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1

Introduction

This book offers an account and evaluation of the use of safety zones in the 1990s. In April 1991, the United States, Britain and France, with the tacit approval of the Security Council, sent troops into northern Iraq to create a safe haven for the Kurds fleeing from Saddam Hussein's repression. In May 1993, the Security Council designated six 'safe areas...free from any armed attack or any other hostile act' in Bosnia-Herzegovina in an attempt to protect Muslims from ethnic cleansing by Serbs.¹ In May 1994, the Security Council mandated a strengthened United Nations Assistance Mission for Rwanda (UNAMIR) to 'contribute to the security and protection of displaced persons, refugees and civilians at risk in Rwanda through the establishment and maintenance, where feasible, of secure humanitarian areas',² though such zones were never created. In June 1994, authorized by the Security Council to launch a temporary operation under national command and control, France chose to set up a '*zone humanitaire sûre*' (ZHS) as a means to contribute to the 'security and protection of displaced persons, refugees and civilians at risk in Rwanda'.³ In each case, with implicit or explicit backing by the Security Council, some combination of the United States, Britain, France, and their allies intervened, or considered intervening, militarily through the creation of safety zones, variously called safe havens, safe areas or *zones humanitaires sûres*, in order to ensure the security of civilians and displaced persons targeted by extreme violence. These zones encompassed entire towns, as in Bosnia, or large areas of land as in Iraq and Rwanda, and were often implemented without the clear consent of the belligerents responsible for these grave violations of humanitarian law. While they are but one facet of broader instances of international military involvement in humanitarian crises in the post-Cold War era,

safety zones merit their own study due to their noteworthy occurrence in three of the cases of humanitarian intervention in the 1990s, and due to their investigative value as precedents for possible future international attempts to protect civilians targeted by belligerents in an armed conflict. In this respect, an inquiry into why, and how effectively, safety zones were employed in the 1990s is of interest to scholars and practitioners alike. Chapters 2, 3, 4 and 5 respectively provide accounts of the Iraqi safe haven, the Bosnian safe areas, the proposed Rwandan United Nations (UN) secure humanitarian areas (SHAs) and France's *zone humanitaire sûre* in Rwanda.

Safety zones in the 1990s: definition and distinctiveness

Historical precedents

Although places of worship have often served as sanctuaries for persons not directly implicated in fighting, a formal safety zone concept⁴ only emerged during the Franco-Prussian war. In a letter to the Empress Eugénie of Prussia on 20 August 1870, Henri Dunant, founder of the Red Cross, suggested that certain towns in conflict areas be designated as neutral: therein the wounded would find shelter and receive assistance, and resident civilians would likewise be protected from the ravages of war.⁵ The following year, Dunant also worked to institute similar types of zones during the uprisings of the Paris Commune.⁶ Although his idea was not adopted in either situation, it elicited interest and several attempts were made to draft new legal principles outlining the basic criteria for the creation of such zones. An initial step was made in the 1907 Hague Convention IV Respecting the Laws and Customs of War on Land, in which Article 27 specified that 'in sieges and bombardments all necessary steps must be taken to spare...hospitals, and places where the sick and wounded are collected, provided they are not being used at the time for military purposes',⁷ without making any specific reference to the idea of a demarcated zone or locality that all belligerents would recognize as combat-free. During the 1930s, two additional efforts occurred to incorporate a safety zone concept in humanitarian law. The first was spearheaded by the French *Médecin Général* Georges Saint-Paul who founded an organization called *L'Association des Lieux de Genève*: it lobbied governments to adopt legislation to the effect that they would create areas of refuge for civilians during times of war and grant them protection akin to that provided wounded and sick soldiers *hors combat*.⁸ The second initiative occurred within the institutional framework of the International Committee of the Red Cross (ICRC),

which convened a Commission of Experts in 1936 and 1938 to develop draft codes for new humanitarian law conventions that were scheduled to be discussed at a diplomatic conference in 1940.⁹ The advent of World War II delayed this meeting of states until 1949, but the legal groundwork for both hospital zones and neutralized zones was completed during this period and served as the basis for ICRC lobbying with belligerents to set up such zones during the war. Such pleadings proved fruitless,¹⁰ however, so the first three successful uses of safety zones prior to legal codification of the concept in the 1949 Geneva Conventions would come outside the context of World War II.

In November 1936, General Franco announced his intention to place outside the range of combat the north-east sector of Madrid where the civilian population could seek refuge. Though the ICRC was unable to obtain the official consent of the Republican faction to such a zone, the project nevertheless went ahead and the zone was respected for the duration of the war.¹¹ In Shanghai in 1937, a private initiative by Père Jacquinot de Besange led to the creation of *la zone Jacquinot* that sheltered 250,000 Chinese civilians during the Sino-Japanese war. Formally agreed to by both parties to the conflict on 6 November, the zone was clearly demarcated, administered by Chinese civilians and provisioned by the French. When the Japanese captured Shanghai in mid-November, the zone fell under the control of Japanese military authorities, but was entirely respected.¹² Finally, in March 1948 prior to the break-out of hostilities between Palestinian and Israeli forces, the ICRC negotiated terms for the creation of three small places of refuge within Jerusalem, each comprising a few buildings and intended for civilians. Although two of these zones were disbanded within a few weeks of the start of the Palestinian/Israeli war in mid-May since their security could not be adequately guaranteed, one of the zones proved successful and endured throughout the fighting.¹³ These precedents were vital in convincing states that safety zones designed to shelter wounded, sick and certain categories of civilians would be a valuable contribution to humanitarian law.

Legal codification

Article 23 of the 1949 Geneva Convention I allows for¹⁴ the establishment of 'hospital zones and localities so organized as to protect the wounded and sick [within the armed forces] from the effects of war'.¹⁵ Upon the outbreak of hostilities, the parties concerned may conclude agreements mutually recognizing such zones, and are invited to call upon the good offices of the ICRC or other Protecting

Powers to facilitate their institution. Attached to the 1949 Geneva Convention I is a Draft Agreement relating to hospital zones and localities, which Article 23 of the Convention suggests states consider before setting up such zones.¹⁶ This Draft Agreement further reveals what the Contracting Parties had in mind when they formulated this article, clarifying both that access to these zones should be carefully restricted and that any activity within them of a military character should be prohibited. These zones are not to be defended by military means, and they are open to occupation by the enemy. The Draft Agreement also suggests that hospital zones and localities should not be situated in areas that are important for the conduct of the war.

Article 14 of the 1949 Geneva Convention IV broadens the scope of the hospital zones and localities discussed above to allow for the protection of aged persons, children under fifteen, expectant mothers and mothers of children under seven.¹⁷ As in Article 23 of Geneva Convention I, the belligerents may conclude agreements regarding mutual recognition of the localities they have created, and may call upon the good offices of the ICRC as well as Protecting Powers to facilitate the institution of such zones. Again, a Draft Agreement was annexed to Geneva Convention IV, further outlining what was intended in case such hospital and safety zones and localities actually came into effect.¹⁸ It requires that access to the zones be carefully restricted to only those persons entitled to be there and forbids any activity of a military character within the zone. No defense of the zone is permitted, and it is suggested that the zone not be established in an area likely to be of military significance.

Article 15 of the 1949 Geneva Convention IV lays out specifications for the creation of neutralized zones, envisioned to be 'in the regions where fighting is taking place'. Any party to a conflict may propose to its adversary the implementation of neutralized zones intended to shelter from the effects of war 'wounded and sick combatants or non-combatants'; and 'civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character'. Article 15 also requires that all parties to the conflict consent to the geographical position, administration, food supply and supervision of the proposed neutralized zone, and record these latter provisions in a written agreement.

The 1977 Geneva Protocol I contains two articles that are also concerned with establishing areas for the shelter of civilians in armed conflict.¹⁹ Article 59 prohibits parties to the conflict from attacking non-defended localities. A belligerent may declare as a non-defended

locality 'any inhabited place near or in a zone where armed forces are in contact which is open for occupation by an adverse Party'. The article specifies that all combatants, as well as all weapons and mobile military equipment must be evacuated; and that activities in support of military operations must not occur within the zone. The declaration of such a non-defended locality must be sent to the adverse party, who is required to respond immediately and to treat the locality as a non-defended zone unless the specified conditions mentioned above are not met.

Article 60 requires belligerents to not 'extend their military operations to zones on which they have conferred by agreement the status of demilitarized zone'. The agreement must be explicit and communicated verbally or in writing, and may be reached in peacetime as well as after the outbreak of hostilities. Demilitarized zones are required to fulfill the following conditions:

- (a) all combatants, as well as mobile weapons and mobile military equipment, must have been evacuated;
- (b) no hostile use shall be made of fixed military installations or establishments;
- (c) no acts of hostility shall be committed by the authorities or by the population; and
- (d) any activity linked to the military effort must have ceased.

The parties must clearly delimit the demilitarized zone, and may request neutral supervision by a third party. If fighting draws near to the zone, and the parties to the conflict have so agreed, 'none of them may use the zone for purposes related to the conduct of military operations or unilaterally revoke its status'.

Since this legal codification process was completed, but excluding the episodes in Iraq, Bosnia and Rwanda, safety zones have been established approximately ten times. Space prohibits an extensive review of these historical examples, but they can be listed and certain common characteristics identified.²⁰ In Dacca during Bangladesh's war of independence in 1971, a hospital, college and hotel were set aside as a safety zone for sick and wounded civilians, as well as foreigners. Three neutralized zones were set up in hotels in Nicosia in 1974 during hostilities in Cyprus. When Saigon fell to the Communists in 1975, Vietnam accorded protection to a small number of persons in a neutralized zone consisting of two buildings. A hospital and safety zone was set up for a very brief period in 1975 in Phnom Penh, Cambodia. A few centers for

civilians and disarmed combatants were instituted in Nicaragua during the disorder leading up to the Sandinista take-over in 1979. Argentina and Britain agreed to the creation of a neutralized zone at sea for hospital ships during the 1982 Falklands War. A hospital zone was instituted in 1990 around the Jaffna Teaching Hospital in Sri Lanka during the civil war between the government and Liberation Tigers of Tamil Eelam (LTTE).²¹ In 1992, a hospital and a monastery in Dubrovnik, Croatia, were turned into two neutralized zones under ICRC supervision. Although the details of each of these historical instances vary, certain common elements relevant to the current study can be identified. In all cases and corresponding to the provisions laid out in international humanitarian law, the consent of the parties to the conflict was obtained before the safety zones were implemented. In almost every instance, the zone in question was set up and administered by the ICRC.²² In many of the examples, the zones in question were restricted to one or two buildings, such as a hospital or a hotel, and remained in existence for relatively short times, perhaps only a few days or weeks. In several of the zones, the emphasis was placed on safeguarding the sick and wounded as opposed to protecting civilians in general. In all of these cases and in conformity with the 1949 Geneva Conventions and 1977 Additional Protocol I, demilitarization of the zone was either ensured through inspection or did not represent a problem due to the small size and nature of the zone in question.

Safety zones in the 1990s

A few generalizations about the safety zones envisioned by humanitarian law and implemented in the historical cases listed above can now be made. Hospital, neutralized, non-defended and demilitarized zones share five key attributes. First, they are established usually at the request of one or all of the belligerents, and certainly with the recognition and consent of all parties involved. Second, they are demilitarized and thus preclude the possibility of any kind of military activity taking place within their boundaries. Third, the underlying justificatory premise for creating these zones is the belief that civilians deserve protection because they are, in a sense, outside the realm of conflict. They are unlucky victims of armed confrontation between states. Fourth, as a result of this last assumption that civilians are inconsequential to the war aims of the belligerents, there are no provisions regarding security measures that might be needed to ensure the protection of the civilians or wounded combatants within these zones. Fifth, these zones were envisioned as being relatively

small in size and thus achievable within the context of armed confrontation.

With regard to the safety zones in Iraq, Bosnia and Rwanda, they most closely resembled the neutralized zones envisioned by Article 15 of the 1949 Geneva Convention IV or the demilitarized zones of Article 60 of the 1977 Geneva Protocol I: they were intended to protect the civilian population residing there in its entirety, and they aimed to prevent military hostilities from taking place within and around the zones. Since the safe haven in Iraq, the safe areas in Bosnia and the *zone humanitaire sûre* in Rwanda were not intended particularly for the wounded and sick and encompassed the entire civilian population within their ambit of protection, they went beyond the concept of a hospital zone as outlined in Article 14 of the 1949 Geneva Convention IV. Since the international community intervened in each of these cases to safeguard militarily the zones in question, they cannot be considered to constitute non-defended localities, as provided for by Article 59 of the 1977 Geneva Protocol I.

Despite these similarities with neutralized and demilitarized zones, the safety zones created in Iraq, Bosnia and Rwanda represented a significant departure from what was envisioned in existing humanitarian law and from historical precedents.²³ They were distinctive in five critical ways. First, the safety zones in Iraq, Bosnia and Rwanda were, in some measure, imposed upon belligerents by outside powers acting under the implicit or explicit authority of the Security Council. Therefore, consent to the creation of the zones was either not initially obtained, or achieved under duress. Endorsement offered grudgingly, as in Bosnia for example, was withdrawn as new circumstances in the conflict arose, which altered the strategic and political value of the areas in question. Second, the civilians offered protection were, in all three cases, directly targeted by violence. They were not bystanders caught in the crossfire, but victims actively sought out for expulsion or slaughter. Third, these first two characteristics of the safety zones under consideration meant that these areas, and the people within them, had to be protected through force, hence the presence of foreign military troops. Fourth, demilitarization of the safety zones, and continued military activity therein, became issues of contention or confusion. Fifth, the spaces being protected involved fairly large areas of land, either entire villages or specific geographic areas, making the zones much more difficult to monitor than a hotel or hospital, and much more important strategically to the belligerents.²⁴

These distinct characteristics of the safety zones in Iraq, Bosnia and Rwanda underline both the significance and approach of this study. It is important to examine these safety zones because they represent a new way of protecting civilians in armed conflict, which may contribute at some stage to the formation of new humanitarian norms. In addition, their imposed character in often difficult circumstances raises the questions of why the international community created them and how it confronted the various problems of implementation when they occurred.

Accounting for safety zones through a broadened conception of interest

This book also serves as an investigation into the role of interests and norms in the implementation of safety zones in the 1990s. The central hypothesis is that the establishment of these safety zones cannot be explained easily in terms of either strategic interests or normative considerations alone. On the one hand, if states were solely concerned with relatively narrow self-interests defined in security terms, then intervening in faraway places and putting their soldiers at risk in defense of beleaguered civilians in Iraq, Bosnia and Rwanda would have been unimaginable. Yet, the United States (US), the United Kingdom (UK), France, and others all did precisely that at various times during the implementation of the safety zones of the 1990s. On the other hand, if states were truly committed to pursuing principled ends such as preventing ethnic cleansing or genocide, as their rhetoric in relation to Iraq, Bosnia and Rwanda often intimated, then inaction in the face of the Rwandan genocide and the fall of Srebrenica would have been unthinkable. Yet, these tragic events occurred in 1994 and 1995 respectively.

Neither willing to engage militarily in a meaningful way to save targeted civilians in Iraq, Bosnia and Rwanda nor to stand entirely aside as massive violations of humanitarian law occurred, states were pulled in different directions, embracing policies that responded in some measure to these competing demands. The adoption and implementation of a safety zone approach in Iraq, Bosnia and Rwanda can thus be adequately explained only by considering both these self-interested and normative influences upon states. This book thus acknowledges, as have other thinkers, that the complexity of international affairs does not permit either an overly idealistic or an exclusively materialistic account of events.²⁵ Focusing on either of these aspects of International Relations to

the exclusion of the other leaves out parts of the puzzle, making an overall assessment of why, and how effectively, states implemented safety zones in the 1990s more difficult. What is therefore needed is a theoretical framework that problematizes the conception of interest and broadens it to encompass both egoistic and normative concerns in order to show how states choose between these different kinds of competing interests in complex, unforeseen ways.

A simple dichotomy between interests and norms is not fruitful since their interrelationship is more intricate than such a division would imply.²⁶ One way around this problem is to broaden the concept of interest so that it includes concerns that affect others or the community as a whole. Political theorists have for some time now accepted the idea that persons can have interests as social beings, implying a realization that the attainment of individual goals may inevitably be linked to the interests of others. A person may accept, for instance, that some loss of material advantage may be in his or her self-interest for the sake of maintaining the well being of the community as a whole.²⁷ It would thus be false to argue that self-interest can only mean behaviour that intends uniquely the self as beneficiary.²⁸ In the field of International Relations, there has been greater reluctance to accept the possibility that state self-interest may involve taking into consideration the welfare of other states or of the international system as a whole: norms and interests are often depicted as being in a dichotomous relationship.

However, a broader interpretation of self-interest does exist in the writing of some prominent International Relation theorists. Hedley Bull, for example, wished to identify a conception of international society that was consistent with self-interest. He argued that, in order to coexist and to maintain order in international affairs, states developed common interests and values and believed themselves to be bound by a common set of rules in their relations with one another.²⁹ In this way, states form an international society.³⁰ Andrew Hurrell suggests that the compliance pull of norms and rules is linked to their relationship to the broader pattern of international affairs: 'states have a longer-term interest in the maintenance of a law-impregnated international community'.³¹ Legal obligation serves as a means to regulate both present and future state behaviour so that raw applications of power, often expensive and untrustworthy, are avoided, thus promoting stability and leading to common expectations regarding conduct.³² Keohane too perceives the value of relaxing the assumption of egoism in international affairs, suggesting that states are aware that there are

'solutions to international problems that lead to larger overall value – even at the expense of direct gains to themselves'.³³ He labels this concern for the welfare of others empathetic interdependence³⁴

The concept of self-interest can therefore be broadened sufficiently to encompass egoistic factors, which will be labeled state interests, as well as other-regarding factors, which will be called community interests. Community interests embody preferences that are concerned with the well being of international society as a whole. States may not be acting against their self-interest when obeying certain legal obligations or when upholding humanitarian norms: they are simply choosing between different and competing interests.³⁵ States do not stray away from self-interested behaviour, but their preferences can be broad, long-term and community-oriented, or narrow, short-term and state-centered.

Before turning to a more detailed analysis of how community interests and state interests, as well as their interaction, alter the behaviour of states, let us be clear that the proposed framework draws upon a number of schools of thought in an attempt to devise a useful synthesis of the different approaches to the study of International Relations.³⁶ Realism, Institutionalism and Constructivism all bring invaluable elements to an effective understanding of state behaviour as seen through the lens of a broadened conception of interest.

Realists shed light on why states, operating in an anarchical international system, prioritize self-interest and power, often to the detriment of collective norms and action.³⁷ Here, states are mainly concerned with building their power relative to that of others so as to compete favourably in a potentially dangerous, uncertain world; and this power is defined primarily in terms of material capabilities such as military prowess or economic might.

Institutionalists or regime theorists show in particular how the presence of formal institutions and informal regimes push states toward results other than those predicted by power and pure self-interest. Regimes – 'the principles, norms, rules and decision-making procedures around which actors expectations converge in a given issue area' – act as intervening variables between state interests, defined again in material terms, and behavioural outcomes.³⁸ Since independent, egoistic choice can result in suboptimal outcomes for all states concerned,³⁹ regime theorists stress the functional benefits of norms and rules, suggesting that only by fostering cooperation can states achieve their goals. Regimes facilitate this interaction between states by easing joint decision-making, lowering transaction costs, reducing incentives for

cheating and ensuring that benefits acquired or restraints imposed are reciprocal. Regimes also confer a sense of propriety, enabling states to utilize their power in legitimate ways and thus promoting stability in the international system in general.⁴⁰ Regime theory also explains how, over time, the norms and rules of a regime may become decoupled from the state power-structures that created them, and continue to flourish with the help of international institutions. Very close to the institutionalists are the international lawyers, who have in recent years become increasingly interested in how legal rules can sometimes play a distinctive role in influencing state behaviour, mainly due to international law's widespread acceptance by states as the foremost institutional framework in which to explain, justify and persuade others of the legitimacy of their actions.⁴¹ International law presents its own specific internal logic of discursive enmeshment with which states must be familiar if they are to participate in international society: justifications about the appropriateness or inappropriateness of action must be framed in terms of state practice, precedents, judicial reasoning and legal vocabulary.⁴²

Constructivists highlight the fact that regimes and norms not only have the capacity to alter outcomes, but also to affect how states determine their interests in the first place. They show how the international normative context shapes the interests and identity of international actors, thus determining their basic character, expectations and behaviour;⁴³ and how states are embedded in a dense network of social relations, and hence are socialized by the context in which they exist. As a result, their interests are defined in an intersubjective way.⁴⁴ In this view, state preferences are not a given, but are malleable since states are sensitive to the international environment in which they operate: states develop perceptions of interest and understandings of desirable behaviour from social interactions with others in the world they inhabit.⁴⁵ Agency and environment are thus mutually constitutive.⁴⁶ Constructivists also suggest that norms may even shape an actor's interests in ways that contradict the strategic imperatives of the international system.⁴⁷

Community interests and the case studies

Although state and community interests operate in tandem, it will be easier to assess their interactive effect upon state conduct if we begin by analyzing each kind of interest in isolation. Community interests contributed to the way in which the US, Britain, France and the

Security Council as a whole conducted themselves with regard to the adoption and implementation of the safety zones. Embodied in norms, rules and decision-making procedures, community interests were relevant as 1) focal points, as 2) enablers, as 3) constraints, and as 4) aspects of identity. Norms are generalized formulations of shared expectations about appropriate behaviour held by a community of actors.⁴⁸ They specify criteria for distinguishing right from wrong; just from unjust.⁴⁹ Rules are specific prescriptions or proscriptions for action,⁵⁰ and they usually entail some form of legal responsibility, whether as an obligation to respect or to help enforce. This legal obligation arises due to the fact that rules embody the common interests of states as codified in international law. The legitimating premise of the entire international legal system is that states have consented to be voluntarily bound by specific rules so as to preserve patterns of shared understandings and joint expectations.⁵¹ The 'prevailing practices for making and implementing collective choice' constitute decision-making procedures.⁵² The aim here is to discuss theoretically how community interests, in the guise of shared norms and rules, matter, and allude but briefly to the case studies.

Community interests as focal points

Community interests can serve as focal points, and thus as means to counteract problems of collective action.⁵³ In an international system of sovereign states, it is unlikely that the players see eye to eye on all issues. Even if they agree to join together to participate in a regime, they may not be able to resolve their disagreements in all areas. Such disharmony can eventually lead to the disbanding of the co-operative arrangement. Especially in an informal regime that is not yet buttressed by institutional compliance and therefore relies heavily on the basic accord of its key actors, dissension can have crippling effects on the performance of the regime. International rules and norms help to keep the actors focused on what they have in common, i.e. on their community interests. As Kratochwil puts it, even at the basic level of discourse, norms are the means which 'allow people to pursue goals, share meanings and communicate'.⁵⁴ A focal point is a locus of convergence where state perceptions about the meaning of events coincide, because this meaning is consistent with predefined normative concepts that states have already accepted. If acts of barbarity conform to the definition of crimes against humanity, then these activities can be labeled as such and thus focus attention on a common denominator that cannot be denied or disputed, at least from a rational point of

view. In Bosnia, for example, differences regarding both how to resolve the conflict and what the ultimate political and geostrategic *denouement* should be risked splitting apart Britain, France, the US and Russia. What kept them united, at least in some measure, was the focus on preventing ethnic cleansing and on alleviating the humanitarian catastrophe, leading scholars to suggest that humanitarianism represented a substitute for political action to end the war.⁵⁵ This is perhaps true, but without the humanitarian emergency serving as a focal point, it is unlikely that these powers would have remained united behind an effort to halt the conflict.

Community interests as enablers

Community interests enable state action in various fashions. They act as catalysts for action; they create permissive conditions for action; they render action legitimate; and they facilitate action instrumentally.

Since norms and rules set guidelines for appropriate behaviour, it follows that they also embody standards that determine unlawful comportment. Infringements attract the attention of the international community and can sometimes function as a tripwire,⁵⁶ setting in motion a response in support of community interests. Violations of international law and the results thereof – refugee flows in the case of ethnic cleansing and genocide – can be perceived as threats to international peace and security by the members of the Security Council, thus potentially serving as a catalyst to the use of its Chapter VI and Chapter VII powers.

While rules and norms create permissive conditions for the support of community interests on the part of states, they do not necessarily determine the precise action to be taken.⁵⁷ In other words, they create realms of possibilities and ‘options’ that would not have been self-evident in the absence of a norm or rule.⁵⁸ Examples of legal rules relevant to the case studies in this thesis, which may permit and thus enable third-party response to breaches, will illustrate this point. Certain rules of international law are deemed so important that they are given a generality of standing, meaning that they are to be upheld by the international community as a whole even though only one member of that community may be directly affected by the violation in question.⁵⁹ Such generality of standing opens the door to more effective enforcement opportunities since responsibility for preventing violations is widened to include all states.⁶⁰

The 1948 Genocide Convention, for example, contains such a rule. It affirms in Article I: ‘the Contracting Parties confirm that genocide,

whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish'.⁶¹ This article allows for the possibility of third party activity to prevent genocide. Also Article VIII of the Genocide Convention permits any contracting party to 'call upon the competent organs of the United Nations [most probably the Security Council] to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III'.

Similarly, the 1949 Geneva Conventions also contain a common article, which declares that 'the High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances'. Article 1 of the 1977 Geneva Protocol I uses a similar phraseology.⁶² There is debate as to whether or not 'the ensure respect' clause really intended that third parties should become involved in preventing violations of humanitarian law in wars in which they are not implicated. Frits Kalshoven has conducted a painstaking study of this clause, looking at legal precedents and at references to it in the drafting process. His conclusion is that states, in 1949 and 1977, never interpreted this clause as implying any kind of positive duty or legal obligation to act to ensure respect for the conventions. Rather, the particular wording related to making sure 1) that states obeyed the rules themselves, even in circumstances in which adverse parties confronting them in battle did not or had not ratified the conventions; and 2) that the contracting states worked in times of peace to ensure that their population and military were aware of the conventions, and to implement appropriate legislation in terms of military codes of ethics.⁶³ However, recent case law suggests that these legal provisions of the Geneva Conventions have come to be widely viewed as providing a legal basis for a third-party response to infringement, as demonstrated by this extract from an International Criminal Tribunal for the former Yugoslavia (ICTY) judgement:

The absolute nature of most obligations imposed by rules of international humanitarian law reflects the progressive trend towards the so-called 'humanisation' of international legal obligations, which refers to the general erosion of the role of reciprocity in the application of humanitarian law over the last century. After the First World War, the application of the laws of war moved away from a reliance on reciprocity between belligerents, with the consequence that, in general, rules came to be increasingly applied by each belligerent

despite their possible disregard by the enemy. The underpinning of this shift was that it became clear to States that norms of international humanitarian law were not intended to protect State interests; they were primarily designed to benefit individuals *qua* human beings. Unlike other international norms, such as those of commercial treaties which can legitimately be based on the protection of reciprocal interests of States, compliance with humanitarian rules could not be made dependent on reciprocal or corresponding performance of these obligations by other States. This trend marks the translation into legal norms of the ‘categorical imperative’ formulated by Kant in the field of morals: one ought to fulfill an obligation regardless of whether others comply with it or disregard it. As a consequence of their absolute character, these norms of international humanitarian law do not pose synallagmatic obligations, i.e. obligations of a State *vis-à-vis* another State. Rather – as was stated by the International Court of Justice in the *Barcelona Traction* case (which specifically referred to obligations concerning fundamental human rights) – they lay down obligations towards the international community as a whole, with the consequence that each and every member of the international community has a ‘legal interest’ in their observance and consequently a legal entitlement to demand respect for such obligations.⁶⁴

Both the 1949 Geneva Conventions and 1977 Geneva Protocol I include articles pertaining to safety zones. Although the safety zones in Iraq, Bosnia and Rwanda did not conform to what was set out in these legal documents, these provisions still suggested possibilities: they created possible options for intervention in all three of the case studies under consideration that might not have been envisioned otherwise. When the British Foreign Office looked into the possibility of a safe haven in Iraq, it consulted the existing legal articles on safety zones.⁶⁵ In Bosnia, the ICRC had been calling for the use of safety zones before the Security Council formulated the safe area policy.⁶⁶

The fact that norms and rules make action possible does not necessarily mean that states move, in all instances, to uphold the norms and rules under attack. Even if international humanitarian law, as discussed above in relation to the 1948 Genocide Convention and the 1949 Geneva Conventions, grants states the right to ensure respect for certain rules of great importance to the international community, it neither imposes a clear obligation to do so in all cases, nor makes evident what types of specific actions would be permissible. Certainly, any course of

conduct would have to respect other important legal rules, such as those laid out in the UN Charter. Whether or not states actually seize such opportunities for involvement, and to what degree, will depend on the configuration of their state and community interests at a given moment in time.

Perhaps the reason why states resort to norms and rules when taking action in support of their community interests is because they impart a sense of legitimacy. Conventionalized behaviour is apt to engender widespread feelings of propriety in the international community since states are socialized to share common expectations about proper conduct.⁶⁷ Legitimacy promotes acceptance, and thus effectiveness. If others are to be persuaded to join in collective measures and help defray their costs, then reasons must be provided as to why such conduct is necessary. The legitimacy of these objectives helps influence the extent to which states will be willing to participate, and is measured by the degree to which the proposed action conforms with notions of proper conduct as elaborated by international rules and norms and as recognized by states. In Iraq, Bosnia and Rwanda, the legitimacy that rules and norms bestowed upon state behaviour in support of community interests enabled the emergence of relatively widespread international consensus on the need for and appropriateness of safety zones.

Finally, regimes, as institutionalists maintain, serve a utility function, making possible behaviour in support of community interests that would not have been so otherwise. The cost of intervention in Bosnia, for example, would have been prohibitive for a single country to attempt alone, whereas multilateral involvement was manageable as states pooled their resources. Information gathering and sharing, carried out mainly by the UN Secretariat through their agencies and network of personnel in the field, also facilitates action. Many of the smaller states sitting on the Security Council would have had little access to other sources of information regarding events on the ground in Iraq or Bosnia; and the reports and recommendations of the Secretary-General often provided valuable suggestions for future courses of action. Institutional mechanisms that the Security Council has at its disposal, such as peacekeeping and peace-enforcement, embodied significant tools that states could draw upon as means to implement the zones. Finally, the transparency that the Security Council generated regarding aims and means meant that trust and respect could be achieved amongst actors previously suspicious of each other.

Community interests as constraints

Certain international legal rules not only enable action in support of community interests, but may also create a sense that it is required. As discussed in the previous section, the 1948 Genocide Convention and the 1949 Geneva Conventions allow for third party involvement to ensure respect for the principles enshrined therein. If these international conventions enable parties not directly affected by violations to do something to halt atrocities, it is because their provisions are deemed of utmost importance to the preservation of international society. These rules were given the status of being peremptory in nature, meaning that they are not to be violated for any reason whatsoever unless superseded by another peremptory norm.⁶⁸ States thus acknowledged that their community interests demanded that certain rules be absolute so as to ensure that vitally important norms for continued communal co-existence are upheld. These rules serve the highest interest of the whole international community.⁶⁹ Although rules of this nature grant states the right in principle to ensure their respect, the legal obligation to do so is not generally recognized by states.⁷⁰ However, when grave transgressions occur, a moral incentive or obligation of a kind prods states toward obviating further breaches.⁷¹ States do not always respond to these imperatives for action, but the rules nonetheless exert a constraining effect on their behaviour, often forcing at least verbal condemnations. This constraining effect of community interests was observed in Iraq, Bosnia and Rwanda.

As constructivists suggest, once socially constructed norms are established and promulgated, they tend to feed back on the basic causal variables that gave rise to them in the first place.⁷² The norm, and in association the regime supporting it, begin to take on a life of their own, which in turn shapes subsequent action, impelling actors to behave differently than they would if the regime did not exist.⁷³ This dynamic constrained the international response in each case study. Particularly the US, but also others in the Coalition, for instance, felt added pressure to respond to Iraqi repression of the Kurds because they had espoused a new world order in which intervention to protect human rights was lauded.

Community interests can also have a constraining effect on states when they become influential in internal political debates. Images of massacres of innocent civilians appearing on television around the world often mobilize public outcries against such transgressions of moral norms. Sometimes public sympathy for other human beings thousands of miles away translates into demands that governments do

something to stop the slaughter. Interest groups and intellectual elite, concerned with respect for human rights, also play an important role in generating public awareness of the blatant defilement of commonly held values.⁷⁴ These processes often lead to the alignment of state and community interests, especially when governments are slow to react and uncertain as to which action to take.⁷⁵ Politicians begin to realize how commitment to upholding international norms contributes to their domestic popularity at home.⁷⁶

Community interests as aspects of identity

Identity is a construction that enables recognition by others. It can be characterized by distinctiveness or sameness, and states may possess multiple identities. For example, France has an identity that derives in part from pride in its language, culture and long historical association with human rights. Its identity also reflects its membership in the European Union (EU): it shares the same respect for democracy and civil liberties as other members of the EU do, as codified for example in social charters and human rights documents. Constructivists argue that identity shapes and is shaped by state and community interests.⁷⁷ In other words, norms help forge a state's identity, and, in turn, a state's identity will determine which community interests it holds to be important. In the broader international picture, 'configurations of state identity affect interstate normative structures, such as regimes or security communities', and in turn those regimes institutionalize and reinforce identity.⁷⁸ Community interests as aspects of identity encouraged the use of safety zones in Iraq, Bosnia and Rwanda. Foremost, America's, Britain's and France's post-Cold War perception of themselves as upholders of 'civilized' values and as the primary states responsible for implementing these values meant that they were inclined to respond to humanitarian emergencies involving massive violations of human rights. By interceding on behalf of innocent civilians, these states could validate their identity, which in turn amplified the importance accorded to these community interests.

The degree to which states perceive their identity to be similar to another's may affect their willingness to respond in times of crisis. For example, when Yugoslavia's Republics sought independence in 1991 and 1992, it was to the EU that they turned for recognition. The EU agreed to grant recognition only if certain conditions concerning the respect for the rule of law, democracy and human rights were met. In essence, these new states would be recognized only if they adopted the type of identity that the EU espoused.⁷⁹ Existing members of the EU viewed these states as possible future members of their organization,

indicating their awareness that these newly independent states already possessed or aspired to a European identity. Thus, when bloodshed broke out in Bosnia, an added impetus was placed on members of the EU to play their part in ending hostilities. Furthermore, ethnic cleansing and military targeting of civilians raised the specter of Nazi atrocities in World War II. Part of the EU's founding ethos lies in the determination to prevent a recurrence of such terrible crimes on European soil. Thus, the horrors being perpetrated in Bosnia threatened EU members' post-Second World War identity as states committed to ensuring that there would never be another Holocaust on European soil. This fact impelled France and Britain, as well as other EU members such as Sweden and the Netherlands, to action. In contrast, this identity factor was not as strong in the Rwandan case study, perhaps explaining the greater reluctance on the part of European states to become involved there.

Identity is also significant from the point of view of reputation. If reputation is important to states, it is because they have constructed an image of themselves that they believe is valuable and which accords them a certain degree of status and respect from others. Loss of reputation implies that others assess a state's action to be deviant from what rules and norms deem to be appropriate conduct. It also suggests that the actor in question has strayed from the identity it sought to create for itself and which accorded it prestige. The fear of losing its reputation can constrain a state into conforming to the provisions of rules and norms.⁸⁰ In the case of Rwanda, for example, international outcries that France was buttressing a genocidal regime tarnished its image as a civilized state concerned with the protection of human rights. France responded by launching *Opération Turquoise*.

State interests and the case studies

State interests, which involve strategic, economic and domestic imperatives, tend to be more straightforward because they illuminate the actions of one state at a time,⁸¹ though various states can have egoistic interests that either conflict or coincide. Three of the aspects of the last section are again relevant here, including state interests as 1) enablers; as 2) constraints; and as 3) aspects of identity.

State interests as enablers

Sometimes state interests cause states to act in ways that also fulfill community interests. A desire to repay Turkey for its loyalty to the Coalition during the 1991 Gulf War, for instance, meant that states

would not condemn it for its reluctance to take in fleeing Kurdish refugees, opening the door to the necessity of creating secure conditions for the Kurds within Iraq. Likewise, a desire to permanently weaken Saddam Hussein's control over his territory for geostrategic reasons enhanced America's, Britain's and France's desire to create a safe haven free of Iraqi military personnel and equipment. Avoiding a transatlantic rift encouraged the US and the Europeans to develop a safe area policy in Bosnia. As mentioned earlier, the media and domestic interest groups also play an important role in converting community interests into state interests as governments are concerned with their political survival and popularity. This process no doubt influenced state responses to the humanitarian emergencies in Iraq, Bosnia and Rwanda.

State interests as constraints

As realists predict, states also shy away at times from their community commitments when these are perceived as hindering their pursuit of self-interested concerns. The reluctance on the part of all states, but especially the US, to have any of their soldiers killed in UN enforcement operations greatly hampered the implementation of the safety zone approach in each of the case studies considered. France's state interests in French Africa contributed to its initial unwillingness to halt the genocide in Rwanda, even though its authority and prestige in the country might have enabled it to do so with relative ease. America's negative experiences in Somalia generated a sense, amongst members of the public and the government alike, that it was best not to intervene in internal conflicts in places that had no strategic importance.

State interests as aspects of identity

In the same way that identity can emphasize the importance of community interests, it can also stress the value of egoistic factors. Reputation is again important here, but usually from the point of view of prowess and military might. For example, it was important for France to retain its reputation as a credible military ally in French Africa, partially explaining its continued attachment to the Habyarimana regime in Rwanda despite mounting evidence of genocide. France's sudden change of heart in the form of *Opération Turquoise* resulted from its recognition that conditions in Rwanda had now deteriorated so drastically that inaction would likely tarnish its military credibility more than abandoning a loyal ally. Britain's and France's sense of identity as important international actors meant they were inclined to want to prove their worth as permanent members of the Security Council. They thus played key roles

in the implementation of the Iraqi safe haven and the Bosnian safe areas. American unwillingness to allow Saddam Hussein to put into question their military prowess through the expulsion of the entire Kurdish population of Iraq contributed to their adoption of the safe haven policy.

Community and state interests in interaction

In the coming chapters, this book will seek to show how state and community interests intermingled in complex and interactive ways, producing a safety zone approach in each of the case studies under observation. Moving away from the simple dichotomy of self-interest versus normative concerns present in much of the International Relations literature, it will endeavour to illustrate how states grapple with competing interests. There is a spectrum of possibilities linking these two types of interests. State and community interests can be in alignment, for example, allowing states to respond to two distinct but parallel urges at the same time.⁸² Community interests may be so strong as to dictate action, outweighing other considerations; or state interests may impede the pursuit of community interests at a particular moment in time. More complicated permutations are also possible. Equally strong opposing state and community interests may be reconciled through compromise measures, often leading to confusing and ambivalent approaches. At one and the same time, state interests may promote and impede the pursuit of community interests, again leading to ambiguous state behaviour. Outcomes are dependent upon this complex interaction of community concerns and state-centered concerns since states seek to satisfy, at least in some measure, both types of interests at the same time. Only an analysis of these various configurations of state and community interests will enable us to understand why states adopted safety zones in Iraq, Bosnia and Rwanda, and to assess how well they implemented them throughout their duration.

The end of the cold war

The Security Council's use of safety zones in the 1990s cannot be fully grasped without an appreciation of the end of Cold War and its effect upon international affairs. The cessation of the Cold War in 1989, like the subsiding of several other major conflicts in modern history, was followed by a period of renewed enthusiasm for collaboration among the major powers and of enhanced commitment to furthering

common interests as well as maintaining international order. After four decades of discord and near paralysis within the Security Council, its impotence when faced with threats to international peace and security began to recede in the late-1980s when it authorized five new peace-keeping operations in a five-year period.⁸³ Although cautious at first, this activity blossomed following Iraq's invasion of Kuwait in 1990: former adversaries, the US and the Union of Soviet Socialist Republics (USSR), cooperated, enabling the Security Council's authorization of the use of force against Iraq.

This rebirth of the Security Council as an active body in the management of international security generated great optimism, as well as a sense that the great powers must not miss a second opportunity to render the UN effective in this area. This conviction in the potential of the UN to operate in a manner consistent with what its founders had envisioned in 1945 culminated in a meeting in January 1992 of the heads of states and governments of the members of the Security Council. At their invitation, UN Secretary-General Boutros Boutros-Ghali prepared *An Agenda for Peace* which suggested ways to strengthen the capacity of the United Nations in the areas of preventive diplomacy, peacemaking and peace-keeping. This document reiterated the 'unprecedented recommitment, at the highest political level, to the Purposes and Principles of the Charter', and confirmed that the Security Council had re-emerged 'as a central instrument for the prevention and resolution of conflicts and for the preservation of peace'.⁸⁴ *An Agenda for Peace* also acknowledged that 'the time for absolute and exclusive sovereignty [had] passed', and called upon the members of the Security Council to demonstrate a clear pledge to human rights, especially in regard to minorities.⁸⁵

This post-Cold War context was conducive to the emergence of an informal security regime centered around the UN Security Council. A number of factors coalesced for this outcome to occur. The great powers were confronted with a changing international system in which multipolarity replaced bipolarity and in which new types of threats not seen during the Cold War predominated. The United States was faced with the dilemma of being the world's only remaining superpower, but of not wanting to take on unilaterally the burden of preserving peace and security around the globe. Britain and France were concerned about enhancing their political and military profile in international crises, thus demonstrating the usefulness of their permanent status on the Security Council. The Soviet Union, later Russia, in a state of economic collapse and hoping to secure international respect as a

trusted participant in the resolution of crises, opted to endorse the general policy trends advocated by the Western permanent members. China acquiesced, choosing to accept tacitly the general direction of events or to abstain on resolutions it did not openly favour. The result of this collegiality and the new conviction that the Security Council could and should maintain international peace and security was a willingness to tackle complex emergencies, such as civil wars, failed states and massive human rights abuses perpetrated by states. This heightened activity often led to innovative approaches, including intervention in the internal affairs of states as well as the use of safety zones. The Security Council also provided the decision-making infrastructure that made collaboration and multilateralism possible, though implementation was left mainly to the United States, Britain and France, which were the only states capable of enforcing Security Council resolutions in the areas under consideration.

Post-Cold War optimism about the possibilities of the Security Council to redress wide-ranging threats to international peace and security eventually waned as states grew unwilling to make the major military contributions and sacrifices necessary for the Security Council to be at the centre of a global security system. The story of the safety zones in Iraq, Bosnia and Rwanda will also reflect this rising disillusionment and lack of sustained will.

The end of the Cold War also reinvigorated the idea of an international community. No longer polarized by a massive ideological divide between Liberalism and Communism, states came together to form an international community, which was characterized by relatively widespread consensus on certain norms, such as respect for state sovereignty and the illegality of genocide, war crimes and crimes against humanity. Although divisions and misunderstandings persisted within this international community of the 1990s, the case studies nonetheless reveal that key state actors believed that a community of states existed, referred to it regularly when making decisions, and thought it represented a force to be considered when conducting foreign policy. Globalization and the widespread dissemination of TV images also facilitated the emergence of an international community at the sub-state level, making the media, international non-governmental organizations (NGOs) and public pressure groups an ever greater force with which governments had to reckon during the complex humanitarian emergencies of the 1990s. The growing power of this global community will also be evident in the stories of how states came to choose a safety zone policy in Iraq, Bosnia and Rwanda, and of how well these zones were implemented.

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