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Claremont McKenna College

A Critical Analysis of Humanitarian Intervention as a Source of
Reputational Credibility

submitted to
Professor Katja Favretto

By
Margaux Arntson

for
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Abstract

Since his election into office, a cloud of uncertainty has surrounded President Trump's foreign policy ambitions. Much of today's scholarship concerns its unpredictable nature and scope. President Trump, like previous presidents have come before him, entered office with very little foreign policy experience. A key feature of his non-principled, fast-alternating foreign policy is that few people know exactly what he is going to propose next in terms of his international strategy. Coupled with this strategy is Trump's desire for international credibility and a strong reputation. This desire seems fundamentally at odds with his foreign policy strategy, as Trump proposes isolationist measures and countries learn to fear his foreign policy's unpredictability.

This paper aims to take a critical look at the role of humanitarian intervention in a country's foreign policy. It analyses whether countries like the United States can successfully introduce humanitarian intervention as a successful foreign policy prescription. More specifically, it aims to answer the following research question: is it possible for the United States to reclaim its founding values through intervention in humanitarian crises without hindering the country's military credibility?

This paper first proposes theory, then aims to cement that theory in a real-world scenario through the analysis of a specific case study. It uses a combination of primary sources, secondary sources, and more qualitative methods of data gathering to deeply analyze the relationship between humanitarian intervention, military credibility, and the United States' founding values. It then goes on to critically analyze the application of these findings to the genocide currently occurring in West Sudan.

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“Bad men need nothing more to compass their ends, than that good men should look on and do nothing” - *John Stuart Mill, 1867*

Introduction

The purpose of this paper is to examine whether it not there is room for humanitarian intervention in the President Trump’s foreign policy ambitions. More specifically, it’s aim is to assess whether it’s possible for the United States to sustain its founding values through intervention in humanitarian crisis without hindering the country’s military credibility.

America was founded on a strong set of moral principles and values, many of which become easily apparent after even a cursory glance at the country’s Declaration of Independence and Constitution. The Founders aimed to depart in almost every way from British rule. Modern scholarship on the topic of the American founding generally agrees that this means that the country’s founding was largely based on liberalist ideology.¹ For example, they bore the consequences of struggles of power between the English monarch and Parliament, and created a system of separated powers and representative government in response to these experiences. This meant creating a government with strong democratic values, values that included the right to life, justice, liberty, and social equality.

With these values in mind, the United States’ systemic non-intervention to prevent or stop acts of international genocide seems largely inconsistent with the country’s greater concepts of democracy and civilization. A look into the history of U.S.’ foreign policy with respect to general humanitarian intervention shows that time and time

¹ Fisher, L., 32.

again, state sovereignty and U.S. ambition rise above larger values of democracy and equality of being. What makes U.S. non-intervention especially disturbing is the fact that genocides, unlike wars, are perpetrated against a group because of who they are, not what they have done.² Genocide is not a response by one party to an act of violence by another. Instead, victims of genocide are targeted because of characteristics they are born with and oftentimes cannot change, such as ethnicity or religious view. Given these facts, isn't it of even greater importance for the United States to be at the forefront of the international response to such atrocities? Instead of extending the country's founding values to the international community, the U.S. routinely promotes treaties of profit and pleasure over those of higher moral significance.

Since his election into office, President Trump has consistently pushed for military might over more humanitarian approaches in his foreign policy. In addition, he has proven to be inconsistent in his decision making, and eager to move on from current issues.³ It's well known that humanitarian intervention costs money and resources. It requires a sympathetic response to the suffering of others, even if that intervention, on its face, does not seem to further domestic goals. The nature of humanitarian intervention, therefore, seems completely at odds with Trump's proclaimed foreign policy, one that aims to narrowly further U.S. national interests, even at the expense of human rights, third world development, and humanitarian relief.⁴ This paper hopes to dispel the myth that humanitarian intervention must be pursued at the expense of national interests and

² Power, 58.

³ Cooper, 2017.

⁴ Ibid.

aims to discover that, in fact, intervention in humanitarian crisis can actually help bolster a country's domestic economic, social, and political goals.

This paper will begin by looking at the United States' history with intervention in humanitarian crisis, focusing specifically on genocide. This analysis will be used as a backdrop for a theoretical exploration into whether humanitarian intervention can help the United States better connect with its founding values. In tandem, this paper will look at whether intervention in genocide can be achieved without hurting the United States' international military credibility and if this type of intervention, under certain circumstances, can actually aid the United States in bolstering its international reputation. The final section of this paper will be dedicated to applying the theory explored in the first half to a relevant case study. The current genocide in Western Sudan will be analyzed, and the framework of intervention established in earlier sections will be applied. A case study will be used in the hopes of cementing the theoretical discoveries made earlier to the real world. These conclusions will hopefully act as a catalyst for future foreign policy considerations on this topic of humanitarian intervention – policies that will better suit important legal, ethical, and moral concerns.

Research Methodology

In crafting, acquiring, and compiling all the necessary parts of this paper, a combination of primary and secondary sources was used in an attempt to acquire the most comprehensive view of the complex relationship between American founding values, humanitarian intervention in genocide, and the U.S.' military credibility. For one, original interviews by former and current politicians were used in order to understand the geopolitical constraints on political decision-making. To expand the breadth of primary

sources that were used, original studies from the Department of Defense and other governmental organizations were utilized to gain a better sense of contemporary challenges and possibilities regarding the United States' international reputation and credibility.

In addition to primary sources, a wide variety of secondary sources were utilized. These included opinion pieces released by NGOs, scholars, and experts, and various studies on the ability of the United States to use humanitarian intervention to bolster the country's reputation. In addition, persuasive essays on these topics were analyzed. Secondary data was collected using JSTOR and other wide-ranging databases. In addition, various reports and journal articles were pulled directly from organizations' websites.

Chapter I: The United States' History with Humanitarian Intervention

This section will critically evaluate the United States' relationship with humanitarian intervention in genocide in an attempt to identify key geopolitical considerations that are taken into account throughout the decision-making process. This analysis will be bound to a short case study in order to deepen the level of study.

The Rise of "Genocide" in American Politics

Even a cursory glance at the United States' history with humanitarian intervention paints a bleak picture. Many scholars and advocates for such intervention argue in earnest that the United States has been consistently slow to act in the face of genocidal situations. In her enlightening novel *"A Problem from Hell": America and the Age of Genocide*, Samantha Power reveals that the United States has never in its history intervened to stop genocide and has in fact rarely made a point of condemning it as it occurred.⁵

Efforts to bring acts of genocide into politicians' purview did not substantially occur until the 1920's. After hearing about the assassination of Talaat Pasha, one of the main perpetrators of the Armenian genocide, a Polish Jew by the name of Raphael Lemkin became interested in why Talaat, among others, had not been held responsible for his blatant violations of law and crimes against humanity.⁶ Specifically, Lemkin became intrigued why Talaat had not been arrested for his crimes in the first place and why there were no international laws covering such atrocities. Lemkin began lobbying members of Congress in the late 1930's, following Hitler's invasion of Poland. His attempts to spur action against crimes of atrocity largely fell flat. In response, Lemkin brought his message to the general public in the hopes that citizens would pressure their

⁵ Power, Preface xv.

⁶ Ibid., 19.

political representatives into action. Again, his cries fell on deaf ears. Both government officials in the Allied countries and journalists played down the intelligence of those reporting from Germany, arguing that the information was unsubstantiated and untrustworthy.⁷ This response was largely motivated by the simple fact that government officials and the larger public were unable to conceptualize the levels of heinousness being reported. This reaction is woven deeply into the fabric of the United States' relationship with international crimes of atrocity.

Around this time, Lemkin also began searching for a word that could be used to describe and stand for the atrocities in Nazi Germany and Turkey. He settled on genocide: *geno* was the Greek derivative for "race" or "tribe" and *cide*, the Latin derivative for "killing".⁸ Lemkin hoped that by specifying certain crimes under this term, it would be easier for politicians and the larger citizenry to conceptualize and support the fight against those acts. Lemkin's next advancement in his fight for the recognition of genocide was to draft a United Nations (UN) treaty banning genocide. He wanted the UN to establish a law that, if passed, would signal a new international reality in which states would no longer be able to use sovereignty to avoid taking responsibility for their actions.⁹ On December 11th, 1948, the General Assembly passed a law banning genocide.

What ensued, including the United States' refusal to ratify the convention, sheds a bright light on the country's seeming inability to place higher moral principles over domestic interests. Although the convention had received U.S. support at the UN, many

⁷ Ibid., 28.

⁸ Ibid., 42.

⁹ Ibid., 53.

policymakers feared that the ambiguous language of the treaty could be used to target the United States in future military action. As Power writes, “The core of American objections to the treaty had little to do with the text... rather American opposition was rooted in a traditional hostility towards any infringement on U.S. sovereignty, which was only amplified by the red scare of the 1950’s”.¹⁰

The history of the Genocide Convention in itself highlights the complexity of the negotiation and adoption of such treaties. Perhaps even more importantly, it shows just how painstakingly the United States protects its sovereignty and personal interests above all. After the Convention was adopted by the UN, it took the United States nearly 40 years to ratify it. Some politicians were concerned, especially during the Korean War and the Vietnam War, that U.S. officials might come under frivolous accusations of genocide. Similarly, some felt as though the ratification might result in charges of genocide due to the country’s history of segregation, lynching, and Ku Klux Klan activities.¹¹ Others worried that if the United States ratified the convention, the country would be obligated to send military forces to distant countries in order to enforce it.

Since the U.S. has ratified the Genocide Convention, the country has made very modest progress in its responses to genocide. Though the geopolitical constraints influencing U.S. decision-making have shifted with time, the U.S. has consistently refused to take risks in order to suppress acts of genocide.¹² The very people who can push the policy agenda on intervention have been consistently muted and self-censored.¹³ Though the geopolitical factors at play are complex and the decision-making process

¹⁰ Ibid., 69.

¹¹ Ibid., 72.

¹² Ibid., 503.

¹³ Glasser, 2004.

intricate, the United States' desire to remain uninvolved can be boiled down into a simple thought process: attempting to spur the United States into action requires personal risk. Up until now, politicians have argued that there is little geopolitically to be gained by getting involved in international genocide. They also argue that only risks and costs are inevitable. The idea remains that there are no risks when the U.S. decides to stay largely uninvolved.¹⁴

This phenomenon can be clearly seen during the Rwandan genocide. Intelligence reports obtained using the U.S. Freedom of Information Act show the cabinet, and almost certainly President Clinton, had been told of a planned “final solution to eliminate all Tutsis” before the slaughter reached its peak.¹⁵ They reveal that the U.S. government knew enough about the genocide early on to save lives, yet passed up countless opportunities to do exactly that. These documents undermine claims by Clinton and his senior officials that they did not fully appreciate the scale and speed of the killings. In addition, the administration avoided using the word “genocide”, as they feared the word would generate public opinion which would demand American action.¹⁶ In reality the administration simply felt that the U.S. had no interests in Rwanda, a small central African country with no minerals or obvious strategic value.

U.S. Nonintervention in Cambodia: A Short Case Study

In order to more deeply understand the United States' complicated relationship with humanitarian intervention, it is important to assess the geopolitical factors influencing the country's actions. The United States' actions during the Cambodian

¹⁴ Haydar, 2017.

¹⁵ Carroll, 2004.

¹⁶ Ibid.

genocide highlight deep-rooted tensions surrounding the United States' understanding of how humanitarian intervention fits into the nation's larger foreign policy scheme. From April 1975 to January 1979, the Communist Khmer Rouge (KR) killed nearly two million Cambodian people under their rule. Their goal was to transform Cambodia into a classless agrarian utopia.¹⁷ In reality, the group committed mass murder and other widespread atrocities; The KR systematically emptied entire cities and evacuated millions of people to labor camps. Within these camps, disease, exhaustion, and starvation were extremely prevalent. The vast majority of laborers were abused and eventually starved to death. It's generally estimated that between 1.7 and 2 million Cambodians died during the 4-year reign of the KR.¹⁸

There was little to no protest from the international community, including the United States. Neither the U.S. nor Europe called attention to the acts of atrocity as they escalated. The U.S. government was largely silent on the topic, and Congress failed to pass any piece of substantial legislation that could have paved the way for military action or humanitarian aid.

Power points to a handful of factors that help explain the United States' non-involvement in international genocidal acts, including the Cambodian genocide. Among the important factors, she cites America's inability to conceptualize widespread terror in the face of possible genocide.¹⁹ In the Cambodian genocide, policymakers and much of the public assumed that violence on the levels described by refugees and survivors could not occur. Policymakers, in particular, trusted the reassurances of the very government

¹⁷ "The Cambodian Genocide", 2016.

¹⁸ Ibid.

¹⁹ Power, Preface xvii.

committing acts of atrocity. Diplomats, journalists, and Cambodians, and Americans largely dismissed omens of imminent mass violence by the KR.²⁰ Despite signs pointing otherwise, many believed that once the KR won the war against the Lon Nol government, they would have no need to initiate further acts of terror and killing.²¹ As Power points out, “In advance of the KR seizure of Phnom Penh, prolific early warnings of the organization’s brutality were matched by boundless wishful thinking on the part of American observers and Cambodian citizens.”²² Without strong leadership, the system was inclined towards risk-averse policy choices.

In addition, American political leaders interpret society-wide silence on the issue as an indicator of general indifference towards these events. They use this “indifference” to justify abstention from troop deployment in areas of conflict.²³ Even when the facts emerged regarding the KR’s brutality in Cambodia, U.S. politicians responded with general disinterest and non-engagement. There was not a single interest group or organization who was able to convince U.S. decision-makers that the millions of Cambodian deaths mattered enough to American interests to warrant attention. Strikingly, the U.S. policy of silence in the face of widespread humanitarian suffering was not seriously contested. Domestic political forces that might have pressed for action were absent, and most U.S. officials opposed to American involvement were firmly convinced that they were doing all they *could* - in light of competing American interests and a highly restrained understanding of what was “possible” for the United States to do.

²⁰ Ibid., 95.

²¹ Ibid., 102.

²² Ibid., 90.

²³ Ibid., Preface xviii.

As with many other genocides, the Cambodian genocide highlights broader points about humanitarian intervention and U.S. foreign policy. Namely, that politicians and powerful change-makers do not see intervention in genocide to be compatible enough with American interests to warrant action. Because America's "vital national interests" were not considered imperiled by mere genocide, senior U.S. officials did not give the events in Cambodia the moral attention it warranted. It would have been politically unthinkable to intervene militarily and emotionally unpleasant to pay too close attention to the atrocities occurring there. The U.S. government realized instead, that it was domestically cost-free to look away. This is what so many people did, before, during, and after the Khmer Rouge's reign of terror. In the United States, as with many other countries, foreign policy is viewed as a lifeless set of abstractions. Terms like "interests", "influence", and "prestige" are dehumanized terms which encourage easy inattention to the real people whose lives are affected by the country's foreign policy decisions.²⁴ In other words, policy analysis on whether the U.S. should intervene in Cambodia largely excluded discussion of human consequences. A foundational piece of this process is the mindset that policy is made by the "tough-minded". To talk of suffering is to lose "effectiveness" and it is seen as a sign that one's rational arguments are weak.

As this paper will show, politicians must avoid seeing humanitarian intervention in genocide as a zero-sum gain. Largely, the current mindset stands as this: genocide is wrong, but the United States does not have a strong enough interest in preventing it to invest the military, financial, or political capital needed to stop it. History has shown that American policymakers have two main objectives. The first is to avoid engagement in

²⁴ Power, 2017.

conflicts that pose little threat to American interests, or carry no obvious geopolitical gains. The second is to contain the political costs and avoid the moral stigma associated with allowing genocide.²⁵ This paper will show that humanitarian intervention in genocide, under certain conditions, and with certain stipulations, serves as a feasible way for the United States to both reclaim its founding values and increase its international reputation. Politicians and scholars should start seeing humanitarian intervention as a politically strategic avenue for the United States to pursue.

²⁵ Power, 508.

Chapter II: Humanitarian Intervention and America's Values Since the Founding

As was mentioned earlier, the United States' refusal to intervene substantially in genocide remains completely at odds with the country's founding values. For a country as influential and resource-rich as the United States to act in blatant disregard for its foundational principles remains shocking to many. Politicians and political leaders routinely tout democracy and other similar values in campaign speeches and Senate hearings. Yet, when it comes to international breaches of these values, they sit back and remain largely silent. This chapter provides an overview of America's key founding values and critically analyzes humanitarian intervention as a way for the United States to reclaim these values in a significant and meaningful way. As James Wilson, one of the six men to sign both the Declaration of Independence and the Constitution of the United States declared, "There is not in the whole science of politicks a more solid or a more important maxim than this - that of all governments, those are the best, which, by the natural effect of their constitutions, are frequently renewed or drawn back to their first principles".²⁶ In order to see how to best move forward, we must critically analyze the founding principles of the society which we speak of.

The United States' Founding Values

In order to boil down the founding into its main principles, it is necessary to identify and assess which factors most heavily influenced the sentiments and desires of the Founding Fathers; It requires an appreciation for historical precedents and constitutional principles. Among other factors, the Founders were heavily influenced by

²⁶ Kermit, 698.

the Enlightenment and its belief that individuals have the capacity to develop and participate in self-government.²⁷ It was during this period of time when many thinkers turned to reason and science to explain both the physical universe and human behavior. In America, it was decided that instead of being “subjects” ruled by a monarch, people should be citizens of a republic that upheld the ideals of democracy and representative government. The Founders believed that in return for general protection and order, the People would give up a small portion of their independence to their political representatives.²⁸ In tandem with this thinking was the idea that the purpose of the U.S. Constitution was to protect the dignity and worth of individuals, enabling them to promote their skills and talents. The Constitution’s principal framer, James Madison, believed that an individual “has property in his opinions and in the free communication of them”.²⁹ This property stake extended not just to material items, but to religious opinions and, most importantly, personal safety. Generally, the belief was as follows: it was the main responsibility of the government to promote the protection of its citizens’ property in all its forms. In return, those citizens would give their power and trust to the Constitution, in effect upholding the republic and the flag.³⁰ The Founders strongly valued liberty as both an end and as a means.

In addition to the protection of individual liberty, the Founders also saw the pursuit of life and general happiness as a foundational principle of the new republic. The opening lines of the Declaration of Independence point to this fact. The Founders

²⁷ Fisher, 29.

²⁸ *Ibid.*, 34.

²⁹ “The Papers”, 1977.

³⁰ Fisher, 29.

believed that an individual's right to life should be considered sacred except in highly restricted and extreme circumstances, such as the use of deadly force to protect one's own home or the lives of others. They drew on the current thinking of the time and used ideas of natural rights, such as the right to life, to justify their separation from England.³¹ Many modern scholars believe that Thomas Jefferson, in his drafting of the Declaration of Independence, drew heavily from the writings of English Philosopher John Locke. Locke, who authored his *Second Treatise of Government* in 1689, wrote that all individuals are equal in the sense that they are born with certain "inalienable" natural rights, among which he believed to be life, liberty, and property. Locke believed that the most basic human law of nature is the preservation of mankind.³² To serve that purpose, he reasoned, individuals have both a right and a duty to preserve their own lives. These foundational principles motivated the Founders' proof that revolution was necessary in order to end England's tyranny over the colonists.³³ Additionally, it is important to note that, as with other rights, the Founders saw the right to life as "self-evident".³⁴ In other words, the right to life is a self-evident truth that is not based on the speculations and shifting opinions of men.

In addition to the foundational principles of the pursuit of life, liberty, and happiness, the Founders considered justice and social equality to be values of equal importance. In other words, the Founders believed that people should be treated fairly in the distribution of benefits and burdens of society, the correction of wrongs and injuries,

³¹ Costly, 2001.

³² Locke, 12.

³³ Hancock, 1775.

³⁴ "The Constitution of the United States," Article 1, Section 1.

and the gathering of information and making of decisions. The creation of a representative government was necessary in order to achieve these goals. As John Adams argued, “Remember, democracy never lasts long. It soon wastes, exhausts, and murders itself.”³⁵ What resulted was a system of government where, among other things, the various branches of government balanced and checked each other’s constitutionally enumerated powers. The American republic solved the republican problem of corruption and degeneration over time by providing a power of constitutional amendment and allowing constant adaptation through a periodic return to founding principles. The U.S. Constitution is written in such a way as to vest in each branch core powers, powers which are to be exercised exclusively by that branch. At the same time, the Constitution also puts a check on the tendencies of any one branch toward self-aggrandizement by giving each branch a “partial agency” in the affairs of the others.³⁶ Protecting from the “tyranny of the majority” meant framing the government in a way that allowed it to control the governed, and in the next step oblige it to control itself. The Founders worked to allow divergent, uncomfortable, or unpopular voices to be heard in politics, instead of allowing the opinion of the majority, however informed, to always rule.

In addition, they believed that the values discussed above must be protected by natural law. Generally, the Founders believed that all men and women had certain unalienable rights, but that they must be understood within the limits of moral and civil law.³⁷ It was accepted that a stern, self-renouncing virtue was essential in a democratic

³⁵ Williams, 2009.

³⁶ Clement, 3.

³⁷ Hall, 2009.

republic.³⁸ Democratic citizens would need to learn to love the laws, love their country, and largely prefer public goods above their own private ones. Since loving the democracy meant loving equality, citizens would have to abstain from actions that would destroy equality and limit their desires for securing necessities.³⁹ As Alexis de Tocqueville wrote in the introductory chapter of *Democracy in America*, "... nothing struck me more forcibly than the general equality of conditions... it creates opinions, engenders sentiments, suggests the ordinary in life, and modifies whatever it does not produce".⁴⁰

Through their promotion of a representative government and liberty, the Founders managed to promote a more general notion of diversity. Diversity, for the Founders, was inclusive. They saw it broadly as variety in culture and ethnic background, race, and lifestyle. The belief was that diversity was not only permissible but desirable and beneficial in a pluralist society.⁴¹ James Madison argued that the freedoms the Constitution guaranteed depended on this pluralism: "This freedom arises from that multiplicity of sects which pervades America," he said at the Virginia ratifying convention, "for where there is such a variety of sects, there cannot be a majority of any one sect to oppress and persecute the rest."⁴² He repeated this point in *Federalist Paper* No. 10, where he argued that factions would not easily be able to attain their ends under the Constitution as long as there remained a diversity of interests in the large republic.

³⁸ Kane, 36.

³⁹ *Ibid.*, 37.

⁴⁰ Mansfield, 34.

⁴¹ Bier, 2012.

⁴² *Ibid.*

In tandem with these ideals came a toleration of difference. It developed in parallel with the early liberalism prevalent among American thinkers' European Enlightenment forbearers.⁴³ It reflected a larger belief that hatred or fear of other races and creeds interfered with economic trade, extinguished freedom of thought and expression, eroded the basis for friendship among nations, and led to persecution and war. As mentioned earlier, America's Founders were largely inspired by philosophical thinkers like John Locke. In his work *A Letter Concerning Toleration*, Locke argues that government is generally ill-equipped to judge the rightness or wrongness of opposing opinions on topics spanning religious doctrines and societal views.⁴⁴ Generally, the Founders strongly agreed that only through the promotion of diversity of thought, experience, and desire would America grow to become a powerful nation.

Contemporary Shifts

The preceding paragraphs have outlined a series of foundational values that the Framers embraced while creating the United States' government and society. Among them are the pursuit of life, liberty, and happiness. In addition, the Framers supported the ideals of justice, social equality, and diversity. These values are incredibly important, as they help us understand the qualities and values that helped forge our powerful country. In addition to identifying and appreciating them, it is important to take time to look at how these values have translated into contemporary times. Has the United States been able to uphold these values in the 21st century? As Joe Biden argues, "America's ability

⁴³ Ralston, 2012.

⁴⁴ Locke, 1948.

to lead the world depends not just on the example of our power, but on the power of our example.”⁴⁵

Scholars largely agree that America’s values are in upheaval. This is triggered in large part by advances in technology, prolonged pessimism, and a loss of confidence in major social, political, economic, and religious institutions.⁴⁶ In a study conducted in 2012 by Penn Schoen Berland between May 25 and June 6, more than two-thirds of those surveyed believed that American values had declined. They pointed to political corruption, increased materialism, and declining family values as large catalysts in this assessment.⁴⁷ Of those surveyed, half expect American values to continue to weaken over the next decade.

These sentiments are alarming, as many would argue that our country, including its politicians, should be constantly working to reclaim our founding values and flush them throughout every political decision made. American values are not so abstract that they should shift and shape according to whoever claims them. Contrary to popular belief, American values are not regional - they should be held with reverence and seen as unifying forces that propel the country forward.⁴⁸

While the country is far from perfect, it should never give up the struggle to grow closer to the ideals embedded in its founding documents. History has shown that other nations tend to follow the United States’ lead because they know that America does not simply protect its own interests, but makes attempts to advance the aspirations of all.

⁴⁵ Biden, 2017.

⁴⁶ Penn, 2012.

⁴⁷ Ibid.

⁴⁸ Biden, 2017.

Placing American democratic values back at the center of our foreign policy does not mean that the country should simply impose its principles abroad or refuse to talk with nations whose policies run counter to them. American values are the ones that tie to our closest allies. The ability of America to reconnect and reclaim its values through foreign policy will help assure U.S. allies that the United States will continue to support them and to stand up for democracy.

Leading with the values outlined above means that we speak out when nations violate their citizens' rights. It is widely believed that the country can meet its security imperatives without giving a green light to dictators who abuse universal human rights. A foreign policy built on American values must stand firm against foreign powers that celebrate a perceived withdrawal of American leadership as an opportunity to increase their influence.

The Interplay of American Values and Genocide

As the above discussion has shown, America was founded on a strong set of values that were deeply woven into the country's founding documents by the Framers. Equally as important, there is strong evidence that the country has markedly shifted away from its founding values since the Framers first wrote the Declaration of Independence and the Constitution of the United States. In tandem with this shift comes the general sense that America's founding values are not considered in foreign policy decisions and that the values so revered by individuals domestically are not supported and sustained abroad. The intentions and actions of those involved in genocidal acts go against America's founding values in every imaginable way.

In 1996, Gregory Stanton, the president of Genocide Watch, presented a briefing paper called *The 8 Stages of Genocide* at the United States Department of State.⁴⁹ In it, he suggested that genocide develops in eight stages that are “predictable but not inexorable”.⁵⁰ He also argued that though later stages must be preceded by earlier stages, all stages continue to operate throughout the process. The Stanton paper was presented at the State Department shortly after the Rwandan genocide and much of the analysis presented is based on why that genocide occurred. Stanton identified the following eight stages of genocide: “classification”, “symbolization”, dehumanization”, “organization”, polarization”, “preparation”, “extermination” and finally “denial”.⁵¹ These stages paint a very clear picture of what typically happens from start to finish during any particular genocide and at every stage, there are clear breaches of American founding values.

During acts of genocide, people are divided into “us and them”. This already shows a breach of American values, as people are generally categorized by either their race, religious creed, or other defining characteristics in order to inflict harm on one specific group of people. What distinguishes genocide from war, and what makes it arguably more vile, is that victims of genocide are largely targeted for who they are, not specific actions they’ve taken. The “classification” of a certain subset of people in a society shows the beginning of this process. It allows the third stage, “dehumanization”, to occur, as one group denies the humanity of another group.⁵² This denial of humanity, or the state of being human, is in direct violation of all of the founding values identified

⁴⁹ Stanton, 1996.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

earlier. Genocide involves systematically categorizing, separating, and exterminating a group of people because of who they are. Perhaps most obviously, it denies people the property stake in their own lives – a right that the Founders believed were imperative to a well-functioning society. As mentioned earlier, the Founders believed that this property stake extended not only to material items but to aspects such as religious opinions and personal safety. Acts of genocide specifically aim to eliminate the diversity of ideas, backgrounds, and beliefs that James Madison and others believed would create a robust marketplace of ideas. The Framers were concerned with creating an environment that promoted people's individual skills and talent. In contrast, genocide rips away people's dignity and violates their sense of self-worth. For genocide to occur, citizens must be stripped of their sense of self and boiled down to simple defining characteristics, characteristics that those perpetrating genocide see as undesirable. Victims' contributions to society are either not considered or are seen as justification for complete elimination. Given the above characteristics, acts of genocide clearly violate the Founders' desire for all people to have a strong sense of liberty, liberty that allows them to achieve both individual and communal happiness.

In addition to the pursuit of life, liberty, and happiness, the Framers revered what justice, social equality, and diversity could provide in a society. As mentioned before, genocide aims to systematically eliminate diversity in society by eradicating a complete class of people based on a specific characteristic that identifies that group. The Founders believed that people should be treated fairly in the distribution of both benefits and burdens of society. Genocide unfairly penalizes one group in a society, with devastating

effects. It shifts the burden to this group because of characteristics, like race and ethnicity, that they oftentimes have no control over. While the Framers created a government that made explicitly sure to protect and promote divergent and minority opinions, genocide singles-out and extinguishes those who are considered undesirable by another group. Those promoting acts of genocide have absolutely no tolerance for difference. In fact, many believe that one of the concrete ways to prevent genocide is by creating universalistic institutions that transcend ethnic or racial differences.⁵³ Overall, what the Founders hoped to establish was a society in which people were free and protected to live their lives as they saw fit. In exchange for giving up some of their liberties to the government, the Founders believed that the government could give back to the citizenry by protecting their individual interests and ideas. In contrast, genocide is, among other things, a form of social control - a response to behavior defined as deviant.⁵⁴ Grievances against a group are handled through systemic mass killings. Victims of genocide are typically harmed because they are categorized as an undesirable “other” class. What makes them unique in society, the uniqueness that the Founders aimed to foster, is used against them.

Reclaiming our Values through Humanitarian Intervention in Genocide

So far, this paper has shown that since the founding, the United States has made marked shifts away from its founding values, especially with respect to the nation’s foreign policy. The question remains whether humanitarian intervention, in genocide specifically, can act as an effective way to reclaim those values in a substantial way.

⁵³ Ibid.

⁵⁴ Campbell, 155.

Given the fact that acts of genocide violate most, if not every, American founding value, it seems somewhat obvious that American intervention in genocide presents a strong way for the country to reclaim its founding values. That being said, there are principle issues that must be addressed.

One important dilemma is that of state sovereignty. The United Nations Charter specifically says: “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.”⁵⁵ Does this mean that countries like the United States are cautioned against intervention during threats to peace, such as genocide? The first operational principle of what the International Commission on Intervention and State Sovereignty (ICISS) calls the “responsibility to protect” (R2P) is as follows: “Where a population is suffering serious harm... and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect”.⁵⁶ In other words, R2P is an international law doctrine that permits collective humanitarian intervention to prevent or mitigate extreme human rights disasters, including genocide.⁵⁷ At the same time, sovereignty is a core feature of nation-statehood and the responsibility-to-protect doctrine challenges sovereignty fundamentally. Many scholars have written on and discussed the relationship between state sovereignty and humanitarian intervention. The general concern is whether recent international laws and covenants, such as the UN Convention on the Prevention and Punishment of the Crime of Genocide, are

⁵⁵ United Nations, 1945

⁵⁶ ICISS, 2001.

⁵⁷ Harold, 2016.

incompatible with the traditional understanding of international society and the sovereignty of states. Some scholars argue that humanitarian intervention can be humanitarian at best only in part. In other words, each case must be evaluated individually because there are times when coercive intervention in a sovereign nation-state is not justified by the conditions of oppression in that country.⁵⁸ The irony lies in the fact that humanitarian intervention constitutes a breach of state sovereignty, yet the key to the effective observance of human rights remains national law and practice.

As it turns out, the concepts of state sovereignty and humanitarian intervention might not be as incompatible as they first seem. Generally, it's believed that state sovereignty, when applied to international relations, is grounded in the will of international society and the citizens who make up that society.⁵⁹ In other words, the principles outlined in the UN Charter do not rule out the application of enforcement measures in cases where human rights are clearly being violated. The Genocide Convention also overrode the non-intervention principle to allow for the commitment of the world community to prevent and punish.⁶⁰ Many scholars believe that the respect for sovereignty that the international community holds is dependent on the capacity and will of the state to protect humanity. Abject failure to do so can lead to a fundamental forfeiture of the rights of sovereignty.⁶¹ humanitarian intervention, and the greater R2P principle, reinforces sovereignty by helping states to meet their existing responsibilities.

⁵⁸ Gregg, 197.

⁵⁹ Charvet, 39.

⁶⁰ Bajoria, 2013.

⁶¹ Ruti, 418.

When it comes to the rights and fundamental freedoms belonging to individuals, states have simply assumed responsibility for them,

On the topic of the relationship between state sovereignty and humanitarian intervention, the Founders sought to define a national good that transcended local interests and prejudices. Though they were deeply divided on how to properly conduct foreign policy, from a broader view, they looked to develop and spread a strong framework of foundational principles through the country's foreign policy. The purpose was to demonstrate to the larger community of nations the feasibility of self-government and the application of justice as a sustainable ground for relations among people and nations.⁶² The Founders rejected modern approaches to American foreign policy represented by power politics, isolationism, and crusading internationalism. Instead, they design a truly American foreign policy - fundamentally shaped by the application of universal ideas, such as human equality, natural rights, and the rule of law. Overall, it seems as though there is a consensus from scholars and diplomats alike that humanitarian intervention is generally justified, as national sovereignty is outweighed by a more collective need to uphold basic human rights.

⁶² Spalding, 2010.

Chapter III: Constitutional Law - Trump's Constitutionally Enumerated War

Power

Since the United States' intervention in Kosovo, many international lawyers, scholars, and politicians have argued in favor of R2P. That being said, it is important to examine larger legal issues concerning humanitarian intervention, including the President's Constitutional war power.

War power and humanitarian intervention are inextricably tied and the use of military force to respond to a foreign humanitarian crisis raises profound legal questions, especially when force is not authorized by Congress or the U.N. Security Council. Ever since the founding of the country, the pace and scope of intervention have only grown in speed, lethality, and geopolitical importance. These trends have important and far-reaching implications on the constitutional debate surrounding the powers of war and peace. Who exactly has constitutionally granted the power to commit and deploy troops internationally? This section will look at the history of the war power, with respect to both the executive and legislative branches. It will conclude with an analysis of the war power as it currently stands and the significance of this on the President's ability to instigate intervention.

The War Power and its Modern Interpretation

The war power was almost immediately contested after the framing of the Constitution and, if anything, has only become more so as executive and legislative branches push and pull for respective powers in this arena. Surprisingly, the Founders remained intentionally vague about Congressional and Presidential war powers. Much of

the literature on the topic aims to argue that each branch brings unique advantages in times of crisis and war. These advantages, and the competing constitutional interpretations that accompany each, have been outlined and argued by many scholars. Within the debate over Congress and the executive's powers of war, many commentators take either a narrow or an expansive view of the powers that Article I, Section 8 and Article II give to Congress and the executive branch respectively. The way the courts choose to interpret Article I and II is of the utmost importance, as it determines President Trump's ability to send military force in areas affected by genocide.

Article 2 of the U.S. Constitution outlines the President's powers in this arena. It begins by stating that executive power is vested in a President of the United States. In addition, it makes the President the commander in chief and gives him power to make treaties granted the advice and consent of the Senate.⁶³ This article in particular greatly divides those who take a narrow reading and those who take a more expansive reading of both the legislature's and the executive's war power. To the latter, Article 2's "vesting" clause gives the President sweeping power to make decisions in times of war. More narrow interpreters do not deny the power of the vesting clause but instead argue that the remainder of Article 2 is simply a binding list of the specific powers vested in the executive – an exhaustive list of all of the enumerated powers the President has during times of conflict.⁶⁴ Had the Founders wanted the executive to have a larger scope of power, they would have lengthened the list of acceptable actions like we find in Article I. Narrow interpreters go on to argue that Article II, in addition to being a short list, does

⁶³ "The Constitution of the United States," Article 2, Section 2.

⁶⁴ Kommers, 170.

not include a “necessary and proper” clause that grants the President overarching powers to act as she deems fit in times of crisis.

On the other hand, those who interpret the articles in a more expansive way have argued that the first sentence of Article 2 vests in the President all of the powers that fall under the general rubric of “executive power”.⁶⁵ Being the sole representative for the United States’ foreign affairs, many scholars argue that this role gives him expansive powers over the United States’ actions in times of war and crisis. The nation must speak with one voice, not the voices of 50 individual states. To many, that power and duty are given and enumerated in the Constitution.

Regardless of a specific interpretation of the relevant amendments, it is clear that both the legislative and executive branches are in key positions, and possess unique skills, to be able to manage and respond to war or a crisis. This is exactly what the Founders wanted and intended. The branches are not sealed off from each other in the decision-making process. Instead, they harbor shared powers. To be effective, many war and crisis-time decisions need to be made through the cooperation of more than one branch. At the same time, as Mariah Zeisberg argues in her novel *War Powers: The Politics of Constitutional Authority*, “if the branches did not have structural independence, “their colliding claims could be settled through enforced deference.”⁶⁶

The Legal Cases Behind Modern Interpretations

It is this tension between reliance and independence that drive important debates and perspectives from each branch on the nature of war power. It also highlights the distinct advantages that each branch brings. For example, scholars argue that the

⁶⁵ Kommers, 170.

⁶⁶ Zeisberg, 31.

President, distinctive from Congress, has the unique ability to respond quickly to changing circumstances. The hierarchical nature of the branch and its unique resources allow the executive to respond much more efficiently and effectively in times of crisis.

Youngstown Sheet & Tube Co. v. Sawyer highlights this argument quite well. In 1950, President Truman authorized the use of American troops in the conflict between North Korea and South Korea, calling it a “policing action” rather than an entrance into war.⁶⁷ In the face of strikes by the United Steelworkers Union and a potential shortage of the steel necessary for the creation of ammunition, Truman issued an executive order to seize the steel mills and place them under government control. The day after, Truman reported the action he had taken and stated that he would follow any action taken by Congress. In response, the steel companies obtained an injunction. The majority opinion of the Court fell in favor of the plaintiffs. Writing in dissent, Chief Justice Vinson argued broadly that the extraordinary times called for extraordinary powers. He argued that the plaintiffs did not reject the fact that any stoppage of steel production would immediately place the Nation in peril. Chief Justice Vinson argued that even though there was an absence of express statutory authorization, it was under President Truman’s constitutional power to meet a critical situation like this one with immediate action. The alternative would have left the President completely powerless, and at the mercy of a slow-moving legislature, in a moment when the survival of the United States in foreign matters could only be ensured through immediate action. In this case, President Truman was simply performing his central duty under the Constitution to take care that the laws be faithfully executed.

⁶⁷ *Youngstown Sheet & Tube Co. v. Sawyer*.

Chief Justice Vinson's argument rests on the expansive interpretation of Article 2 stated earlier. That being said, many of his major assertions rest on the broad belief that, apart from statutory or constitutional permission, there are times when the executive is in a better position to make informed and timely decisions – especially in times of crisis. Zeisberg articulates this idea well. She argues that “while presidents can gain access to the knowledge of agencies by consulting them, decision-making according to rules and bureaucratic organization is only one model of successful executive branch functioning.”⁶⁸ As she goes on to argue, President Truman was able to make excellent judgments using informal consultations with a selected core, rather than through rigid adherence to bureaucratic procedure. The fundamental flexibility of the executive branch is critical, and a matter of practical necessity, when meeting critical situations.⁶⁹

To many, the War Powers Resolution (WPR) was seen as an admittance by Congress of the executive's power to act quickly as well as a re-assertion by the legislative branch of its ability to check that power.⁷⁰ In 1973, Congress attempted to reassert its constitutional authority by passing the Resolution over President Nixon's veto. The WPR formally grants the President the ability to put troops into action, yet limits executive power as well. Broadly speaking, it gives the executive branch the power to act without clear congressional approval under three distinct circumstances. It also requires the President to consult with Congress regularly and terminate his use of United States Armed Forces within 60 days, unless Congress grants him permission to keep them

⁶⁸ Zeisberg, 35.

⁶⁹ *Youngstown Sheet & Tube Co. v. Sawyer*, 209.

⁷⁰ H.J.Res. 542.

deployed.⁷¹ Proponents of the WPR see it as a renewed sense of congressional responsibility and a reiteration of the principles of separation of powers and collective decision-making. It supports the idea that constitutional authority in times of crisis or war is dynamic. It is truly constructed within the constitutional framework rather than located primarily in either the executive or the legislature. In many instances, executive action can be justified because had the President not acted, the very Constitution, and by nature the very nation itself, would have been compromised. As Alexander Hamilton so neatly articulated in *Federalist Paper* No. 23, too strict an observance of constitutional limits could potentially result in constitutional failure.⁷² The necessity of this executive power needs to be controlled by the legislature. The War Powers Resolution is an example of the important push and pull between executive and legislative war power. It serves as a clear effort to give life to one of the defining features of American constitutional order – the principle that power should be both shared and accountable.

As expected, this interpretation of executive power raises concerns over the bloating of presidential war power and the eventual inability of Congress to ever act as a co-equal partner in this space. The evolution of war power in response to the quickening pace and growing lethality of conflict open the door for overstepping by the executive during times of crisis and the justifications of actions through precedent. These concerns are valid and should not be disregarded as insubstantial worries. There have times in the past when the executive branch uses precedent and a loose interpretation of their war powers to make regrettable decisions. One such instance of this is *Korematsu v. United States*. In response to the Japanese attack on Pearl Harbor, there was widespread fear that

⁷¹ *Ibid.*, 215.

⁷² Alexander Hamilton, *Federalist* No. 23.

an attack on the West Coast of the United States was imminent. Many politicians argued for the internment of local Japanese Americans, citing “the threat of sabotage and espionage.”⁷³ As a result, President Roosevelt issued an executive order that gave the military the power to “relocate” Japanese Americans to several internment camps located in the Western United States. Fred Korematsu resisted the order to move and was arrested and convicted. The Supreme Court granted certiorari. In the majority opinion, Justice Black supported the executive order, arguing that the Court was unable to conclude that it was beyond the war power of the executive to exclude the Japanese from the West Coast area. In other words, Black supported President Roosevelt’s actions as extraordinary measures taken in the face of “apprehension by the proper military authorities of the gravest imminent danger to the public safety.”⁷⁴ As Justice Frankfurter added, in a concurring opinion, “the validity of action under the war power must be judged wholly in the context of war. That action is not to be stigmatized as lawless because like action in times of peace would be lawless.”⁷⁵ Similar to the dissenting argument made in *Youngstown Sheet & Tube Co. v. Sawyer*, both Justice Black and Justice Frankfurter grounded their arguments in the assertion that the executive was allowed extraordinary powers in times of national crisis. At the time, though later determined to be fueled in part by racist sentiments, fear of attack had pressed local and national politicians, supported by many constituents, to demand quick action by the executive. This constituted an active understanding that the President was in a better position to take immediate action in response to growing concern.

⁷³ Korematsu v. United States, 220.

⁷⁴ Ibid., 220.

⁷⁵ Ibid., 221.

As history shows, it later became known General John L. DeWitt, the general who called for the order, knew there was no real legitimate threat. Nonetheless, he had enough power in the clout of war to get President Roosevelt to issue the executive order. The order resulted in the internment of over 100,000 residents and was later admitted to being a decision largely based on race prejudice, war hysteria, and a failure of political leadership. *Korematsu v. United States* is a case that resulted from the use of very harmful executive war power. Basic liberties are in danger when a branch uses the extraordinary times of war to legitimize otherwise unlawful behavior. There will be, throughout history, times when this happens, and when the judiciary's ruling supports on the unconstitutional side of the case.

Ever since the Founding, the debate over the power of the legislature and executive in times of war and crisis has been heated and will continue to be so. As is seen in *Youngstown Sheet & Tube Co. v. Sawyer* and *Korematsu v. United States*, the powers granted to the executive in particular have only grown in scope and importance, sometimes with devastating consequences. While this trend has raised fears in many about the burgeoning powers of the President, and what can go wrong when executive powers are not checked, these cases also show that he is in a unique power to make quick and informed decision when those are most necessary to the survival of the country. The question then becomes whether this unique position outweighs the unbalancing of war powers between the branches. As Jefferson points out, the executive and legislative branches will always be beholden to the People, who have enormous power to keep the two branches in check in this regard.

Much like other constitutional amendments, the Constitution is broad on the subject of war powers. It can be inferred that this was an intentional action by the Founders, who wanted to provide only the outlines of what the war powers should look like. Though this vagueness has spurred contentious debate on the subject, it has also allowed the document to be malleable enough to survive over a century. The President's domination of foreign policy and war power is a natural response to the quickening pace of intervention and the advancements of military technology. Increasingly, decisions on these topics have needed to be made with very little time – something the legislature cannot do because of its fundamental nature. Therefore, we need to embrace the vagueness of these powers, and take a fluid approach to understanding Congress' war power, the executive war power, and how the two interact. This needs to occur on the foundation of the power's enumerated by the Constitution and accepted by the People. Each branch has a unique and valuable perspective and set of skill it brings. This approach to war powers takes advantage of this and moves away from a more rigid constitutional interpretation.

Chapter IV: Trump's Military Credibility

So far, it's been established that the United States has an abysmal history with respect to humanitarian intervention. Working to combat genocide through intervention represents an opportunity for the United States to re-embrace its founding values, inject pride and confidence into our political institutions, and set an example that other powerful nations look to follow. That being said, the analysis is not so simple. Foreign policy decisions, especially by powerful countries like the United States, are not made in a bubble. There are important geopolitical factors that must be taken into consideration. It can be argued that these factors are of even greater importance in humanitarian intervention than wars, since the possible gains achieved by the intervening country are lower and the risks often higher. Humanitarian intervention presents the opportunity for the United States to reclaim its founding values, but at what cost? This chapter will look at the effect that humanitarian intervention in genocide has on the United States' military credibility. For the sake of this paper, credibility will be defined as the belief held by others that a country will carry out its threats and promises.

The Military Credibility Trap

According to the *2016 Index of U.S. Military Strength* written by the Heritage Foundation, the United States risks seeing its interests increasingly challenged and the world order it has led since World War II undone.⁷⁶ The Index argues that the United States does not presently have the right force to meet a two-major regional contingency requirement (MRC) and that it is not ready to carry out its duties effectively. MRC refers

⁷⁶ "An Assessment of U.S. Military Power.", 2017.

to the ability of the United States to confront and defeat aggression from two adversaries at a time. Though these calculated weaknesses may be accurate, military capability is not directly related to military credibility. In fact, a country's military strength in the eyes of allies and adversaries can be much different from the realities of that strength on the ground.

Many politicians believe that if the United States backs down from a crisis that it has entered, the country's future credibility will be greatly reduced in the eyes of allies and adversaries alike.⁷⁷ This fear of diminished credibility largely motivated the United States' costly involvement in the Korean and Vietnam wars. It has continued to guide American policy decisions since the Cold War, as the threat of Communism made it imperative for states to not doubt U.S. power or resolve.⁷⁸ Granted, the United States is perceived to be the linchpin of a vast alliance network. Because of this, it must convince many other countries that its promises and capabilities are believable.⁷⁹ Since then, the fear of losing credibility has helped propel the United States into conflicts in Bosnia, Kosovo, Iraq, and Libya. Regardless of astounding evidence against the theory of credibility, both the U.S. military and foreign policy elite are quick to embrace the notion that U.S. credibility is both fragile and all-important because it provides another reason for large defense budgets and involvement in conflicts around the world.

Though the above analysis relates largely to U.S. involvement in war, this mindset has pervaded Washington's understanding of humanitarian intervention as well.

⁷⁷ Press, 27.

⁷⁸ Walt, 2015.

⁷⁹ Ibid.

A series of factors have been identified by scholars as contributing to the reluctance of politicians to advocate for intervention. For one, past failed interventions tend to make much larger impressions on stakeholders than successful ones. Studies have shown that the more successful a humanitarian intervention is, the less likely it is to leave traces on people's political and moral consciousness.⁸⁰ Disastrous situations tend to leave larger and longer lasting impressions on our collective conscience than successful ones. In addition, this relationship is often due to a lack of counterfactual scenarios - it is impossible to accurately calculate what would have happened had the United States and its allies not intervened in a situation. One scholar sees this phenomenon as the moral distinction between "doing harm" and "allowing harm".⁸¹ While a failed intervention is seen as a case of actively doing harm by making the situation worse, failing to intervene is only a case of not preventing harm. Since we are justified in assigning greater moral weight to harm than failing to prevent it, we are justified in giving more weight to failed interventions than to failed non-interventions.⁸²

In addition, there seems to be a pervasive and fundamental belief held by politicians and power-players that countries who choose to prioritize humanitarian intervention in their foreign policy agendas are "weak" or "soft". American leaders worry that other states will question the United States' resolve and capability if it ever loses even a minor scrap in the developing world. As has been argued earlier, humanitarian

⁸⁰ Haydar, 2017.

⁸¹ Ibid.

⁸² Ibid.

intervention is rarely seen as geopolitically advantageous for the United States to participate in. Given these two factors, politicians rarely advocate for it.

Given how widespread this belief is, it is highly concerning that studies using historical evidence and declassified documents have shown the theory of “credibility” in foreign policy to be largely unsubstantiated. Political scientists have investigated the theory repeatedly and have disproven it time and time again. There is no evidence that America’s allies or enemies change their behavior based on conclusions about America’s credibility, or that such a form of reputation even exists in foreign policy. As one scholar argues, “when leaders face the prospect of high-stakes military conflicts, they do not assess their adversaries’ credibility by peering into their opponents’ past and evaluating their history of keeping or breaking commitments.”⁸³ Research by Ted Hopf, Jonathan Mercer, and Daryl Press has proven that states do not judge the credibility of commitments in one place by looking at how a country has acted somewhere far away.⁸⁴ Historically, when the United States has “lost”, the country’s core strategic relations have remained unaffected.⁸⁵ For example, during the Vietnam War, American officials could clearly see that they were losing but for years worried that withdrawing would communicate weakness to the Soviet Union. In turn, politicians were scared that this would embolden Moscow to test American commitments elsewhere. As it turns out, this line of thinking was seriously flawed. Soviet leaders never reached such a conclusion and, in fact, were puzzled as to why the U.S. had chosen to sacrifice so many lives for a

⁸³ Press, 40.

⁸⁴ Walt, 2015.

⁸⁵ Matthews, 2013.

war that was clearly lost.⁸⁶ How has the credibility myth become so entrenched in Washington? Many scholars point to the fact that the theory is attractive because it paints complicated geo-politics in simple and familiar human terms. It encourages politicians and scholars to think of states as just like people.⁸⁷ In addition, America's broad network of alliances plays a key role. It allows allies who also believe the credibility myth to entangle themselves in U.S. foreign policy decisions.⁸⁸ In a nutshell, quantitative tests of the intangible concept of credibility, in an environment plagued by problems of strategic selection, have not consistently demonstrated that opponents take reputations of resolve seriously.⁸⁹

What influence has this thinking had on the United States' foreign policy decisions? For one, Washington's obsession with the threat of weakening credibility has forced U.S. foreign policy to become unnecessarily rigid. In every case, a belief in "credibility" pulls the United States towards either fighting a war for the wrong reasons or staying in a conflict longer than is worthwhile.⁹⁰ This presents a clear dilemma because scholarship shows that one of the most important ways the U.S. can retain its global influence is by convincing states that the country is capable of sound judgment, not through the thoroughly-debunked theory of military credibility. According to Stephen M. Walt, a professor of international relations and Harvard University, U.S. commitments are most credible when the American interest in an area is obvious to all, mostly because

⁸⁶ Fisher, M., 2016.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Gibler, 1.

⁹⁰ Fisher, M., 2016.

states attempt to figure out how the United States is going to act in an area by attempting to discern whether it is in the country's best interest to do so.⁹¹ If U.S. allies believe that the United States is skillful at weighing situations soberly and rationally, then they can collaborate their actions and will be more inclined to follow the U.S.' lead.

Intervention in Genocide as a Source of Military Credibility

As argued earlier, Washington's obsession with the credibility myth has led the United States to either involve itself in frivolous conflicts abroad or stay in failed wars long past the appropriate time. Not only has this led to the exhaustion of military resources and loss of life, but it has also had devastating consequences for the U.S.' perceived brand of foreign policy. Donald Trump's presidency, including his perceived lack of competence both generally and with regards to foreign policy, has only intensified the U.S.' suffering global reputation. In foreign policy, competence depends on a sufficient knowledge regarding the state of the world and the key forces that drive world politics. This knowledge is what drives well-informed and intelligent policy decisions.⁹² It also means having organizational skills, discipline, and a level of judgment that allows for these different elements to combine in the pursuit of well-chosen goals. It is widely believed that President Trump lacks these skills. Scholars arguing this point to his blatant nepotism, vast conflicts of interest, overt misogyny, and repeated fabrication of facts.⁹³ This incompetence has already made itself apparent.⁹⁴ For example, President Trump's decision to drop the Trans-Pacific Partnership (TPP) was seen by many scholars and

⁹¹ Walt, 2015.

⁹² Walt, 2017.

⁹³ Ibid.

⁹⁴ Wike, 2017.

politicians as an enormous policy mistake. Not only has it undermined the United States' position in Asia, but it has also opened the door for larger Chinese influence, effectively hurting the U.S.' economy. In fact, Trump recently asked trade officials to explore the possibility of the United States rejoining the TPP agreement. A similar narrative can be made for his decision to pull out of the Paris climate accord.⁹⁵ Apart from the political, economic, and social consequences of these actions, a weakening of the United States' global reputation has also led U.S. allies to question the country's advice, guidance, and requests.⁹⁶ It can be argued that states that lose confidence in America's confidence will begin to hedge and make their own arrangements. They'll do deals with each other and might even begin to regard the United States as an adversary.

Scholarship shows that one of the most important ways the U.S. can retain and strengthen its global influence is by convincing states that the country is capable of sound judgment. The "credibility" myth, coupled with President Trump's brand of foreign policy, has weakened the country's reputation to devastating ends. Looking forward, it is imperative that the U.S. government look at ways it can increase its reputation in the eyes of its allies and adversaries. This section will argue that humanitarian intervention in genocide, under certain circumstances, presents a clear way for the United States to increase its reputation for good judgment in the eyes of the international community. In order to minimize the perceived invasion of another state's credibility, a possible problem acknowledged and addressed earlier, the United States should only intervene in genocide under certain circumstances, as outlined in the scholarly article *The State and Human*

⁹⁵ Ibid.

⁹⁶ Roug, 2017.

Rights: Sovereignty versus Humanitarian Intervention by Simon Duke. Humanitarian intervention should only be sanctioned under the following conditions:⁹⁷

1. there is a provable and grave violation of fundamental human rights
2. such violations are extensive and pose the threat of widespread loss of life
3. all other recourse beneath the level of intervention has been exhausted
4. any use of force should be proportional, whereby it protects those endangered but aims to cause minimum disruption or disturbance to other factors aside from human rights
5. intervention should, where possible, involve some form of consent from the host state

Creating and using a strong the framework above will help prevent the United States from entangling itself in a humanitarian situation that either does not warrant international invasion or ends up further crumbling the country's reputation for decision making and sound reasoning. Equally as important, it will help quell worries by politicians and scholars that humanitarian intervention in genocide is an unnecessary risk leading to little or no reward for the United States. This is because the framework above helps to ensure that the U.S. enters humanitarian conflicts only when the need is clear, the mission is feasible, and U.S. leaders are confident that intervention will not make matters worse.⁹⁸ In doing so, the United States can begin to rebuild its reputation as a rational actor. This rebuilding will hopefully lead to a strengthening of ally relationships and a stronger foreign policy overall. Sticking to this framework, and intervening in genocide when all of the conditions are met, will help ensure that humanitarian intervention

⁹⁷ Duke, 44.

⁹⁸ Mearsheimer, 2016.

becomes an opportunity for the United States to increase its reputation in the eyes of its allies.

Genocide will always constitute a provable and grave violation of fundamental human rights. This is an important characteristic, because being able to show doubtless violations of this nature means that a legal basis for corrective measures can be established. Even when access is denied by a state, advancements in surveillance technology have made it increasingly difficult for perpetrators of genocide to stem the flow of information regarding violations of human rights.⁹⁹ Genocide also meets the second requirement - that the human rights abuses be extensive and pose the threat of widespread loss of life. "Extensive" refers to the ability of an official observer to establish a pattern of abuse and establish, beyond a reasonable doubt, that lives are in danger.¹⁰⁰

One of the most important dimensions of the framework is that humanitarian intervention employing the use of force should not be undertaken until all other forms of persuasion aimed at saving lives have been attempted. These may include direct appeals by the U.S. government, *ad hoc* bodies, regional organizations, specialized non-governmental organizations, private institutions, and the United Nations itself.¹⁰¹ It is important to note that oftentimes, actions short of armed humanitarian intervention may exacerbate human rights abuses. For example, the use of economic blockades often harms those already subject to humanitarian abuse. The United States should make efforts to

⁹⁹ Duke, 44.

¹⁰⁰ Ibid., 45.

¹⁰¹ Ibid., 45.

coordinate its efforts in this phase with these other institutions. Not only will this make those effort more effective, but it will also present the U.S. with the chance to strengthen its relationship with these powerful allies and strengthen its reputation by proving its foreign policy prowess. If the United States can get the backing, support, and resources of international institutions and countries, this will significantly strengthen its offensive strategy.

Part four of the framework ensures that the United States does not monopolize the political or social weakening of the country it invades. It narrows the scope of U.S. influence and acknowledges that it is not the job of the interventionist to do anything more than enforce the stipulations of international treaties pertaining to human rights. The United States should avoid efforts to largely influence or change the political, religious, or cultural values of the country in question. Humanitarian intervention in genocide is a response to the *immediate* needs of victims of violence and not an answer to the longer-term stability of a regime or country.¹⁰² Along this same vein, the United States should look to limit the time it is directly intervening in a conflict. Finally, the United States should try and establish some degree of consent from the host state. Similar to the other stipulations explained above, this will help guarantee that the state maintains as much sovereignty as possible. Otherwise, the United States risks charges of unwarranted meddling in the internal affairs of another state by both people in the U.S. government and abroad.

¹⁰² Ibid., 47.

Humanitarian intervention in genocide has many practical difficulties and has proven to be a destructive tool for international peace and stability if used incorrectly. That being said, it can also be an extremely powerful tool. Following the framework outlined above will help prevent the United States from entangling itself in a humanitarian situation that further tarnishes the United States foreign policy brand in the eyes of Americans and international actors. It also serves as an opportunity for the U.S. to strengthen relationships with allies and international institutions. Following a strong framework, developing actionable steps, and making sound policy decisions will help the country create a very sound brand of foreign policy and strengthen the United States' domestic and international reputation.

Chapter V: A Case Study – The Darfur Genocide

This chapter will attempt to cement the theories and framework discussed above to a real-world case study. The current genocide occurring in Darfur, Sudan will be critically analyzed. To begin, a synthesized background of the conflict will be presented. Though the application of the framework established in Chapter IV, this paper will attempt to determine whether it is geopolitically strategic and advantageous for the United States to intervene in the conflict.

Background

Darfur is a region in Western Sudan, It is considered the largest country in Africa and encompasses an area roughly the size of Texas.¹⁰³ Darfur had a pre-conflict population of about six million people. Civil war has existed between the northern and southern regions of Sudan for over ten years.¹⁰⁴ Following independence from Britain in 1965, Sudan became involved in two prolonged civil wars for most of the 20th century. These conflicts were rooted in northern economic, political, and social domination of largely non-Muslim and non-Arab southern Sudanese;¹⁰⁵ While the northern region is predominantly made up of Muslims who are ethnically Arab, the South is largely inhabited by groups of Christians. Competition for scarce resource has played a serious role in furthering the conflict. Adding to the complexities of the violence are

¹⁰³ “Ten Terrible Facts”, 2018.

¹⁰⁴ “Genocide in the Darfur Region”, 2011.

¹⁰⁵ “Darfur Genocide”, 2017.

desertification, famines, and the discovery of oil that has made the Sudanese government and international contributors increasingly interested in the land.¹⁰⁶

Though the Comprehensive Peace Agreement ended the civil war in 2005, the country remained largely underdeveloped and marginalized at the federal level, lacking both infrastructure and substantive development assistance. These factors have made the environment ripe with opportunity for conflict between Muslims in the north and Christians in the south. Killings largely began in the Spring of 2003, after two Darfuri rebel groups launched a rebellion against the Sudanese government by attacking an air force base in Al-Fashir.¹⁰⁷ They demanded an end to the oppression of Darfur's non-Arab population and economic marginalization. In response, the Sudanese government enlisted a group of government-armed and funded Arab militias known as the Janjaweed (“devils on horseback”) to resolve the conflict.¹⁰⁸ These militias have killed at least 70,000 villagers – with estimated deaths ranging above 300,000 – have raped thousands more, and have driven roughly two and a half million into refugee camps, many in the neighboring country of Chad.¹⁰⁹

Despite a ceasefire agreement signed by a number of groups involved in the conflict, including the Sudanese government and various rebel groups, violence continued in Darfur. In the Summer of 2004, dozens of political groups and bodies, including the U.S. Congress and the EU Parliament, recognized western Sudan as a site of genocide. Colin Powell, the U.S. Secretary of State, became the first member of the

¹⁰⁶ Ibid.

¹⁰⁷ “Darfur Genocide Timeline”, 2011.

¹⁰⁸ “Darfur Genocide”, 2017.

¹⁰⁹ Jr., Stuart, 2005.

U.S. executive branch to declare the conflict in Darfur “a genocide.” He openly told the Senate Committee on Foreign Relations that a genocide had been carried out in Darfur, that the Sudanese government and the Janjaweed were responsible, and that the genocide may still be ongoing.¹¹⁰ Then-President George W. Bush called for the number of international troops in Darfur to be doubled. In addition, then Presidential candidate Barak Obama campaigned on the issue in 2008, referring to the Darfur genocide as a “stain of our souls”.¹¹¹ This declaration by the U.S. government was almost unavoidable, given the annihilating character of attacks on non-Arab civilians and villages in Darfur. In a directive written in August of 2004, Musa Hilal, one of the most infamous Janjaweed leaders, plainly spelled out the ambitions of the group. Among other things, he pointed to the desire to change the demography of Darfur and empty it of African tribes.¹¹² Though cease-fires were signed by the Sudanese government, it had no intention of honoring the documents and simply signed them as a way to gain an effective diplomatic cover under which the work of ethnic cleansing could continue.¹¹³ This, coupled with the United States vague declarations of action, meant that the genocide was largely allowed to continue unabated.

The expression “never again” is always used whenever U.S. politicians talk about human rights atrocities such as genocide. Any discussion of the Holocaust, Yugoslavia, Cambodia, or Rwanda elicits a plea that such violence and hatred should never happen again. Despite an abundance of information about the atrocities occurring in Sudan, what

¹¹⁰ January, 114.

¹¹¹ Reeves, 2017.

¹¹² Flint, 97.

¹¹³ Just, 2008.

ensued was a systematic denial of humanitarian aid to the ethnic populations most affected. There have been some steps in the right direction. For example Omar al-Bashir, the President of Sudan, was indicted by the International Criminal Court (ICC) in 2010 for the crime of genocide. This constituted the first instance of the ICC issuing a warrant for genocide to a sitting head of state.¹¹⁴ That being said, the international community at large took the same stance with regards to Darfur as it did with the Rwandan genocide – that of an outside observer and bystander. According to author and scholar Rebecca Joyce Frey, Bashir and other leaders realized that the lack of intervention in Rwanda from the international community largely gave them free rein to continue the genocide without having any serious concerns over international intervention.¹¹⁵

Past and Future U.S. Involvement

A brief look into the history of the genocide in Darfur shows a systematic choice by countries to avoid any sort of substantive military intervention in the area. Though there have been attempts by the African Union and United Nations to station troops in the area, their ranks have never grown beyond 9,000 and they have made little progress in stopping the destruction, let alone in reversing it by allowing millions of displaced Darfuris to begin returning to their homeland.¹¹⁶ Though Powell warned that the United States might take the issue to the UN Security Council if the Sudanese government continued to wreak havoc, those threats amounted to a simple threat that sanctions *might*

¹¹⁴ Elhag, 210.

¹¹⁵ Joyce Frey 101.

¹¹⁶ Just, 2008.

be imposed.¹¹⁷ Despite a significant decrease in armed conflict in South Sudan, civilians in Darfur are still being constantly exposed to violence and criminality.¹¹⁸ According to Human Rights Watch, Sudan's human rights record remains abysmal, with continued attacks on civilians by government forces and widespread arbitrary detentions of activists and protesters.¹¹⁹ A long-term comprehensive solution to address the needs of the region's people remains elusive. Despite efforts on the part of UNAMID and the African Union High-Level Implementation Panel, little tangible progress has been made in the Darfur peace process.¹²⁰ A recent Security Council briefing revealed that the situation in Darfur has not yet been normalized; Security issues, unlawful killings, and human rights violations make the conditions volatile.¹²¹ There have been continued reports of sexual violence and concerns that the government's ongoing disarmament campaign is leading to increased tension in armed confrontations that threaten to undermine recent improvements in the security of the region.¹²²

Using the framework established and explained earlier in this paper, it is now important to establish whether the United States should gather the military power and resources necessary for a more substantive and genuine military intervention in Darfur at this time. What makes the lack of direct U.S. involvement incredibly perplexing is that U.S. officials have actually used the word "genocide" when describing the atrocities occurring in Sudan. Unlike other genocides in the past, the one of Darfur has attracted an

¹¹⁷ Ibid.

¹¹⁸ "Civilians in Darfur", 2017.

¹¹⁹ Abdallah, 2017.

¹²⁰ "Civilians in Darfur", 2017.

¹²¹ "January 2018 Monthly Forecast", 2017.

¹²² Ibid.

avalanche of material – memoirs, journalistic accounts, and histories just to name a few. No genocide has ever been so thoroughly documented while it was taking place.¹²³ As Richard Just writes, “we document what we do not stop. The truth does not set anybody free.”¹²⁴ On the bright side, this documentation helps fulfil the first two parts of the framework. It provides evidence towards a provable and grave violation of fundamental human rights and the guarantee that the violations are both extensive and pose a threat of widespread loss of life. The UN estimates that between 200,000 and 300,000 people have died in Darfur since the start of the current conflict in 2004. Out of the 7.4 million total people living in the region, an estimated 6.4 million people are currently directly affected by the conflict.¹²⁵ These deaths have been well-documented. Many people were placed in the area as unarmed “observers”. In his novel *The Devil Came on Horseback: Bearing Witness to the Genocide in Darfur*, Brian Steidle talks about his time documenting the tragedy.¹²⁶ His job was to monitor violations of a given cease-fire. After a village had been attacked, Steidle and his team would investigate, interviewing victims and photographing the destruction. With the information they gathered, they would write reports, which were sent to the African Union headquarters in Ethiopia.¹²⁷ This abundance of documentation shows that violations of human rights by the government-funded militias are abundant and widespread. Over the course of just one massacre in the village of Hamada, 107 villagers were brutally tortured and murdered.¹²⁸ Bodies were

¹²³ Just, 2008.

¹²⁴ Ibid.

¹²⁵ “Darfur – Overview”, 2004.

¹²⁶ Steidle, 57.

¹²⁷ Ibid.

¹²⁸ Just, 2008.

strewn along blood-soaked village paths. There are reports that infants had been crushed – their faces smashed with rifle butts and their bodies tossed into the dirt. These accounts confirm in full that the first two parts of the framework are wholeheartedly fulfilled.

To fulfil the third part of the framework, it is important to assess whether all other recourse beneath the level of intervention has been exhausted. In terms of U.S. involvement, Presidents George W. Bush and Barack Obama took stands on the conflict in various ways, yet meaningful action towards improving the situation was never taken. As mentioned earlier, the Bush administration went as far as to declare what was happening in the region a “genocide”. This was a large step in the right direction, considering how in earlier conflicts the term had been avoided by politicians in an attempt to minimize public insistence on intervention. In addition, President Bush’s administration was instrumental in bringing about the December 31st “permanent cease-fire”. It also pressed, in vain, for international sanctions to force Sudan to stop the killing in Darfur.¹²⁹ As mentioned earlier, though cease-fire agreements were signed by members of the Sudanese government, they were largely ineffective at curbing the violence. Though the ICC was eventually able to denounce Sudanese leaders for crimes against humanity due to their role in the genocide, the United States was a large inhibitor of this progress. The administration worked to block a proposal to authorize the ICC to investigate war crimes, pushing instead for an *ad hoc* regional court.¹³⁰ This was dismissed by many as doomed to delay and ineffectiveness. Many saw the ICC as the best hope for pressing the fear of prosecution into Sudanese leaders.

¹²⁹ Jr., Stuart, 2005.

¹³⁰ Ibid.

President Obama inherited the responsibility for integrating Darfur into U.S. policy. During his campaign, he had expressed the importance of ending the genocide.¹³¹ In 2006, he made a promise to the people of Darfur: “We can’t say ‘never again’ and allow it to happen again. As President of the United States, I don’t intend to abandon people or turn a blind eye to slaughter.”¹³² Unilateral economic sanctions continued under his administration, among other non-interventionist policies.¹³³ In a sad turn of events, the outgoing president issued an executive order lifting most of its sanctions against the government of Sudan.¹³⁴ Why the change in policy? The executive order stated that lifting the sanctions was in response to Sudan’s new cooperation on counter-terrorism, helpful moves towards ending the civil war in South Sudan, and supposed progress towards reaching a political settlement with various armed and unarmed domestic opponents.¹³⁵ That being said, it largely disregarded the continued human rights abuses that were occurring by the Sudanese government into its own people. As Ahmed Koduda, a commentator on East African affairs, argued at the time, “Domestically, nothing has really changed... The Americans really want to get this done one way or another and wanted to make it palatable to the advocacy community... the regime has not done anything domestically to warrant this change.”¹³⁶ These moves came as an attempt to normalize relations with the country. While this strategy isn’t new, prior attempts at

¹³¹ Brown, 2012.

¹³² Andrew, 2015.

¹³³ Kavalierchik, 2013.

¹³⁴ Rosen, 2017.

¹³⁵ Ibid.

¹³⁶ Ibid.

normalization had always been accompanied by clear conditions regarding the ending of human rights violations. This was not the case here.

This brief history shows that up until this point, entirely non-militaristic avenues have been pursued in attempts to curb the human rights abuses occurring in Darfur. These have included various cease-fire agreements and economic sanctions among other things. While troops have been deployed to the region, they have been on the behalf of the African Union and United Nations; Though conflict and abuses continue in Darfur, including government attacks on entire villages, the United States has not deployed an impactful number of troops.¹³⁷ This history seems to show that not only have all other forms of recourse been attempted without success, the United States had the manpower and influence to make a significant difference in the area through armed intervention.

The fourth part of the framework aims to ensure that the United States does not use the political or social weakening of the country it invades to its own advantage. If the U.S. is to intervene in Darfur, the intervention should occur according to a specific timeline. The issue that resides with fulfilling this part of the framework, and ensuring that military intervention is justified, is the fact that it requires that the military intervention in question only respond to the immediate needs of the victims. Military intervention in genocide should not address the long-term stability of the country. Because the conflict has been occurring since 2004, there have already been attempts at addressing the Sudanese people's immediate needs through humanitarian aid. Any military attempts by the U.S. government would most likely be aimed at reforming the

¹³⁷ Abdallah, 2017.

current government, as they're the major perpetrators in the conflict. This would inevitably lead to a power vacuum that the United States would look to fill through democratic and free elections. Though military intervention by the U.S. would likely help stem human rights abuses, it would surely influence the political, social, and economic values in Sudan. The United States would be exposing itself to backlash from the international community and would likely be seen as an unwarranted meddler. The timeline of the conflict also very likely inhibits the U.S. from receiving any sort of consent from the Sudanese government. In other words, stipulations 4 and 5 are unlikely to be fulfilled if the United States intervenes in Darfur. As mentioned above, humanitarian intervention in genocide has many practical difficulties and can be an incredible destructive tool for both the intervener and the state being intervened in. These facts show that though something must be done about the human rights abuses occurring in the area, military intervention by the United States might not be the most domestically advantageous action to take at this time. In other words, there might be more diplomatic options that can be pursued to similar effects, without exposing the United States to increased attacks on its abilities to conduct sound foreign policy. Though this sobering fact does not completely eliminate U.S. military intervention in the area, it signals that the United States should look towards other avenues. Perhaps by pursuing meaningful diplomatic options, the U.S. can still succeed in strengthening relationships with its allies and stemming human rights abuses. In addition, non-militaristic options can still portray to the international community that the U.S. is capable of making sound foreign policy decisions, thereby increasing its international reputation.

Chapter VI: Conclusion

This paper has provided a detailed analysis of the interplay between U.S. intervention in genocide, the country's founding values, and our understanding of reputational credibility in the military sphere. Though an analysis of international relations theories, constitutional law precedents, and relevant case studies, this paper argues the following thesis: Humanitarian intervention in genocide, under certain conditions and with certain stipulations, serves as a feasible way for the United States to both reclaim its founding values and increase its international reputation. Politicians and scholars should start seeing humanitarian intervention as a politically strategic avenue for the United States to pursue.

In addition to a discussion on general theory, a framework was created. The application of this framework to specific genocides helps the reader to critically evaluate whether U.S. involvement is justified. As seen in its application to the genocide occurring in Darfur, this framework helps ensure that the United States does not intervene militarily in a conflict that ends up further crumbling its international reputational credibility.

Though this paper mainly addresses the theoretical relationship between U.S. humanitarian intervention, the values of the Framers, and the idea of reputational credibility as a part of foreign policy, there is much room for expansion into other topics. These include the morality of military intervention in humanitarian crises and the effects of powerful intermediaries on international crisis such as genocide. Though the scope of this paper does not allow the time to dive into these other aspects, they provide exciting areas for future research on the topic.

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