide an 'institutional arena' as 'a law-making framework' in which general principles of R2P 'could be initially formalized and endorsed, and eventually crystalized into "harder" rules' (at 88). According to Serrano, these centres are performing two further tasks nationally and internationally. First, they help national authorities to reaffirm their commitment to prevent mass atrocities (at 89). Second, in the case of state failure, they 'integrate a global network' for coordination and communication between other states and the international community with respect to the implementation of R2P (at 92).

However, Strauss points to the principal deficiency of R2P when he notes: '[T]he provisions of international law related to the institutional capacities of the UN to prevent or halt mass atrocities did not create special organs, bodies, or procedures, but referred to existing capacities and responsibilities' (at 80). Unfortunately, Chapter 2 and 3 do not make any suggestions how the problem of institutionalization might be remedied.

In Chapter 4, Jennifer Welsh investigates the preventive dimension of two non-military tools of international law and politics: diplomatic mediation and sanctions. With reference to the cases of Syria and Kenya (at 108, 112), she argues that the traditional understanding of mediation is problematic as it assumes that 'parties will be ready for mediation only after they have engaged in a certain level of violence' (at 106). Thus understood, mediation cannot play a role in prevention. To use mediation as a preventive tool, mediators should be allowed to take the initiative and interfere in a situation in which violence is perceived to be imminent. To improve the preventive function of mediation: (i) mediators must be partial to international law and human rights standards; (ii) it is necessary to have criteria to assess which groups must be included in the process and (iii) sometimes it is necessary to use the well-coded threat of coercive measures to facilitate mediation (at 109–112).

Moreover, Welsh explores the preventive function of another non-military measure: sanctions as 'coercive diplomacy' (at 112). She identifies three difficulties in meeting the responsibility to prevent through sanctions. First, she exposes how comprehensive sanctions can run counter to the aim of atrocity preventive measures (at 112–113). She argues that targeted sanctions, if deployed in a synchronized and coordinated way, are highly preferable to comprehensive ones (at 113–114). Second, sanctions can become a 'trap door' for military intervention. If they do not change the behaviour of a targeted government, waging war may remain the only effective means. Thus, sanctions can become 'a precursor to war' (at 116). This seems to run counter to the goal of responsibility to prevent. Third, Welsh addresses the issue of incomplete compliance. Due to the lack of an international enforcing system, states and other international entities circumvent sanctions and thus breach their international responsibilities. To overcome this problem, she suggests that 'sanctions should be aimed not only at individuals and entities inside the target state, but also at states, commercial entities, and individuals outside it, who aid and abet the commission of atrocity crimes' (at 117).

In sum, the author suggests that in order to forestall the commission of atrocities the international community needs to go beyond traditional diplomatic mediation and become more interventionist. While the chapter argues for the implementation of targeted sanctions to prevent atrocity crimes, it further asks for comprehensive international compliance. However, it lacks any practical outline of how the international community can establish a comprehensive enforcement mechanism to guarantee compliance with sanctions.

In Chapter 5, Dan Saxon outlines the preventive function of the International Criminal Court (ICC). The author distinguishes between deterrence and prevention. Deterrence 'rests on the premise that the fear and pain of punishment discourages crime in potential offenders' (at 119–120). Prevention, by contrast, is a systemic comprehensive concept. Saxon argues that the prevention of crime requires: (i) moral and legal norms to support acceptable behaviour; (ii) institutions that make these norms credible and (iii) a culture that guarantees that these norms persist (at 120): 'Individuals must assimilate the norms so strongly that they will adhere to them even in times of conflict, fear, and danger' (at 129). Therefore, whether the ICC can perform a preventive function, moreover, depends on its legitimacy and the acceptance of punishment for crimes (at 128–129).

After an analysis of some ICC cases and situations (for example, Colombia, Democratic Republic of Congo, Guinea, Ivory Coast and Kenya), Saxon draws a conclusion that is enlightening and innovative. According to him, 'the ICC's ability to deter and prevent atrocities within a country will be directly proportional to the level of central authority – whether repressive or democratic – existing within states' (at 154). The preventive function of the ICC as an international institution is linked to sovereign states' (their central governments') cooperation. The chapter does not discuss, however, situations in which the central government acts as an accomplice in the perpetration of atrocities and how the ICC can rely on the cooperation of such a government to prevent crimes. Hence, the preventive function of the ICC intervention remains tenuous and limited.

It is a strength of the book under review that it also considers the preventive potential of military intervention. It thus goes beyond the sequential understanding of R2P as formulated in the ICISS report. According to the report, the responsibility to react (including non-coercive and coercive measures) is applicable during an upheaval, while responsibility to prevent applies only before violence occurs. In Chapter 6, Sarah Sewall challenges this sequence. She refers to different military strategies and analyses their pros and cons in relation to the prevention of atrocities (at 174–180). Moreover, influenced by the case of military intervention in Libya and its aftermath (at 160–162), the author recognizes the difficulty to protect people by military intervention (at 167, 169). She remarks that there is no one-size-fits-all formulation (at 170) and that the implementation of R2P 'is therefore not simply a matter of being militarily prepared, but first and foremost a question of understanding the special requirements of civilian protection and the trade-offs and challenges it presents' (at 188). Sewall concludes that the practical framework of R2P (specifically preventive military intervention) lags behind its theoretical framework. She highlights the need to identify best practices of R2P and warns against keeping this doctrine abstract (at 187).

The issue of military intervention remains controversial in international law and politics. The main aim of the drafters of the ICISS report was to propose measures that could be taken short of military intervention to prevent the commitment of mass atrocities and, thus, to overcome the reluctance of sovereign states to implement R2P. The responsibility to prevent was introduced as a measure short of military intervention to encourage states to eliminate the roots of crime first and foremost at home. Thus, responsibility to prevent is supposed to be less intrusive and to respect the equality of sovereign states. However, if one scrutinizes the panoply of this aspect of R2P, responsibility to prevent appears no less intrusive. The book under review illustrates this finding in Chapters 8, 9, 10 and 12 in relation to the cases of Macedonia, Burundi, Kenya and Libya.

With respect to Macedonia, the international community received the consent of the government to deploy peacekeeping forces, while the independence of the state was at stake. The case of Macedonia shows how the deployment of a peacekeeping mission to forestall imminent violence may prevent the spillover of conflict (at 230). In the case of Kenya, the post-national election violent clash in 2007 was resolved by 41 days of negotiations and a resultant compromise (at 280). This non-military success led many commentators to deem the case of Kenya 'as the

"purest" version of R2P' (at 281). However, even in Kenya, only the timely well-coded threat of the use of force worked to prevent the escalation of violence (at 296–297).

In Burundi, the international community was slow and hesitant to deploy peacekeeping forces in an acute prolonged internal conflict (at 269–273). Burundi was the scene of recurrent violence and political instability since its independence in 1962. The different rounds of genocidal clashes occurred in the 1970s, 1980s and 1990s (at 252–262). However, a limited military response of the international community only took place in 2003 by an African Union mission that was converted into a UN mission in 2004. The deployment was to some extent successful in stabilizing the country (at 261–263). By contrast, in the case of Libya, the response of the international community – with UN Security Council Resolution 1973 and subsequent operation of the North Atlantic Treaty Organization – to governmental violence against the Libyan people and also the imminent massacre at Benghazi was fast and robust (at 329–344). Yet, it did not succeed in protecting Libyans (at 360–367). Ruben Reike in Chapter 12 describes it as a 'controversial success'. Although the Gaddafi regime was overthrown and a massacre at Benghazi was prevented, Libya is still in turmoil, and the international community has failed to prevent further crimes.

The book shows that although military intervention can be used as a preventive tool, certain conditions must be met for it to be successful. In particular, it must be based on a case-by-case assessment. If the responsibility to prevent is to become more interventionist, it needs to be internationally institutionalized with a clear procedure to provide for the timely authorization and supervision of military conduct. Otherwise, there is a danger of mission creep as materialized in Libya (at 364–365), or intervention may be slow and too late like in Burundi (at 275–278). Yet, apart from making some general recommendations, the book does not suggest any clear guidance for overcoming the pervasive conceptual and practical difficulties with regard to military intervention as a way to implement the responsibility to prevent.

In the last chapter of the book, Serena Sharma and Jennifer Welsh indicate the challenges that responsibility to prevent will continue to encounter in the future. They identify a lack of political willingness and institutional incapacity as the main practical difficulties. Another challenge is that a number of conceptual questions as to what should be prevented, and under which circumstances, remain unanswered (at 368).

One conclusion to be drawn from this collection is the need for more empirical research on the implementation of the responsibility to prevent. Some of the chapters merely describe available international tools. Furthermore, the book fails to indicate the ways in which the international community may overcome the existing tensions between the primary responsibility of sovereign states to protect their populations and the secondary responsibility of the international community to prevent international crimes. Nonetheless, the book is a small step on the long road of the responsibility to prevent mass atrocity crimes.

Heidarali Teimouri

Leeds School of Law
Email: lwht@leeds.ac.uk

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Individual Contributions

Serena K. Sharma and Jennifer M. Welsh, Introduction;
Ruben Reike, Serena K. Sharma and Jennifer M. Welsh, Conceptualizing the Responsibility to Prevent;
Ekkehard Strauss, Institutional Capacities of the United Nations to Prevent and Halt Atrocity Crimes;

Monica Serrano, National Focal Points for R2P: Institutionalizing the Responsibility to Prevent;
Jennifer M. Welsh, Mediation and Sanctions: Applying Conflict Prevention Tools in Atrocity Crime Settings;
Dan Saxon, The International Criminal Court and the Prevention of Crimes;
Sarah Sewall, Military Options for Preventing Atrocity Crimes;
Jonathan Leader Maynard, Combating Atrocity-Justifying Ideologies;
Abiodun Williams, The Possibilities for Preventive Deployment: The Case of Macedonia;
Walter Lotze and Alexandra Martins, The Responsibility to Prevent Atrocity Crimes: Drawing Lessons from International Intervention in Burundi;
Serena K. Sharma, The 2007–08 Post-Election Crisis in Kenya: A Case of Escalation Prevention;
Naomi Kikoler, Guinea: An Overlooked Case of the Responsibility to Prevent in Practice;
Ruben Reike, Libya and the Prevention of Mass Atrocity Crimes: A Controversial Success;
Serena K. Sharma and Jennifer M. Welsh, Conclusion: An Integrated Framework for Atrocity Prevention.