Displacement, Protection and Responsibility: A Case for Safe Areas

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Abstract

This article makes the normative case for safe areas as a strategy of civilian protection in forced displacement crises. We start from the idea that the displaced—especially those who remain within the borders of their home state—are in a particularly precarious situation which can, in some circumstances, activate a remedial responsibility to provide protection on the part of the international community. We then argue that this responsibility extends beyond the provision of asylum to include efforts both to prevent displacement and to facilitate the return of displaced persons, and that safe areas may be an important tool to achieve these goals. However, we also note two major risks associated with safe areas which must be considered and mitigated: that they increase rather than decrease overall displacement, and that they diminish rather than enhance protection. We conclude by suggesting why and how the shared responsibility to protect through safe areas should be fairly distributed within the international community.

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Keywords


Since its initiation in the spring of 2011, the Syrian civil war has resulted (at the time of writing) in the deaths of at least 400,000 people and the forced displacement of approximately 12 million inhabitants, more than half the country’s pre-war population. These figures form part of a broader expansion in the number of people around the globe who have been forcibly displaced: by the end of 2016, the United Nations had put the number at 65.6 million—a record level surpassing even the number of displaced at the end of the Second World War. What does the international community owe these people? Must they be offered the chance to seek safety in another country, or does international responsibility extend further? And is the international responsibility for the displaced only triggered once a person crosses an international border, or is this irrelevant from a moral point of view?

This article argues that members of the international community have a shared moral responsibility towards those who have lost the effective protection of their own sovereign state, regardless of whether they have left or remain inside that state's territory, and that fulfilling this responsibility, especially with respect to populations internally displaced by conflict, requires a more robust approach than has been adopted in the Syrian crisis and elsewhere. Drawing upon the notion of ‘sovereignty as responsibility’, and particularly the idea of the international community's remedial responsibility to protect at-risk populations, we make the normative case for safe areas as a strategy of civilian protection in response to actual or impending forced displacement crises, while also taking seriously some of the risks and unwanted effects connected to the establishment of such zones. Our moral argument encompasses both safe zones that are expressly consented to by warring parties as well as those that are militarily enforced through multilateral authorisation, and advocates effective burden-sharing among members of the international community.

The argument for the establishment and enforcement of a safe area in northern Syria to protect civilians in rebel-held areas was consistently voiced by Turkish President Recep Tayyip Erdoğan in 2015–16, and subsequently gained some traction among European leaders, such as former French President

François Hollande and German Chancellor Angela Merkel. During his final press conference as United States President in December 2016, Barack Obama expressed regret about his administration’s inability to provide more robust protection for Syrian civilians, but indicated that he and his advisors had concluded that safe areas could not be implemented without a significant physical presence of US troops—and the latter was viewed as untenable given insufficient support in Congress and the persistence of ‘boots on the ground’ in Afghanistan and Iraq. He also noted the absence of a cohesive opposition in Syria that could act to move a political process forward to end the conflict, which in his judgement added to the case against establishing safe areas. A renewed argument for safe areas in Syria was advanced during the winter of 2017, when the newly elected US President Donald Trump, supported by leaders in Turkey, Lebanon, Jordan and Saudi Arabia, declared his intention to draw up plans to protect civilians fleeing the war. In this latter case, the declared purpose of safe areas extended beyond the need to facilitate the delivery of humanitarian assistance to the desire to limit cross-border migration.

The idea of safe areas, however, is not a 21st century phenomenon. Indeed, the creation of zones under special protection was already envisaged by the founder of the International Committee of the Red Cross (ICRC), Henri Dunant, in 1870 and was featured in draft conventions on the laws of war during the interwar period. In 1937, during the Sino-Japanese war, the Shanghai safety zone was established by the warring parties providing refuge for 250,000 Chinese civilians fleeing the fighting, and in 1948 populations took temporary refuge in safety zones in Jerusalem, administered by the ICRC. The latter example influenced the subsequent inclusion of the concept of ‘neutralised zones’ in the Fourth Geneva Convention. There are also a number of more recent historical episodes since the end of the Cold War in which attempts were made to create and in some cases enforce safe areas, resulting in a mixture of modest success and colossal failure. These include Operation Provide Comfort, established by the United States and its allies in Northern Iraq at the end of the so-called First Gulf War; the UN Security Council-authorised safe areas in Srebrenica

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and five other Bosnian towns during the war in the former Yugoslavia; and the French-led Opération Turquoise, designed to protect populations in southwest Rwanda in the wake of the genocide that targeted Tutsis and moderate Hutus. The mixed record of these cases has led many observers to conclude that safe zones rarely remain safe and all too often create more harm than good.4

Despite the strong arguments frequently made against safe areas, this article sets out a normative case for their creation, in certain cases and in certain forms, as part of the international community’s response to the mass flight of populations. While the immediate aim of safe areas—providing protection to vulnerable populations—is not exclusively connected to the issue of displacement, our specific focus on displacement is pertinent for both empirical and normative reasons which we elaborate further below. We also note at the outset that, although the argument advanced here will touch upon the legal framework relevant for analysing safe areas and the rights and responsibilities related to asylum, our primary concern is with a broader moral debate about rights and responsibilities. We acknowledge that the international legal order contains ‘really-existing’ legal responsibilities activated by the reality of stateless refugees and that refugee claims currently have particular legal force vis-à-vis states in the international community. But we suggest that from a normative point of view, what matters for the activation of international responsibility are two factors: the vulnerability of the displaced and the institution of sovereignty within international society. The first consideration activates international responsibility, whether it is manifest by those who have crossed borders or are trapped within them. The second provides a framework through which international action can be understood and evaluated: as a temporary effort to compensate for a sovereign state’s failure to exercise its core protection responsibilities.

In the first part of our article, we briefly survey the history of the concept and implementation of safe areas since the early 20th century, tracing their development from demilitarised protection zones based on provisions in International Humanitarian Law to the militarily enforced zones of the late 20th and early 21st century. We then move on to make the normative case for safe areas as one possible response to mass displacement crises, based on the specific vulnerability of the displaced and the idea of a remedial international

responsibility to protect at-risk populations. In so doing, we also underline that safe areas can only be a complement to, and not replacement for, efforts to implement the right to asylum. The third part of the article discusses the circumstances in which safe areas should be considered as a means through which the international community can operationalise its remedial responsibility, paying specific attention to the risk that such areas increase rather than decrease (access to) protection and encourage rather than diminish displacement. Lastly, we consider how a broader conception of international responsibilities towards the displaced requires a more equitable distribution of the burden of fulfilling those responsibilities among members of international society.

A Brief History of Safe Areas

The goal and effect of various types of international action have been characterised as ‘safe areas’ or ‘safety zones’. The classical instance of such areas, usually denoted as ‘protected zones’, involve the creation of geographically defined demilitarised zones in international conflicts or civil wars established with the consent of the different belligerents. The provisions for such zones can be found in International Humanitarian Law (IHL), specifically the articles of the First and Fourth Geneva Conventions, which allow international humanitarian actors to provide for the needs of the wounded and sick (both combatants and civilians) and to provide shelter for vulnerable populations who are hors de combat. Such zones retain their protected status only if they are ‘distant from and free’ of all military objectives, situated in areas that are unlikely to become central in the course of the fighting, and are not defended by military means. In addition, the Fourth Geneva Convention (Article 15) and Additional Protocol I permit the creation of ‘neutralised zones’ and ‘non-defended localities’ in areas of active fighting, to enable the wounded and sick, as well as the civilian population, to take shelter from the effects of war. Since the adoption of the Geneva Conventions, such zones have been implemented in Bangladesh (1971), Cyprus (1974), Vietnam and Cambodia (1975), Nicaragua (1979) and Croatia (1992).

What all such zones have in common is the prior consent of the conflict parties to their establishment. Experience also shows that the zones most likely to be respected are those that carefully defined geographically, fully demilitarised, and come with concrete assurances that they cannot be used as a base from which to pose risks to any belligerent party. We agree that zones established through the consent of warring parties are the most desirable form of protection. This is the case not only for immediate operational reasons—that is, that those assenting to the creation of such zones will also be more likely to assist in their implementation—but also for normative ones. In both international normative theory and international humanitarian law, consent is an expression of sovereignty and self-determination and minimises the coercive imposition of values by outsiders. Furthermore, moral considerations such as ‘do no harm’ and ‘reasonable prospects of success’ should also factor into decisions about whether and how to create safe areas. As Recchia suggests in his contribution to this issue, these notions are usually more likely to be honoured if those providing protection are working with rather than against warring parties.

But while consent-based zones are obviously the preferred form of safe area, such agreement is often rare in contemporary armed conflicts. The framework of consent that underpins the establishment of protected zones under IHL has proven insufficient when governments or warring parties in countries in which conflict or persecution displace large numbers refuse to allow humanitarian relief to reach the affected. More generally, the past three decades have witnessed an increase in the lethality of conflict for civilian populations. While at the beginning of the last century 90 percent of war casualties were combatant and 10 percent civilian, by the end of the 1900s that statistic had been completely inversed. With inter-state wars having declined significantly, the overwhelming majority of conflicts today are internal and often have as their explicit aim ‘the displacement or elimination of rival ethnic or communal groups’.

In light of these trends, international actors have also pursued more coercive strategies for the creation of safe areas, whether through the use of diplomatic or economic pressure to bring about the consent of belligerents or through forms of external intervention, including the enforcement of such areas through the international deployment of military forces. Orchard refers

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to these cases as ‘credible presence safe areas’\textsuperscript{10} and Landgren as ‘enforced safe areas’.\textsuperscript{11} Whatever the precise term used to describe them, the post-Cold War period has witnessed the increased use of multilateral interventions—with or without UN Security Council authorisation—to create safe zones for civilians.\textsuperscript{12} Examples include the safe areas created in Northern Iraq (1991), Bosnia (1993–95), Rwanda (1994), Kosovo (1999), and most recently Libya (2011). These more intrusive policies by international actors have also expanded the size and range of safe areas, experimented with the creation of ‘safe corridors’ for the delivery of humanitarian assistance, and relied on air power rather than ‘boots on the ground’. The first two decades of the 21st century have seen further developments that fall under the header of ‘safe zones’, including protected areas that are established through peacekeeping missions with robust Protection of Civilians (PoC) mandates, as with the ‘protection sites’ in South Sudan; the continuing popularity of ‘no-fly zones’ as a means of protecting defined geographic areas from aerial bombardment; and debates about the perimeter defence of existing camps for refugees and Internally Displaced Persons (IDPs).

The rationale for this more coercive approach has frequently invoked the worry that displaced populations could create threats to regional or international peace and security (the so-called spillover effect), or the argument that populations are facing systematic violations of international human rights and humanitarian law that merit international attention and response (as opposed to remaining a matter of domestic jurisdiction).\textsuperscript{13} The enforced safe areas in northern Iraq and Rwanda in the 1990s came in the context of heightened concerns about refugee flows. Operation Provide Comfort, for example, was a direct response to hundreds of thousands of Kurds seeking refuge in the mountains and trying to enter Turkey and Iran, while Opération Turquoise was explicitly aimed at easing the refugee pressure on neighbouring Zaire. These examples illustrate that there is frequently a fusing of humanitarian and security objectives on the part of international actors, and that the legitimacy of international action is perceived to be enhanced by references to the potential


\textsuperscript{11} Landgren, ‘Safety Zones and International Protection’.

\textsuperscript{12} Carol McQueen, \textit{Humanitarian Intervention and Safety Zones: Iraq, Bosnia, and Rwanda} (Houndmills, Basingstoke: Palgrave Macmillan, 2005), p. 5.

destabilising impact of refugee flows on regional or international stability.\textsuperscript{14} The Security Council Resolution that authorised the use of force to create safe havens in Iraq followed this logic, by explicitly referring to the transboundary implications of human rights violations and displacement.\textsuperscript{15}

In recent policy debates about the desirability of enforced safe areas in Syria, political leaders have also highlighted the connection to the ‘refugee crisis’ in the countries neighbouring Syria and in Europe. Turkey, the strongest advocate of a Syrian safe zone, has hosted over 2.7 million Syrian refugees, and frequently voiced concerns over the impact that more arrivals could have not only on its own public services but also on the complicated ethno-religious politics of the region.\textsuperscript{16} For their part, European countries received more than 1.1 million asylum applications from Syrian refugees between April 2011 and July 2014, 400,000 of which were lodged in Germany alone.\textsuperscript{17}

Although much remains to be said about the specific (dis)advantages of each of these forms of safe zones in particular conflicts and circumstances, we take an inclusive approach to defining safe areas for the purpose of this article. However, we make three assumptions about these zones. The first is that explicit consent for such zones by all parties involved is the normatively preferred strategy for establishing safe areas. The second is that, because this consent will often be difficult to achieve, there will in some cases be a role for international military forces in ensuring the protection of populations. The third assumption is that protection, rather than influencing the outcome of the conflict or bringing about regime change, is the primary goal of such action.

The Vulnerability of the Displaced and the Limits of Asylum

The normative argument in favour of safe areas as a response to mass displacement crises has two elements. It rests, on the one hand, on the normative force of the precarious situation in which displaced people find themselves, and,


on the other, on the notion that the international community has a remedial responsibility to protect at-risk populations in states which manifestly fail in fulfilling the protection duties they have towards their own populations.

From a normative perspective, those who have been forcibly displaced constitute a particularly vulnerable group among those in need of international protection. As Mooney writes:

> Forced from their homes, compelled to abandon most of their belongings, cut off from their usual livelihood, and detached from their community, displaced persons suddenly find themselves stripped of their normal sources of security and habitual means of survival. In the chaos of flight, families often become separated, thereby disintegrating the most fundamental unit of protection, with especially serious consequences for children, older persons, and persons with disabilities.\(^{18}\)

In this context, we argue that international responsibility is activated not by particular actions that outsiders took (or did not take) that ‘caused’ harm—in other words, causal responsibility—but rather from the very fact of vulnerability. Responsibility is thus, in Raffoul’s words, ‘about exposure to an event that does not come from us and yet calls to us’.\(^{19}\) Thus far, the idea that the international community has duties towards the displaced has been institutionalised primarily through the norms and practices related to asylum. Article 14 of the 1948 Universal Declaration of Human Rights (UDHR) recognises the right of persons to seek asylum from persecution in other countries, and the 1951 Refugee Convention forbids its 144 signatory states from expelling or returning someone ‘in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion’ (Article 33(1)). This principle of non-refoulement is widely considered part of customary international law and thus binding on all states, including those that have never signed the Convention.

However, the institution of asylum has two major limitations in responding to the vulnerability of the displaced. First, it does not reach those who are unable or unwilling to leave their country to avail themselves of another state’s

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\(^{19}\) François Raffoul, The Origins of Responsibility (Bloomington: Indiana University Press, 2010), p. 23. The authors thank Erna Burai for drawing our attention to Raffoul’s work.
protection. Second, it does not protect the right to stay or the right to return. Those who have been displaced by conflict or persecution, but who for various reasons remain within the borders of their country of origin, are excluded from the asylum framework, even though they often flee the same circumstances and for the same reasons as those who cross international borders and become asylum seekers. What keeps them within the country in which they suffer persecution or violence can be either a physical or financial inability to leave, or an unwillingness to move far away from their previous place of habitual residence, often in the hope that return might become possible in the near future. Unlike international refugees who seek protection by actively submitting themselves to the authority of another state, IDPs remain formally under the responsibility of a government which is unable or unwilling to protect them against persecution by non-state actors or generalised violence, or which is actively responsible for their displacement through state-sponsored violence.

If the displaced are generally a vulnerable category, then IDPs, as former UN Secretary General Kofi Annan once noted, are ‘among the most vulnerable of the human family’. Aid agencies have reported that the highest excess mortality rates in humanitarian conflicts are found among IDPs, compared to both international refugees and resident populations. Moreover, the phenomenon of internal displacement has greatly expanded since the end of the Cold War. While the number of IDPs worldwide hovered around the 4 million mark in the mid-1990s, this had increased to over 40 million by the end of 2016. This means that over 60 percent of the world’s total displaced population are now IDPs.

Displacement can also be fueled by natural disasters. It is estimated that in 2015 there were approximately 19 million people newly internally displaced by natural catastrophes. As noted by the Internal Displacement Monitoring Centre (IDMC), the drivers of displacement in practice often overlap: ‘Over half of the countries affected by conflict since 1970 were also affected by disaster-induced displacement in the last five years alone’. Available at http://www.internal-displacement.org/global-figures, accessed 1 March 2018.


UNHCR, ‘Global Trends 2016’.
The Refugee Convention does not apply to IDPs and neither the UN High Commissioner for Refugees (UNHCR) nor any other international agency has a formal mandate that specifically provides for them. Nonetheless, in the past two decades there has been increasing international attention to the plight of IDPs and conscious attempts to address their situation through a humanitarian assistance framework. The International Committee of the Red Cross, for example, has a mandate to ensure the application of IHL in conflict zones and to provide civilian populations within them, including internally displaced ones, with humanitarian assistance. Its former Director of Operations has acknowledged that displaced people have ‘different, and often more urgent, material needs’ than non-displaced civilians. The *Guiding Principles on Internal Displacement*, issued by the Secretary General of the United Nations in 1998, do not constitute a binding instrument, but do ‘reflect and are consistent with international human rights and humanitarian law and analogous refugee law’. They have also helped to facilitate the adoption of laws and policies on internal displacement by an increasing number of national governments. The drawback of these guidelines, however, is that they are addressed mainly at the governments of countries in which the internal displacement takes place and the humanitarian assistance community which relies upon the consent of that government to operate. The emerging humanitarian regime to assist IDPs thus remains poorly equipped to respond to, in particular, deliberate regime-induced displacement—a phenomenon that is increasing in prominence. One of the few existing studies on the main causes of internal displacement estimates that of the 103 situations of mass displacement between 1991 and 2006, just over 60 percent of cases involved the government as the primary driver of mass flight.

Another limitation of the current international refugee framework is that it is primarily reactive in nature and fails to protect the right to remain and the right to return. In offering post-displacement protection, the regime protects

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25 It should be noted, however, that the 1969 OAU Refugee Convention does cover internal flight.
27 OCHA, *Guiding Principles on Internal Displacement*.
only the right to flee a country and seek asylum abroad. The laws related to
refugee protection do not do anything explicit to prevent displacement, nor
to work actively to resolve the causes of flight to make return possible. Yet the
injunction to prevent displacement is inherent in both international law and
normative principles such as the responsibility to protect. Although there is no
specific right to protection against forced displacement as such, it is implied
in several human rights listed in the UDHR, including the right to freedom
of movement and choice of residence, the right to respect for the home and
for privacy, and the right to respect for the family. In addition, in situations
of armed conflict, IHLS enunciates principles partially designed to prevent the
necessity of flight. Under the principle of distinction, combatants are obliged
always to differentiate civilians and combatants, and the principle expressly
forbids deliberate attacks on civilians and civilian infrastructure. IHLS also out-
laws attempts to deliberately uproot populations30 and the launching of indis-
criminate raids that cause population flight.

The sheer magnitude of contemporary protection challenges has meant
that the imperative to prevent displacement, and to honour a deeper ‘right to
remain’, has in practice been a much lower priority than the responsibility to
respond to crises that are already underway. Moreover, the very language of
a ‘right to remain’ has at times generated controversy.31 In the early 1990s, in
a context of increasing political contestation around the norm of asylum in
the Global North, UNHCR adopted this notion, as some scholars argue, as a
way of protecting its reputation, ‘by redefining its raison d’être, away from the
goal of ensuring access to quality asylum, in favour of an avowed commitment
to eradicate the need to flee in the first place’.32 But the phrase soon became
tainted by its association with the clear infringement of states of the right to
seek asylum during this period (Turkey in the case of Iraqi Kurds, European
states vis-à-vis Bosnians seeking asylum, and France in the context of its efforts
to stop the flow of Hutus out of Rwanda).

Though mindful of the ways in which the notion of a ‘right to return’ can be
instrumentalised, we nonetheless wish to reclaim its potential to express a core
human right and value, for two main reasons. The first is the empirical reality

30 Specifically, it forbids the deportation or transfer of all or parts of the population of the
occupied territory within or outside this territory. See Additional Protocol I, Article 85
(4a).
31 We thank Phil Orchard for raising this point.
Again: A Proposal for Collectivized and Solution-oriented Protection’, Harvard Human
that most people in situations of forced displacement want to stay where they are, and that many of those who flee remain in neighbouring countries with the expectation and hope of returning home. A survey of Syrian refugees in Germany, for example, found that 92 percent of them wanted to return to Syria in the near future. Second, in those situations where forced displacement results from broader programmes of ethnic cleansing, there is a more fundamental value at stake: the preservation of ethnic and cultural diversity. The international community has given expression to this value in various ways, most notably in its definition and criminalisation of genocide, which sought to consciously distinguish the destruction of human groups from the killing of individuals, and in the provisions that have been established for the protection of sub-state minorities.

Towards a more Comprehensive International ‘Responsibility to Protect’

This brings us to the second source of our normative case for safe areas, which is a particular understanding of the sovereignty of the state in which crisis occurs. The Westphalian principle of sovereignty, which generally forbids the coercive interference by one state (or a group of states) in the internal affairs of another, is often considered to be one of the principal foundations of international order. However, the international community can also view the relationship between sovereignty and outside interference as complementary rather than wholly contradictory. This reconciliation can be achieved by linking sovereignty more closely to the responsibility of states to their citizens—or what is referred to as ‘sovereignty as responsibility’. In this formulation, state sovereignty is no longer understood only in terms of undisputed control over territory, but also as a set of rights and responsibilities that depend upon the state’s respect for a minimum standard of protection of populations within its territory. It thus logically follows that outside interference is permissible—and

in some cases necessary—if it is aimed at protecting civilian populations and restoring the effective sovereignty of states.

This understanding of sovereignty is not only apparent in works of normative theory, but has come to have a central place in the development of the principle of the ‘responsibility to protect’ (RtoP), endorsed by all heads of state and government at the 2005 World Summit, which sets out a role for collective action by the international community to protect populations from genocide, crimes against humanity, war crimes and ethnic cleansing. The Summit Outcome Document text emphasises that the primary responsibility to protect populations from atrocity crimes lies with national authorities; in this way, it is consistent with other normative and legal frameworks, such as the regime related to humanitarian relief operations in situations of armed conflict, which also departs from the premise that states have the primary responsibility to meet the needs of civilians in their territory or under their effective control. But RtoP also calls upon the international community to assist ‘states under stress’ and to act collectively in response to protection failures, through diplomatic, political, humanitarian and—if necessary—military means. The text of the Summit Outcome Document does not create a legal responsibility to protect populations from atrocity crimes—and nor was it designed to do so—but it does stand as a significant statement of political commitment on the part of members of the international community which stems directly from the perceived moral failure to protect populations in past instances of atrocity crimes.

RtoP’s strong commitment to the prevention of atrocity crimes as a core element of the normative framework of protection is one that we believe should


38 It is worth noting that ‘ethnic cleansing’ does not have the same status in international criminal law as crimes against humanity, war crimes, or genocide. It is therefore usually subsumed under the scope of the three aforementioned crimes.


40 See A/60/L.1, 20 September 2005, paragraphs 138 and 139.

encompass the injunction to prevent mass flight. For the purposes of our argument, it is useful to recall that the origins of ‘sovereignty as responsibility’ lie in earlier efforts on the part of the first United Nations Special Representative on Internally Displaced Persons, Francis Deng, to develop a partnership between sovereign states and the international community with the aim of protecting the victims of forced displacement. Deng sought to address the fears of states about excessive external intervention by reaffirming that the primary locus of responsibility for protecting populations and assisting the displaced remained with the host government. However, he coupled this starting premise with the argument that the best way for vulnerable or weak states to fulfil these responsibilities was to invite and welcome international assistance to complement national efforts—and thereby enhance their sovereignty. In situations of a clear failure to protect the displaced, the international community had a remedial responsibility to act, both to provide necessary protection and, if possible, to help restore a state’s capacity to exercise its primary responsibility to protect.

This discussion of the roots of ‘sovereignty as responsibility’ illustrates the broader normative framework that underpins both the statement on RtoP in the World Summit Outcome Document and the earlier articulation of the Guiding Principles on International Displacement. As Mooney notes, RtoP and the Guiding Principles ‘reflect and restate pre-existing protection responsibilities enshrined in international human rights law, international humanitarian law and international criminal law’. RtoP’s added value to IDP protection

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45 Ibid., p. 68.
The existence of a mass displacement crisis like the one in Syria may be a ground on which the international community has such a remedial responsibility. Forcible displacement can be viewed in two ways—both of which activate the responsibilities of the international community. First, it can serve as one indicator of a state's incapacity or unwillingness to exercise its protection responsibilities, thereby initiating the remedial role of outside actors. In the words of the former US Coordinator of Refugee Affairs, Jonathan Moore, refugees and the internally displaced are 'human rights violations made visible'. Additionally, if linked to broader policies such as ethnic cleansing, displacement can serve as evidence of an international crime, which by definition activates international responsibilities of prevention and response. The displacement of the Yezidi population in Iraq in 2014, for example, was clearly motivated by the ideologically-driven programme of extermination implemented by the so-called Islamic State, prompting a last-ditch effort by Syrian Kurdish forces (supported by US airpower) to help Yezidis evacuate from where they had gathered on Mount Sinjar. In 1999, the mass movement of ethnic Albanians in the Kosovar region of Serbia was viewed by Western states as a precursor to a larger campaign of ethnic cleansing on the part of the Serbian government and thus formed a major part of the rationale for NATO's bombing campaign. In the former case, the host state (Iraq) was viewed as incapable of protecting its population, while in the latter case the Serbian government was deemed to be unwilling to do so.

At the same time, the more permissive context for military intervention that existed at the beginning of the 21st century has been transformed both by the concrete experiences of the past decade and half and by a broader geopolitical shift that makes agreement among major states about the need for and legitimacy of collective coercion much less likely. Although neither the intervention in Afghanistan nor the Iraq War were humanitarian interventions, their mixed...
records of success and legacies of instability have had a profound impact on Western states’ willingness to deploy significant military forces abroad in so-called wars of choice. Coupled with this reluctance is the more recent case of NATO-led action in Libya, which initially enjoyed widespread support but quickly generated criticism given the perceived illegitimate expansion of the multi-lateral mandate to engage in regime change. The aftermath of the Libyan intervention has also thrown into sharp relief what one commentator has called the ‘structural problems’ inherent in any attempt to use large-scale military force for humanitarian objectives.49

The Case for Safe Areas as a Response to Displacement

These two contextual factors—the changing nature of armed conflict and the increasing prudential concern that large-scale interventions ‘do more harm than good’—lead us to argue for more limited forms of action (both in aims and in geographic scope) as one legitimate way to exercise the international community’s responsibility to protect and confront the phenomenon of mass displacement. Our case for enforced safe areas rests on three considerations: first, their potential to extend protection to a particularly vulnerable group—the internally displaced; second, their potential to prevent the need to engage in mass flight and facilitate return; and third, their advantages over more comprehensive forms of military intervention. This argument for safe areas extends not only to those established under the provisions of IHRL (that is, with the consent of conflict parties), but also to those that are authorised by a multi-lateral body and enforced militarily. When conceived through the framework of ‘sovereignty as responsibility’ and when authorised through authoritative multi-lateral processes, enforced safe areas could enable members of the international community to exercise their responsibilities to the vulnerable when measures short of coercion have been tried or are deemed unlikely to succeed.

The first two considerations demonstrate how the establishment and enforcement of safe areas could help to remedy the current shortcomings of the asylum system. Expanding protection efforts beyond the relatively few who arrive at the borders of other states, towards a much larger segment of the vulnerable population, could address the reality of a growing number of imperilled civilians who do not have access to the main protection mechanism laid down in international law. In addition, safe areas can be seen as a preventive

measure aimed at protecting the right to stay in one’s own country without having to fear for one’s life. As such, they are more proactive than the largely reactive asylum regime, by seeking to bring ‘safety to people rather than people to safety’. 50 In some cases, it is also possible to conceive of these limited forms of protective intervention as a means of upholding the asylum system: by reducing the possibility of sudden and/or mass influxes on neighbouring countries, the creation of safe areas would work to decrease the likelihood that nearby states would at some point decide to close their borders when they perceive that the international community is not ‘pulling its weight’. Experience indicates that border closures during displacement crises can be motivated by a ‘desire to leverage burden-sharing among the members of the international community’. 51 Finally, in helping to reduce the need to flee, safe areas are one means of addressing the growing problem of loss of life among those compelled to attempt perilous border crossings (a risk that in large part derives from Western countries’ own restrictive arrival and visa policies). In 2015 alone, there were 5,600 recorded deaths on migratory routes, 3,756 of which were on the Mediterranean route used by many Syrian refugees attempting to cross into Europe. 52

In terms of facilitating return, the creation of safe areas could help to address an imbalance in the way that the international community has fulfilled its role in protecting the displaced—a role that in theory involves both resettlement elsewhere and return to country of origin. While after the end of the Cold War conscious efforts to repatriate refugees did enjoy some success, with 12.9 million people returning home between 1996 and 2005, the number dropped to 4.2 million in the following decade. 53 The prolonged and renewed conflicts around the world over the past five years have contributed to low levels of voluntary repatriation, suggesting that more interventionist approaches—including safe areas—need to be considered.

More generally, the existence of safe zones gives at least some displaced people the opportunity to return to their homes after hostilities and/or systematic persecution have ended. First and most obviously, by allowing them to stay within their country of origin and therefore physically closer to their

homes, post-conflict repatriation is significantly simplified. Second, in the case of those who do manage to cross an international border, the existence of a safe area may enable some people to return to their homes (or at least to their country) without having to wait for a final solution to the conflict that displaced them. Operation Provide Comfort, for example, enabled 450,000 Kurdish refugees to return to their homes in Northern Iraq and for Turkish camps in the border region to be closed.54

These normative arguments in favour of safe areas should temper the prevailing negative assessment of their implementation in many policy circles, particularly when they are compared with the alternatives of in-action or large-scale military intervention. In other words, past ‘real world’ failures in establishing safe areas do not in themselves detract from the moral case for their creation in circumstances where they can be deemed to have reasonable prospects of success. We would argue that the negative outcomes that have arisen from some past efforts to establish safe areas are not due to intrinsic or unavoidable features of such zones, but rather to contingent aspects of those past operations—such as insufficient resources or political will, inadequate mandates (in the case of multilateral operations), or the application of military doctrines that are tailored more to large-scale counter-force operations rather than the pursuit of short-term humanitarian objectives. As outlined earlier, past practice in the establishment of consent-based zones has already revealed certain conditions that are likely to make safe areas more effective and minimise their potential negative consequences—such as carefully circumscribing their geographic reach, ensuring there is full demilitarisation, denying their use as a base from which to pose risks to any belligerent party (for example, as a staging ground for recruitment). Recent experience in IDP camps also suggests that safe zones need to be accompanied by the effective provision of law and order within, to prevent internal security threats (including the threat of sexual violence). Finally, if safe zones are imposed through a multilateral body, there must be sufficient military capacity (on the ground as well as in the air) to both protect populations within the designated area and facilitate access to the zone by civilians under threat.

While it is beyond the scope of this article to discuss the intricacies of the practicalities and detailed cost-benefit estimations of safe areas, below we

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55 See Human Rights Watch, ‘Q and A: Safe Zones and the Armed Conflict in Syria’; and Micah Zenko, ‘There are no real “safe zones” and there never have been’, Foreign Policy, 30 March 2017.
elaborate on two risks\textsuperscript{56} that adhere to enforced safe areas as a strategy to address displacement, which might undermine the case we outlined for them above.

The Risks of Safe Areas

Perhaps the most obvious risk of safe areas as a strategy to address mass displacement crises is that they \textit{contribute} to rather than alleviate the scale and volume of displacement and make it harder rather than easier for the displaced to return to their homes. The historical record is mixed on this potential outcome. In Northern Iraq and Rwanda there was eventually a marked decline in refugee and IDP numbers, and \textit{Opération Turquoise} stemmed the flow of refugees to Zaire. But in the Bosnian case displacement increased after the establishment of the safe areas.\textsuperscript{57}

An increase in displacement may come about because the existence of such areas incentivises internal migration from unprotected areas. Some have expressed the worry that establishing safe areas essentially designates the areas outside of them as ‘unsafe areas’ or ‘danger zones’,\textsuperscript{58} where international humanitarian law is not respected, encouraging further displacement because people become dependent upon presence in the safe area to enjoy international protection. Of course, to some extent such displacement should be welcomed: one of the purposes of safe areas is to provide at-risk persons with an alternative to international flight to access relative safety closer to home. But as Bellamy and Williams note, there is ‘potential for incoherence between agents who might be encouraging or discouraging flight’. If the establishment of safe zones encourages flight, this ‘might undermine the efforts of local communities and aid agencies to remain \textit{in situ}’.\textsuperscript{59} There is also a risk that the very creation of a safe area could encourage migration patterns that subsequently make it ‘more difficult to return to the political or demographic \textit{status quo ante}’.\textsuperscript{60}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{56} For some other potential risks and drawbacks of safe areas not directly related to displacement, we refer to Recchia’s contribution to this issue.
\item \textsuperscript{57} Orchard, ‘Revisiting Humanitarian Safe Areas for Civilian Protection’, p. 67.
\item \textsuperscript{59} Ibid., p. 156.
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Indeed, it may not always be easier to return from a safe area than it is from abroad. Having a secure basis in a safe country of asylum may be more conducive to eventual return than a precarious existence in a safe area.

Moreover, if the international community demonstrates a willingness to protect those who are forcibly displaced through safe areas, this may provide a perverse incentive for regimes to resort to strategies of induced displacement and ethnic cleansing. For regimes that wish to consolidate power or advance their fortunes in a civil conflict, forced displacement can serve as an attractive military tactic, particularly if it deprives an adversary of a base of support. Once the international community begins to provide protection for the displaced through the establishment of safe areas, the costs of this tactic can be reduced for the regime.

How might some of these risks be mitigated? First, to have their greatest preventive effect, safe areas would need to be established relatively early on in a conflict. Nonetheless, experience suggests this does not often happen. By the time safe areas were established in Iraq, Bosnia and Rwanda, large numbers of people had already been displaced, and many of them did not return shortly after the intervention. *Operation Provide Comfort*, arguably the most successful of these interventions, did not start until more than a month after mass displacement started.\(^{61}\) Second, the risk that safe areas exacerbate a displacement crisis could be mitigated if they are established around towns or regions where those at risk of displacement are residing rather than in remote or unpopulated areas that are sometimes chosen for this purpose because they are easier to defend militarily. Ideally, the goal of safe areas should be to strengthen the resilience of local communities at risk, thereby keeping ‘local coping economies’ functioning and ensuring as much humanitarian access as possible.\(^{62}\) Safe areas might therefore be more successful if they can be established around a clearly targeted population, for example a geographically concentrated ethnic, religious or political minority, so that many can stay in their own homes. However, while preventing displacement is obviously preferable, sometimes establishing safe areas where those most vulnerable are residing is simply too difficult or too risky; creating safe havens elsewhere may therefore be the only available option. Finally, in order to make sure that safe areas contribute to finding solutions to displacement crises they must be accompanied by (non-military) efforts to reach a political solution to conflict, violence or

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\(^{62}\) Bellamy and Williams, ‘Protecting Civilians in Uncivil Wars’, p. 159.
persecution—one that allows those who find shelter in them to stay or return home after the departure of international troops. This approach to mitigation is particularly important for the multilateral body authorising an enforced safe area—most notably the UN Security Council—which has the responsibility to take a multi-faceted approach to addressing threats to security.

A more troubling risk of enforced safe areas is that they diminish rather than enhance the quality and reach of the protection of the intended beneficiaries. One reason for this possible outcome is that uninvited international military involvement may risk politicising the role of humanitarian aid workers and lead to the expulsion of their assistance programmes. This suggests the importance of coordinating military action closely with aid organisations already on the ground and seriously considering their objections to military action when it risks jeopardising relief operations. It may also require that international actors make concrete arrangements for full and unhindered humanitarian access—either by negotiating with warring parties for advance consent to humanitarian relief or mandating unimpeded humanitarian delivery through a Chapter VII resolution of the Security Council.

The existence of safe areas may also undermine international protection through asylum. Here, the main risk is that asylum countries use their efforts in establishing safe areas to justify border closures and measures to contain refugee flows. It is also conceivable that these countries could forcibly repatriate refugees to such safe areas by appealing to their existence as an ‘internal flight alternative’ and using this as a rationale to deny asylum. Historical experience demonstrates that this is not just a theoretical possibility. France, for instance, used its military engagement in Opération Turquoise as grounds to deny Rwandan refugees asylum, claiming they were protected in their home country. Furthermore, even in those cases where safe areas were created after border closures—instead of the other way around—they may have taken the pressure off states that were failing their asylum obligations, thereby incentivising border closures and denial of asylum in the future. Operation Provide Comfort in Iraq was in part a response to a closure of the Turkish border, and the choice to engage in intervention was arguably fuelled by an unwillingness on the part

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63 Cohen, ‘Reconciling R2P with IDP Protection’, p. 47.
64 Human Rights Watch, ‘Q and A: Safe Zones and the Armed Conflict in Syria’.
of the international community to pressure Turkey to allow the 300,000 Kurdish refugees already present on its territory to remain—let alone to enable tens of thousands more stranded in the mountainous border region to enter.67 Similarly, the Bosnian safe areas came into force after Western countries made escape to safety next to impossible through their imposition of visa controls, and the Tanzanian border closure in the Rwandan post-genocide refugee crisis (with 40,000 Rwandan and Burundian refugees moving in its direction) can be read as a signal to the international community that the Tanzanian government wanted safe areas to be established within Rwanda.68 Given the fact that the current refugee crisis seems to be a major incentive behind recent proposals for a safe zone in Syria, there is clearly a risk that such a strategy would be accompanied by border closures in Turkey and Europe.

Measures to protect IDPs and civilians who otherwise remain in harm’s way at home must not come at the expense of access to asylum. They can offer a welcome complementary form of protection, but it would not be morally, or indeed legally, acceptable to think of them as a satisfactory substitute. Our moral case for safe areas is therefore made on the assumption that they cannot and should not replace access to asylum, given that the protection they offer tends to be inferior to that offered by asylum when assessed along the dimensions of quality, durability and reliability.

In terms of quality, while safe areas can offer some security and preserve life through humanitarian relief, they cannot offer the full protection that refugee law bestows upon its beneficiaries. Humanitarian aid provided in safe areas may ensure that basic needs for food, water, shelter and medical treatment are met. Under the Refugee Convention, in contrast, the legal rights of a recognised refugee in her country of asylum extend far beyond the notion of ‘bare safety’.69 Refugees benefit from social and economic rights at least on a par with other foreign legal residents of the country of asylum, have access to full medical care, schooling and a right to work. Such protections are aimed at achieving ‘broader liberal aspirations to protect freedom and human dignity, not just “bare life”’.70

Turning to the durability of protection, although safe areas offer temporary relief they are not a permanent solution to the problem of (threatened)

69 Ibid.
70 Ibid., p. 472.
displacement, especially when this results from persecution or political exclusion. If necessary, asylum can eventually offer secure and often permanent reintegration into a new community to compensate for losing the effective protection of one’s home state. In the absence of a solution to the conflict and the restoration of a durable peace, a safe area can provide only temporary protection.

Finally, it is clear that safe area protection is less reliable. The provision of protection in the context of an ongoing armed conflict inevitably comes with fewer guarantees than resettlement in a stable country, not least because the legal and moral principle of asylum is far more established than the political commitment to the responsibility to protect. The norm of asylum is one of the most established in international law, while the commitment to RtoP is not legally binding and, in the case of enforced safe areas, requires multilateral agreement. Allowing safe areas to substitute for asylum thus risks diluting international commitments to refugee protection.

Ideally, then, those states that engage in a multilateral military operation that establishes and protects a safe area should actively provide those inside the area with the option to apply for asylum and resettlement in those countries or in other jurisdictions willing to take them in. Safe areas would then clearly serve not as an impediment but rather as a possible stepping-stone towards international resettlement. However, putting participating governments under an obligation to resettle all those who wish to be resettled in their own countries would likely prove to be a strong disincentive to engage in such missions. At the very least, we would argue, safe areas should not coercively keep people inside their geographical parameters. The presence of international troops should not in any way contribute to preventing further freedom of movement or border crossings out of the country. In other words, even when the declared aim of such missions is to protect the right to remain, this should not turn into an obligation to do so on the part of those in danger of displacement.

Despite the normative expectations we have just set for international actors, we also acknowledge that such actors rarely have a single rationale for their

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71 We thank Cord Schmelze for suggesting the use of the term ‘reliability’ here.


73 This argument echoes UNHCR official position that assistance for IDPs should never be provided in ways that are ‘detrimental to the principles and practices of refugee protection’. The Guiding Principles of Internal Displacement also stress that IDPs have the right to leave their country and seek asylum in another country (Principle 15).
policy choices or that their motivation is always exclusively humanitarian.\textsuperscript{74} We therefore maintain that actors who contribute to a safe area because they are worried about refugee flows can still be considered legitimate participants in creating and enforcing the area, \textit{as long as they do not use their military presence to prevent the exit of displaced persons}.\textsuperscript{75} We thus reject (at least partly) the requirement that outside actors must be disinterested and that ‘mixed motives’ on the part of those providing military manpower or resources for the enforcement of safe areas pose an insurmountable legitimacy problem. The self-interest of neighbouring countries in reducing the impact of mass flight in their own territory may be one of the main determinants of their likelihood to volunteer and may thus increase the effectiveness of safe area protection. Other, more insidious, self-interested motives, such as supporting a party to the conflict, can be addressed by insisting on the need for multilateral authorisation and oversight, either regionally or internationally, and to insist that the capacity for safe areas should only be provided by states not directly party to the conflict (as is currently the case in peacekeeping operations).

\textbf{The Importance of Burden-Sharing}

Thus far, we have looked exclusively at the ‘demand-side’ of humanitarian protection through the establishment and defence of safe areas in conflict zones. This focus leaves open the question of the ‘supply-side’ of such areas. The problem with the notion of the international community’s remedial responsibility to protect is that it is collective and shared, thereby creating the danger that ‘no specific agent can be said to have the moral duty to act’\textsuperscript{76} If the international responsibility to protect goes beyond the duty to provide asylum and may, in certain circumstances, include more proactive military action, how should the fulfilment of that collective responsibility be specified and distributed among members of the international community?

It is illuminating to once again contrast the duty to provide asylum with the responsibility to provide protection \textit{in situ} through safe areas. As noted above, one advantage of the international asylum system is that it has ‘perfected’ the imperfect duty of remedial international protection by assigning responsibility

\textsuperscript{74} Hyndman, ‘Preventive, Palliative, or Punitive?’, p. 182.
\textsuperscript{76} Tan, ‘The Duty to Protect’, p. 86.
to those particular states where refugees arrive and ask for international protection. A major disadvantage of this system, however, is that it has allocated responsibility in a way that creates extremely unequal burdens between different states based primarily on geographic proximity to displacement-inducing conflicts and crises. The non-refoulement principle incentivises free-riding and burden-shirking and burden-shifting among member states of the international community in ways that are particularly disadvantageous to developing countries. Through the ‘accident of geography’, refugees tend to concentrate overwhelmingly in countries in the vicinity of refugee-producing conflict zones, a phenomenon which is exacerbated through the great pains many developed states take to prevent the arrival of asylum applicants at their borders. As a result, the burden of refugee protection is unfairly distributed among members of the international community.

While the Preamble of the Refugee Convention urges international cooperation and solidarity in finding solutions to the plight of refugees, it does not provide for ways to enforce this objective. Currently, 84 percent of all refugees are hosted by developing countries, often in places where the capacity to protect is weak or overstretched and where the financial and bureaucratic resources to deal with the challenges associated with large refugee inflows are exhausted. Maley notes that in the current international system, power asymmetries mean that such countries of first refuge have limited leverage in getting richer countries further removed from zones of conflict to cooperate and contribute. Although there are some efforts to address this unequal burden through resettling recognised refugees from these countries of first asylum to richer states in the West, these are severely limited by political will as well as by the costs associated with such schemes.

Our moral case for safe areas entails broadening the conception of an international responsibility to the displaced (through military and non-military means) in ways that create a more equitable distribution of this responsibility among states through specialisation and division of labour. Both the military costs of enforcing safe areas and the financial costs associated with the provision of humanitarian aid in such areas are likely to be borne predominantly by developed states. Regarding the latter, funding might either come directly from

78 UNHCR, ‘Global Trends 2016’.
80 The Canadian government’s scheme to welcome and resettle 30,000 Syrian refugees is one example.
Western countries or through the UN Development Programme (UNDP) and the Office for the Coordination of Humanitarian Affairs (OCHA), which both rely overwhelmingly on donations from developed countries.\footnote{For these organisations respective funding structures, see \url{http://www.unocha.org/about-us/ocha-funded} and \url{http://www.undp.org/content/undp/en/home/ourwork/funding/top-contributors/core-donors.html}, accessed 11 March 2018.} Apart from resettlement, rich countries may thus further, and perhaps in some cases more effectively, contribute to ‘doing their share’ by helping establish local safe areas to take the pressure off neighbouring countries.\footnote{Nonetheless, words of caution are once again in order. It bears repeating that there is a significant risk that Western states see their contributions to safe area missions as an adequate substitute to asylum provision at home. We do not argue that Western states can ‘buy off’ their protection obligations through military and financial contributions on the ground alone, but that asylum and resettlement must remain a part of the core of responsibilities.}

However, this poses a burden-sharing problem of its own. In contrast to the principle of asylum, which clearly assigns duties of refugee protection to individual states, the principle of RtoP does not specify precisely what means must be taken to implement the responsibilities of protection (given that the particular context, and political dynamics, may call for different responses), or who precisely bears the international responsibility in each and every case.\footnote{We say more on this below. See also Jennifer M. Welsh, ‘Who should Act? Collective Responsibility and the Responsibility to Protect’ in W. Andy Knight and Frazer Egerton (eds.), \textit{Routledge Handbook of the Responsibility to Protect} (London: Routledge, 2012).} The allocation of responsibility for the coercive measures encapsulated by RtoP is particularly difficult, given that such measures involve the real risk of loss of life for participating states.\footnote{Note that the allocation of responsibility to authorise these coercive measures is clearly specified by the principle of RtoP: it is the United Nations Security Council. However, here we are drawing a distinction between the authorisation and the implementation of military action.} Many of the developed states that would share the main responsibility for providing protection through safe areas currently lack the military capacity to do so. Moreover, several of these countries continue to make budgetary decisions that de-emphasise spending on defence and development. Arguing in favour of effectiveness and capacity as the dominant criteria for who should intervene, as Pattison does,\footnote{James Pattison, \textit{Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?} (New York: Oxford University Press, 2010).} therefore leads inevitably to an unfair burden placed upon those who already have ample military capacity and does nothing to create an incentive for states that are militarily weaker...
to develop the capacity to provide or enforce a safe area.\textsuperscript{86} The risk is therefore created that a handful of countries are continually asked to take a lead role given their robust military capacity and their potential to provide protection more effectively.\textsuperscript{87}

The broader conception of international responsibility we have outlined, drawn from the RtoP framework, demands that countries build up their capacity to provide protection through involvement in safe area missions. We argue that the responsibility to protect the displaced and those at risk of displacement implies not only that states must be willing to provide protection \textit{in situ} through safe areas as well as at home through asylum, but also that states have a duty to create and maintain their capacity to engage in such action and to establish mechanisms internationally and regionally to assign and distribute specific responsibilities. This allocation would be best achieved at the international level, through UN coordination, but regional security organisations like NATO or regional political organisations like the European Union or the African Union would be a welcome option in certain circumstances. In this way, the seemingly imperfect responsibility to protect can be ‘made perfect’ through international or regional institutionalisation.\textsuperscript{88} Burden-sharing could be achieved either through a conscious division of labour—whereby states who come from the same region, or who are members of the same alliance, develop complimentary capacities for the establishment of safe areas—or through concrete commitments to devote a particular percentage of GDP to military actions of this kind (as is currently the case for foreign development assistance).

In sum, there are two reasons why the establishment of an effective framework for international burden-sharing for fulfilling the remedial responsibility to protect is an important part of our normative case for safe areas. The first and most prominent is that it increases the likelihood and effectiveness of (safe area) protection. The second reason, which moves from the responsibility of the international community towards individuals to the responsibilities

\textsuperscript{86} For more on the possibility of unfair burdens, see David Miller, ‘Distributing Responsibilities’, \textit{Journal of Political Philosophy}, 9 (2001).

\textsuperscript{87} Pattison, \textit{Humanitarian Intervention and the Responsibility to Protect: Who Should Intervene?}

between states, is that burden-sharing is itself a normative requirement of the collective nature of RtoP. If this notion implies a shared responsibility, it is unfair if some states are asked to carry a much larger portion of the costs of either asylum provision or the military or humanitarian capacity needed for safe area enforcement while others are shirking their responsibilities.

**Conclusion**

The renewed interest in safe areas in the context of the Syrian war and the global refugee crisis has prompted reflection on their desirability and their risks. We have argued that under certain conditions, these zones do hold the promise of addressing some of the shortcomings of the current regime of protection for displaced populations. In an age when the total number of displaced people worldwide has reached an all-time high, the pressure on asylum systems in host countries is greater than ever. Partly because of the scale and concentration of mass flight today, and the perceived costs of hosting the displaced, public support for generous asylum systems has all but evaporated in the most important host countries. This context could, however, have a partly positive effect, by creating a motivation to increase the willingness and capacity to contribute to missions to establish safe areas. While we have argued that is morally unacceptable for states to use their participation in such efforts to justify restrictions on access to asylum, if ‘mixed motives’ have the effect of increasing the number of people protected, this outcome should be welcomed. Protection through safe areas and asylum are parallel, not surrogate responsibilities of the international community. They are conceptually and normatively related, as they derive from the same imperative to protect the displaced or those at-risk of displacement on the part of the international community.

This article has not argued that the establishment and enforcement of safe areas is a duty for the international community that must always be fulfilled in mass displacement crises. Rather, we have made the case that at least in some circumstances it is a desirable and viable way for the international community to fulfil its responsibility to protect vulnerable populations. Safe areas can extend protection to some of the most vulnerable populations in the world who remain without access to asylum, contribute to preventing forced displacement and creating the conditions for those who have fled to return home, and help to bring about a more equitable distribution of the costs of protection between those developing countries which host the vast majority of the world’s displaced and rich countries with the capacity to defend such zones militarily.
Nevertheless, we have also identified the significant risks associated with pursuing the creation of safe areas as a solution to the current high levels of mass flight. In their implementation, safe areas should seek to minimise the risk of contributing to rather than attenuating displacement. Moreover, safe areas should not be used as a substitute for asylum. Rather, they must be seen as offering an additional form of protection, and should be structured so as to increase possible access to asylum when the latter is desired by populations who have fled. Finally, the case for safe areas is substantially enhanced when there is an equitable system of burden-sharing in place to support them.