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When the Gateholder Holds the Key, the Fence Stops Being A Boundary:

Why does international law struggle to hold the United States accountable for unauthorized uses of force, and how do humanitarian narratives affect that accountability?

International law endeavors to maintain global peace by strictly regulating the conditions under which war can be justified, emphasizing its role as a last resort. The UN Charter establishes a framework that treats the use of force as an exception, requiring Security Council authorization or a narrowly defined self-defense justification. The United States often faces limited consequences for using force without explicit authorization, primarily due to its geopolitical influence and the structural limitations of international enforcement mechanisms. This pattern reflects failures of institutional enforcement and the dominance of power politics rather than genuine legal uncertainty. Accountability fails where enforcement depends on political frameworks that can be stalled, and where humanitarian rhetoric can soften the impact of illegality.

Understanding the Charter is integral, as it serves as the foundational rule for the post-1945 international order. Attempts to justify force through alternative legal routes repeatedly clash with Charter primacy. Gasparyan explains that Article 103 gives priority to Charter obligations over other international commitments – such as national interest, which can bring the law-making process for humanitarian interventions outside the UN framework to a halt. This makes unilateral humanitarian intervention legally unstable from the start. It also increases the incentive for states to shift the debate away from strict legality and toward legitimacy.

Although the Responsibility to Protect (R2P) is often presented as a bridge between moral urgency and legal authority, research indicates that it lacks a legal foundation for nationalistic force. Hilpold states that “unilateral measures are clearly prohibited” (Hilpold 112) while also observing that the 2005 World Summit recognition matters because gross human rights violations can justify Security Council authorization of forcible measures (Hilpold 112). R2P strengthens arguments for joint efforts while preserving the Security Council’s main role in authorizing force. When the Council is stuck, R2P rhetorics can still be used as a political justification, even though the legal pathway remains blocked.

International law struggles to hold the United States accountable because enforcement is fundamentally constrained. The Security Council functions as both a political constraint and a forum shaped by strategic narratives rather than neutral enforcement. The veto power makes enforcement non-existent in cases involving major powers or their allies. Gasparyan describes a “grey zone” system in which the Council’s monopoly on authorizing force can produce paralysis and push states toward illegal action framed as morally necessary (Gasparyan 10). In those conditions, condemnation fractures and consequences become negotiable.

Köchler argues that the international system lacks a neutral division of powers, allowing already powerful states to dictate intervention criteria (Köchler 10). Even where that framing is contested, the enforcement problem is visible in practice. International courts face jurisdiction and consent limits, especially when countries such as the United States do not participate in it. State responsibility feeds on willingness to impose costs, shaped by alliance structures and strategic dependence. The result is selective enforcement, weakening deterrence which then leads to future violations.

Humanitarian narratives widen the accountability gap by prioritizing moral necessity over legal authorization, complicating consensus and enabling selective enforcement. Instead of focusing on authorization, debate shifts towards moral necessity and perceived legitimacy. Watkin describes the tension between strict Charter-based restraint and the imperative to act (Watkin 216). Once force is framed as an imperative, the moral can be reframed as an exceptional response to atrocity, later making unified condemnation harder. States divide over moral assessment and political alignment, rather than converging around a clear legal standard.

Legitimacy disputes interact with global perceptions of power. Jones notes that developing countries have been strong critics of humanitarian interventions, viewing them as a continuation of imperial patterns (Jones 163). He argues that the phrase “international community” can operate as a euphemism for a Western bloc led by the United States and NATO (Jones 163). These perceptions matter for accountability, as enforcement requires legitimacy and legitimacy requires trust. Where trust is weak, claims of humanitarian purpose do not produce consensus; they produce polarization and strategic resistance.

To prove legitimacy there needs to be a tally, and it is there. The record is not abstract, it is numerical and it is brutal: the 2003 Iraq invasion proceeded without clear Security Council authorization and was followed by a war that cost an estimated 200,000 to 500,000 civilian lives, displaced more than four million people, and dismantled a state of roughly 25 million (Raafs; AOAV). Abu Ghraib was not an anomaly but a system, with hundreds of detainees abused while responsibility was narrowed to low-ranking personnel and zero senior civilian or military leaders were criminally convicted (Center for Constitutional Rights; EBSCO; Al Jazeera). The 2004 assaults on Fallujah reduced large sections of a city of approximately 300,000 people to rubble, involved the use of white phosphorus in urban areas, and occurred under media restrictions that

limited independent casualty verification (AOAV). De-Ba'athification removed tens of thousands of public servants and security personnel in a single stroke, accelerating insurgency and institutional collapse (Raafs). Iraq's oil sector was restructured after 2003 to allow extensive foreign access to one of the world's largest proven oil reserves, raising enduring sovereignty and imperial control concerns (Raafs). In 2007, Blackwater contractors killed seventeen Iraqi civilians in Nisour Square, exposing jurisdictional loopholes, delayed justice, and the fragility of accountability under privatized force (Center for Constitutional Rights). The Iraq War Logs released in 2010 documented over 100,000 civilian deaths that had previously gone unreported, revealing systemic transparency failure rather than isolated misconduct (EBSCO). In Afghanistan, indefinite detention at Bagram held thousands without trial while night raids normalized low-visibility lethal force across a population of roughly 38 million with limited oversight (Sinnar). The 2015 Kunduz airstrike killed at least forty-two patients and medical staff inside a clearly marked hospital, followed by internal investigations without international legal consequence (Zenko). After twenty years, more than 170,000 deaths, and over two trillion dollars spent, the Afghan government collapsed within weeks in 2021, raising unresolved questions about legality, effectiveness, and accountability (Jones). In Gaza, repeated military operations across multiple years produced civilian death tolls in the thousands while billions of dollars in U.S. military aid continued and six Security Council resolutions critical of Israeli military actions were vetoed, reinforcing an accountability asymmetry within the so-called rules-based order (Jones). This pattern of material support and legal shielding does not reduce antisemitism but instead exacerbates it by collapsing the distinction between Jewish identity and state violence, allowing mass civilian harm to be rhetorically defended in ways that fuel radicalization, misinformation, and antisemitic narratives rather than preventing them. Drone

campaigns in Pakistan, Yemen, and Somalia killed thousands more under secrecy, with signature strikes targeting behavioral patterns rather than named individuals, further weakening due-process norms (Zenko; Sinnar). Sanctions regimes contributed to humanitarian crises affecting millions in Iraq in the 1990s, Iran in the 2010s, and Venezuela more recently, extending coercive power without formal declarations of war (Monaldi). Across decades, from Iran in 1953 to Chile in 1973 to Iraq and beyond, the numbers show a consistent pattern: mass death, mass displacement, shattered institutions, and near-zero senior accountability, forming a prosecutorial record of American imperialism built not on isolated mistakes but on repeatable outcomes measured in bodies, cities, and years lost.

The 2018 strikes in Syria exemplify how humanitarian framing can be used to justify military action in the absence of formal authorization. The UK relied on "humanitarian intervention" as its legal basis for strikes, despite Watkin's warning that this claim clashed with efforts to restrict unilateral military action (Watkin 214–216). The central point for accountability is not the moral debate over chemical weapons. The central point for accountability is not the moral debate over chemical weapons, but the fact that humanitarian framing transforms a question of authorization into a dispute over conditions such as necessity and proportionality. Those conditions are politically contestable and invite selective endorsement, which lowers the likelihood of collective consequences.

The Libya 2011 intervention demonstrates how humanitarian authorization can collapse into a legitimacy crisis that weakens later enforcement. Raafs argues that the Libya intervention eroded trust in R2P because evidence suggested participating air forces did not intend to stay within the UN mandate of civilian protection (Raafs 98). This perception of mandate drift hardened skepticism among veto-holding powers, increasing the probability of future deadlock. Raafs also

links this to a broader contradiction in the liberal order, where sovereign equality is treated as a hindrance and tools like pre-emption and regime change are framed as instruments to preserve a "well-ordered system of sovereign states" (Raafs, 195). This contradiction damages the credibility of humanitarian claims and encourages states to treat such claims as strategic cover rather than principled restraint.

The accountability gap extends beyond large interventions into routine, lower-visibility uses of force. Without reform, drones risk becoming an unregulated, unaccountable vehicle for states to deploy lethal force with impunity (Zenko, 4). This expands the enforcement gap by lowering political costs and reducing external scrutiny. Sinnar's analysis of national security "rule of law tropes" shows how legal language can be maintained while standards are quietly reinterpreted, including through expansive readings of "imminence" (Sinnar 1601–1602). In combination, these dynamics make force easier to normalize while making accountability harder to mobilize.

International law struggles to hold the United States accountable for unauthorized force because enforcement is filtered through Security Council politics, jurisdictional limits, and hierarchical insulation. Humanitarian narratives further weaken accountability by shifting disputes from legality to legitimacy, killing consensus, and enabling selective enforcement. Libya in 2011 demonstrates how humanitarian authorization can collapse into a legitimacy crisis, as perceived mandate drift damaged trust in R2P and deepened Security Council deadlock (Raafs 98). Drones and stretched legal standards demonstrate how the same accountability gap expands through lower-visibility force with reduced oversight (Zenko, 4; Sinnar, 1601-1602).

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