Kofi Annan with Nader Mousavizadeh. ***Interventions: A Life in War and Peace***. New York: Penguin Press, 2012. Pp. 512. $36. ISBN: 9781594204203.

Kofi Annan's memoir, *Interventions: A Life in War and Peace*, provides a timely contribution to the long running debate on humanitarian intervention, published shortly after his resignation as the United Nations–League of Arab States Joint Special Envoy for the Syrian crisis.

The book extends from the conflicts in Somalia, Rwanda, and Bosnia to those in Afghanistan and Iraq. As in books by other previous Secretaries-General, there is a focus on the relations of the UN with member states, and in particular the relationship with the US.[1] The book provides numerous insights, in particular into how leadership is dependent on an ability to 'convince others of the justice and urgency of their cause' (at 139–140).[2] While such persuasion is clearly a key aspect of the role of the Secretary-General, Kofi Annan also highlights the ability of the Secretary-General to speak and be heard where others might not be (at 181).

The book begins with those early conflicts that shaped Annan's conception of the relationship between sovereignty and intervention. As Annan states, he arrived at the view that '[w]e needed to convince the broader global community that sovereignty had to be understood as contingent and conditional on states' taking responsibility for the security of their own people's human rights and for this to be taken as seriously as the states' expectations of noninterference in their internal affairs' (at 84). This view forms part of one of the broader themes of the book: the interaction between human rights and sovereignty.

The book then turns to the evolution of the doctrine of the responsibility to protect, and traces it from the report of the International Commission on Intervention and State Sovereignty[3] to its more modern enunciation in terms of its three pillars: the responsibility of the state to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity; to assist other states in protecting their populations; and collective action where states fail in meeting their responsibility. It is particularly notable that the third pillar, the collective responsibility to respond in a timely and decisive manner when a state is manifestly failing to provide protection, requires the authorization of the Security Council for coercive measures.[4]

Annan seems, however, to go beyond the concept of responsibility to protect and to favour the stronger concept of humanitarian intervention. Humanitarian intervention differs from the responsibility to protect in not requiring the consent of the Security Council before coercive action can be taken. For example, Annan notes the intervention in Kosovo as an instance where 'NATO had proudly gone outside the mandate of the UN Charter, in response to the threat of a Russian veto at the Council, to conduct a forceful humanitarian intervention to protect the Kosovar Albanians' (at 126). He goes on to state that '[i]f there was another case for such a side step of international institutions in the face of enormous suffering, then Darfur was surely it' (at 126).

However, whilst expressing support for humanitarian intervention in Kosovo and Darfur, he is critical of the 2003 intervention in Iraq:

> A unilateral war that replaced tyranny with anarchy in Iraq holds lessons for every member of the international community: the need for legality and legitimacy when force is used, the vital importance of advance planning for the postconflict environment, the critical condition of security as the basis on which any reconstruction can take place.

1 See especially, B. Boutros-Ghali, *Unvanquished: A U.S.–U.N. Saga* (1999).

2 See also *ibid.*, at 9.

3 International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (2001).

4 See, e.g., United Nations, *Implementing the Responsibility to Protect: Report of the Secretary-General*, UN Doc A/63/677 (2009), at para. 11(c); United Nations, *Responsibility to Protect: Timely and Decisive Response*, UN Doc A/66/874–S/2012/578 (2012), at para. 32.

> It is equally essential that the folly of the Iraq War, with the resulting calamity for the people of the country and the broader region, does not doom forever intervention when action is endorsed by the Security Council, a humanitarian crisis is urgent, and the cause is just and legitimate' (at 363–364).

Where precisely one may draw the line between legitimate humanitarian intervention and an illegitimate violation of the prohibition of the use of force is not clearly established in the book. Yet, Kofi Annan expresses his 'conviction that while humanitarian intervention is a moral and strategic imperative when the alternative is genocide or gross violations of human rights, military action pursued for narrower purposes without global legitimacy or foresight about the consequences – as in the case of Iraq – can be as destructive as the evils it purports to confront' (at x–xi).

Thus, for Kofi Annan, it appears that the line between legitimate and illegitimate humanitarian intervention lies where objectively intervention can be argued to prevent 'genocide or gross violations of human rights' and where it has 'global legitimacy' and there is 'foresight about the consequences'. The latter two requirements are particularly interesting as 'global legitimacy' in this context may not require the support of all the Permanent Five Members of the Security Council and 'foresight about the consequences' will always be inherently difficult in any such military intervention.

In this context it is important to recall that the legal framework of the Security Council, with each of the Permanent Five Members having a veto over any coercive military action, was deliberately designed to prevent such intervention being authorized when opposed by one such member. As such it is an institution of *realpolitik*; designed to reflect the power balance as it existed in the aftermath of World War II, the point being that it was not intended that the UN would be an instrument through which force could be utilized as against one of the Permanent Five Members. Indeed, the thought of a UN force going up against one of the Permanent Five Members, or one of their allies with their full military backing, was something which the founders were seeking to avoid.

It is here that international public expectation often meets *realpolitik*. Kofi Annan's account of the 'disjuncture between the public statements of alarm and concern for the suffering of other people on the one hand, and, on the other, the unwillingness to commit any of the necessary resources to take action' in Rwanda is particularly telling. Although often just as telling are those conflicts which fail to rise to the level of general public awareness, let alone generate the necessary pressure for outside intervention.

Nonetheless, Kofi Annan's work is a timely addition to a long-running debate over humanitarian intervention. However, if humanitarian intervention is going to be more widely accepted one would expect that the circumstances governing its exercise need to be further refined, in much the same way that the Responsibility to Protect has been refined. How, for example, would one define 'global legitimacy' or 'global foresight', as expressed by Kofi Annan? There are also a range of criteria that others have also supported over time for Humanitarian Intervention, such as disinterestedness[5] or the exhaustion of all other peaceful means.[6] Which should be the criteria and why?

After that the doctrine would still need to gain the support of the wider international community, and in particular win over the reluctant members of the Permanent Five, who jealously guard their veto. Then there are the practical issues, which are often lost in the debate, like who

[5] B. Harff-Gurr, *Humanitarian Intervention as a Remedy for Genocide: A Fresh Look at an Old Concept* (1981), at 17; Ryan, 'Rights, Intervention, and Self-Determination', 20 *Denver J Int'l L & Policy* (1991–1992) 55, at 66–67.

[6] Bazyler, 'Reexamining the Doctrine of Humanitarian Intervention in Light of the Atrocities in Kampuchea and Ethiopia', 23 *Stanford J Int'l L* (1987) 547, at 606; Fonteyne, 'The Customary International Law Doctrine of Humanitarian Intervention: Its Current Validity Under the U.N. Charter', 4 *California Western Int'l LJ* (1973) 203, at 264; Harff-Gurr, *supra* note 5, at 17; Rodley, 'Collective Intervention to Protect Human Rights and Civilian Populations: The Legal Framework', in N.S. Rodley (ed.), *To Loose the Bands of Wickedness* (1992), at 23, 36–37.

exactly will be prepared to provide the resources to intervene, whether those will be enough in any given matter, and, often more tellingly, whether the states involved will be prepared to shoulder the greater burden of rebuilding another state ravaged by war.

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Michael Waibel. ***Sovereign Defaults before International Courts and Tribunals***. Cambridge: Cambridge University Press, 2011. Pp. 361. £74. ISBN 9780521196994.

Michael Waibel's book is a timely, elegant, and rich study of the adjudication of sovereign defaults by international courts and tribunals. In a time of learning the hard way to overcome what Reinhard and Rogoff's study of financial crises has described as the 'this-time-is-different' syndrome, Waibel gives us an account of the underdeveloped state of the law regulating sovereign debt through the study of the relevant cases before international courts and tribunals. These kinds of disputes abound: Waibel's book explains and assumes that '[e]ver since the birth of the modern fiscal and borrowing state in the seventeenth century, disputes on the non-payment of sovereign debt have been common' (at 8). The book, which has won the 2012 European Society of International Law Book Prize, presents a thorough study of these disputes organized in two parts: the first part is a history of the varied ways in which sovereign defaults have been adjudicated on internationally over the past 150 years; the second part concentrates on the present and future resolution of sovereign defaults by international courts and tribunals, and particularly on the role of arbitration on sovereign debt.

After a short introductory chapter in which the author gives us a taste of the nature of 'sovereign defaults as a perennial feature of sovereign lending' (at 8), together with a few preliminary views on sovereign debt and its restructurings, Waibel starts an encyclopaedic tour of the history of past sovereign defaults through adjudication. A descriptive narrative governs the first part of the book. Here, Waibel writes as a legal historian and prudently lets the facts speak for themselves in most of the cases. I can give only a partial account of the history told in this part, highlighting some of the most salient cases and doctrines considered by the author.

The history begins with political responses to sovereign defaults, including the use of force, loan sanctions, diplomatic protection, and diplomatic settlements. The *Venezuelan Preferential Case* is key to conveying a state of affairs that did not rule out military interventions over sovereign debt. However, as Waibel shows, even in the early 1900s creditor governments were conscious of their subsidiary role and discretionary support to their nationals in responding to sovereign defaults. In other words, political considerations were crucial to understanding the decisions to use force in debt crises, and the Venezuelan case was no exception (at 30). That is when the Drago Doctrine enters the scene. The Doctrine is celebrated as a major contribution of Latin American international law to the series of efforts that led to the prohibition on the use of force as a means to settle disputes. Waibel, of course, gives appropriate consideration to the Doctrine in the context of forcible actions to recover sovereign debt, but notes that 'the Doctrine has a subversive element, in that it has the potential of undermining compliance with sovereign debt obligations – a concern that was widespread among creditors at the time' (at 36).

In this sphere of political responses, Waibel also gives examples of quasi-receivership of highly indebted countries, which was 'a method of enforcement short of military intervention' (at 42).