
Volume 51 | Issue 1

2019

The Use of Force against "Rogue States"

Amb. Todd F. Buchwald

Follow this and additional works at: <https://scholarlycommons.law.case.edu/jil>



Part of the [International Law Commons](#)

Recommended Citation

Amb. Todd F. Buchwald, *The Use of Force against "Rogue States"*, 51 Case W. Res. J. Int'l L. 177 (2019)

Available at: <https://scholarlycommons.law.case.edu/jil/vol51/iss1/21>

This Article is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Journal of International Law by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

THE USE OF FORCE AGAINST “ROGUE STATES”

*Ambassador Todd F. Buchwald**

CONTENTS

WHAT ROGUE STATES DO WE HAVE IN MIND?.....	178
USE OF FORCE LAW AND THE DIFFERENT KINDS OF THREATS POSED BY DIFFERENT KINDS OF ROGUES.....	181
(a) <i>Security Rogues</i>	181
(b) <i>Human Rights Rogues</i>	184
CONCLUDING OBSERVATIONS.....	187

The title of today’s conference—International Law in the Age of Trump—reminds us that we have entered a period in which many things, big and small, are being re-examined, and this re-examination is being shaped by forces that we do not fully understand.

There are questions on the domestic stage about how our political system will operate into the future, and the values and priorities of the American people to which it will respond. But the questions on the international stage are just as profound: questions about the basic institutions of our international architecture, including the role of the United Nations, the future of the North Atlantic Alliance, the principles of free trade, and the importance of international law and other international norms. There are strong interests in the stability, predictability, and reliability that the existing institutions and rules have been intended to provide.

Questions about the rules governing the use of force are part of this broader debate about the post-World War II architecture. It is thus in the context of this broader debate that we should consider these rules should operate in connection with so-called “rogue states” and, inevitably, about whether we should be working to loosen these rules.¹

* Fellow, Woodrow Wilson International Center for Scholars, Washington, DC. Professorial Lecturer in Law, George Washington University Law School. Formerly Ambassador and Special Coordinator for Global Criminal Justice, U.S. Department of State; and Assistant Legal Adviser for United Nations Affairs, and Assistant Legal Adviser for Political-Military Affairs, U.S. Department of State. This essay is adopted from a presentation prepared for the Frederick K. Cox International Law Center Conference, “International Law and Policy in the Age of Trump,” at Case Western Reserve University School of Law on September 14, 2018.

1. The basic rules under the UN Charter are familiar to international lawyers. States have a basic obligation under Article 2(4) for states to refrain from the threat or use of force. U.N. Charter art. 2, para. 4.

In principle, there would seem to be a strong interest in not contributing to a breaking down of basic paradigms that are central to the international architecture, and not fueling a sense that international institutions generally are ripe for rejection. Beyond questions about the desirability of not contributing generally to paradigm breaking, there are questions about whether we find ourselves in an opportune political environment in which to affirmatively articulate new criteria or standards for resort to force that would be needed to replace the old. How, in this environment, would the new rules be crafted? Would they be sufficiently cabined so as to protect against over-emphasis on short-term advantages to the detriment of our genuine long-term interests? Change, even of bad rules, is not inherently desirable, but rather depends on what rules, or lack of rules, would replace them.

I say this not to argue against the desirability of encouraging changes in the rules as such, but only to strike a note of caution about the need to think carefully before doing so. The existence of risk is only one part of what needs to be considered, and one cannot determine whether the risk is worth taking without also considering the potential benefits. To evaluate the potential benefits of new rules, we need to consider the extent to which the existing rules are in fact constraining us from actions against rogue states that we would otherwise want to undertake. And it also requires a clear understanding of what we mean when we refer to rogue states.

WHAT ROGUE STATES DO WE HAVE IN MIND?

The phrase "rogue state" is not defined under international law and there is no clear consensus about what it means.² Different administrations have had different ideas about the criteria for qualification as a rogue state and which states meet the criteria.³

There is an exception recognized under Article 51 for states to exercise their "inherent right of individual or collective self-defense if an armed attack occurs"; and there is an exception for situations in which the Security Council authorizes the use of force. U.N. Charter art. 51. It is also recognized that states can generally deploy and use military force within a state if they have the consent of the government of that host state, though this can be conceptualized as not constituting a use of force within the meaning of Article 2(4).

2. See ROBERT S. LITWAK, *OUTLIER STATES: AMERICAN STRATEGIES TO CHANGE, CONTAIN, OR ENGAGE REGIMES* 11 (2012) ("'[r]ogue state' was a unilateral American political concept, without foundation in international law"); Paul F. Diehl & Tom Ginsburg, *Essay: Irrational War and Constitutional Design: A Reply to Professors Nzelibe and Yoo*, 27 MICH. J. INT'L L. 1239, 1256 (2006) (discussing different approaches to defining "rogue state").
3. See LITWAK, *supra* note 2, at 9-19 (discussing evolution of policy towards such states).

Lawyers sometimes refer to lists that exist under various pieces of domestic legislation, such as the list of terrorism-supporting states under United States foreign assistance and export control laws⁴ or the list of so-called “pariah states” that are the subject of special rules requiring proportionate withholdings when calculating United States contributions to international organizations.⁵ Others outside the U.S. government have had their own views, such as the characterization by the President of the International Criminal Tribunal of the former Yugoslavia of the Federal Republic of Yugoslavia under Milosevic as a rogue state.⁶

For its part, the Clinton administration used this phrase to include Iran, Iraq, Libya, and North Korea, and sometimes Cuba.⁷ Then-National Security Adviser Anthony Lake described them as “recalcitrant and outlaw states that not only choose to remain outside the family but also assault its basic values.”⁸ He described characteristics that he said they shared:—rule by cliques that control power through coercion, suppression of human rights, promotion of radical ideologies, antipathy toward popular participation that might undermine the regime, and a chronic inability to engage constructively with the rest of the world.⁹

The Clinton administration eventually found that the use of the phrase complicated foreign policymaking and made a conscious decision to stop using it.¹⁰ However it was again used by the Bush administration, notably in connection with the phrase “axis of evil,” which was often seen as tied to interests in regime change.¹¹ What did

-
4. 22 U.S.C. § 2371 (2008); 22 U.S.C. § 2780 (2014); 50 U.S.C. § 4813 (2018).
 5. 22 U.S.C. § 2227 (2007).
 6. Marlise Simons, *Hague Journal; Then It Was the Klan. Now It's the Balkans Agony*, N.Y. TIMES (Jan. 13, 1999), <https://www.nytimes.com/1999/01/13/world/hague-journal-then-it-was-the-klan-now-it-s-the-balkan-agony.html> [https://perma.cc/LV7T-GY9W].
 7. See Christopher Marquis, *U.S. Declares ‘Rogue Nations’ Are Now ‘States of Concern,’* N.Y. TIMES (June 20, 2000), <https://www.nytimes.com/2000/06/20/world/us-declares-rogue-nations-are-now-states-of-concern.html> [https://perma.cc/4RT8-YHTG] (“The term [rogue nations] is often applied to the seven countries listed by State Department as sponsoring terrorism: Cuba, Iran, Iraq, Libya, North Korea, Sudan and Syria.”).
 8. Anthony Lake, *Confronting Backlash States*, 73 FOREIGN AFFAIRS 45, 45 (1994).
 9. *Id.* at 46.
 10. Marquis, *supra* note 7.
 11. Richard N. Haass, *Regime Change and Its Limits*, 84 FOREIGN AFFAIRS 66 (2005).

rogue states have in common? According to National Security Adviser Lake—

“they are embarked on ambitious and costly military programs—especially in weapons of mass destruction (WMD) and missile delivery systems—in a misguided quest for a great equalizer to protect their regimes or advance their purposes abroad.”¹²

In President Bush’s words—

“States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic.”¹³

Statements like these strongly suggest that “rogue-ness” was conceptualized in terms of states that pose security threats. It is true that President Bush also said that the attributes of these countries included brutalization of their own people and disregard of international law,¹⁴ and National Security Adviser Lake described the propensity to suppress human rights as a characteristic these countries shared.¹⁵ But the fact that the remedies they proposed for dealing with these states were security measures—proactive and strengthened counter-proliferation and non-proliferation efforts,¹⁶ and active engagement “in unilateral and multilateral efforts to restrict their military and technological capabilities”¹⁷—left little doubt that the heart of the problem was seen as a security threat. As rogue status had become increasingly associated with talk of regime change, the Obama administration moved away from the nomenclature,¹⁸ but

12. Lake, *supra* note 8, at 46.

13. President George W. Bush, State of the Union Address (29 January 2002), available at <https://georgewbush-whitehouse.archives.gov/news/releases/2002/01/20020129-11.html> [<https://perma.cc/G93L-AVR2>].

14. *Id.*

15. Lake, *supra* note 8, at 46.

16. *U.S. National Security Strategy: Prevent Our Enemies From Threatening Us, Our Allies, and Our Friends with Weapons of Mass Destruction*, U.S. DEP’T OF STATE (June 1, 2002), <https://2001-2009.state.gov/r/pa/ei/wh/15425.htm> [<https://perma.cc/HC7S-Y2QJ>].

17. Lake, *supra* note 8, at 46.

18. Robert S. Litwak, *From “Rogues” to “Outliers”: Can Iran and North Korea Change their Behavior Absent a Change in the Character of their*

the Trump administration has more recently returned to it, with President Trump adding Venezuela to the group in his first address as President to the United Nations General Assembly.¹⁹

Thus, the main categories of rogue states are what might be called “security rogues,” but it is also possible to include a second category of “human rights rogues.” There is significant room for debate regarding how particular human rights abusers would be selected for inclusion in any list of human rights rogues. One obvious possibility would be to include states that—in the words of the Responsibility to Protect principles adopted by heads of state and government at the United Nations in 2005—are “manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.”²⁰

USE OF FORCE LAW AND THE DIFFERENT KINDS OF THREATS POSED BY DIFFERENT KINDS OF ROGUES.

Use of force law has evolved very differently with respect to the kinds of threats posed by the two categories of rogue states. Indeed, there has in fact been significant evolution since World War II in views about the rules governing the use of force in the absence of authorization from the Security Council, but that evolution has occurred within a basic architecture that is centered on self-defense. The great bulk of that evolution has thus occurred in the context of the kinds of threats posed by “security rogues” rather than “human rights rogues.”

(a) Security Rogues.

With relatively few exceptions, when acting without Security Council authorization, the U.S. and other states continue to explain their resorts to military force in self-defense terms, even as their understanding and interpretation of what qualifies as self-defense has evolved with changes in the security environment in which states find themselves. In essence, the U.S. and others have found ways to shape the essential constructs of self-defense under the UN Charter regime

Regimes?, THE GLOBALIST (May 4, 2010),
<https://www.theglobalist.com/from-rogues-to-outliers/>[<https://perma.cc/KR6A-TGZQ>].

19. President Donald Trump, Remarks to the 72nd Session of the United Nations General Assembly (Sept. 19, 2017), *available at* <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-72nd-session-united-nations-general-assembly/> [<https://perma.cc/2TPK-TXSF>]. The evolution of policy towards such states is discussed in considerable depth in LITWAK, *supra* note 2.
20. G.A. Res. 60/1, 2005 World Summit Outcome, ¶¶ 138-39 (Oct. 24, 2005).

to justify use of force in cases where they believe it is essential for security reasons.

For example, The United Nations Charter itself talks about use of force in self-defense only in the event of an "armed attack" against a state. Yet, for many years, the position of the United States has been that force can permissibly be used to protect its nationals where a host state fails to do so. This is reflected, for instance, in the justification provided by the United States for the mission to rescue the Embassy hostages from Tehran in 1980²¹ or, to give a non-U.S. example, the Israeli raid on Entebbe in 1976.²² Had there been in either case an "armed attack" against a state? Perhaps not in the way that people would have traditionally understood that phrase, and there were certainly doubts expressed at the time that the misconduct qualified as an "armed attack;"²³ but the situation presented sufficiently compelling security interests to warrant the result and the letter that the United States submitted to the Security Council under Article 51 specifically referred to the "American nationals who have been and remain the victims of the Iranian *armed attack* on our Embassy."²⁴

The Charter also contains no specific words about using force against states that are "unable or unwilling" to prevent their territory from being used as a base for attacks, yet the United States has developed and used the argument that the author of the attack need not be the state on whose territory force is used in self-defense. As an example, we see this interpretation in connection with the U.S. attack on Sudan in 1998 after the al-Qa'ida bombing of the U.S. Embassies in Nairobi and Dar-es-Salaam, following what the United States

-
21. Letter From the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, U.N. Doc. S/13908 (Apr. 25 1980), *available at* <https://undocs.org/en/s/13908> [<https://perma.cc/C5HD-L85Y>].
 22. *Id.* at 286. Letter From the Permanent Representative of Israel to the United Nations Addressed to the Secretary-General, U.N. Doc. S/12123 (July 4, 1976), *available at* <https://undocs.org/en/s/12123> [<https://perma.cc/SZT5-VAYK>].
 23. *See, e.g.*, Repertoire of the Practice of the Security Council, Supplement 1975-1980, Chapter VIII, Consideration of Questions under the Council's Responsibility for the Maintenance of International Peace and Security, at 176, 289, *available at* http://www.un.org/en/sc/repertoire/75-80/75-80_08.pdf [<https://perma.cc/AU88-M38A>] (objections raised by various states that the Israeli military operation in Uganda violated the UN Charter because Israel had not been a victim of an armed attack by Uganda).
 24. Letter From the Permanent Representative of the United States of America, *supra* note 25 (emphasis added).

described as efforts to convince the Sudanese government to shut down al-Qaida's activities.²⁵

A third example comes from the treatment of intermittent attacks over a prolonged period of time, where some might argue that no one strike reaches the threshold of an armed attack, or that a defensive use of force was not proportional to the particular attack that preceded it. For its part, the United States has made clear that it does not accept these arguments.²⁶ In practical terms, it would be untenable, it has been felt, to require that a response must be calibrated to a particular intermittent attack and thus unable to respond to the threat as a whole.²⁷ Again, the theory is not beyond doubt, but the legal justification is framed so as to fit within the existing international law architecture that governs use of force in self-defense.²⁸

Finally, perhaps the most important example in relation to security rogues involves anticipatory self-defense. Can force be used in self-defense only, in the words of Article 51 of the Charter, "if an armed attack *occurs*,"²⁹ or can it also be used if an attack is *imminent*? For its part, the U.S. position has been the latter, and it has argued that the test for imminence must be applied in the context of the evolving security environment in which the international community has come to find itself.³⁰ The expansion of the concept of

-
25. Letter From the Permanent Representative of the United States of America to the United Nations Addressed to the President of the Security Council, S/1998/780 (Aug. 20 1998), *available at* <https://undocs.org/en/s/1998/780> [<https://perma.cc/QYE2-7BHE>]. For a discussion on the air strikes following the Nairobi and Dar-es-Salaam attacks, *see* Ruth Wedgwood, *Responding to Terrorism: The Strikes Against bin Laden*, 24 *YALE J. INT'L L.* 559 (1999).
26. William H. Taft IV, *Self-Defense and the Oil Platforms Decision*, 29 *YALE J. INT'L L.* 295, 305-6 (2004).
27. *Id.*
28. *Id.* at 305 ("A proper assessment of the proportionality of a defensive use of force would require looking not only at the immediately preceding armed attack, but also at whether it was part of an ongoing series of attacks, what steps were already taken to deter future attacks, and what force could reasonably be judged to be needed to successfully deter future attacks.") (citations omitted).
29. U.N. Charter art. 51.
30. *See* THE WHITE HOUSE, THE NATIONAL SECURITY STRATEGY OF THE UNITED STATES OF AMERICA 15 (2002), *available at* <https://www.state.gov/documents/organization/63562.pdf> [<https://perma.cc/RH7M-9M2A>] ("We must adapt the concept of imminent threat to the capabilities and objectives of today's adversaries...The greater the threat, the greater is the risk of inaction—and the more compelling the case for taking anticipatory action to defend ourselves, even if uncertainty remains as to the time and place of the enemy's attack.").

imminence was fueled by fears of the toxic combination of terrorists and weapons of mass destruction,³¹ but the important point for purposes of this discussion is that the legal argumentation is framed to fit within the idea of use of force in self-defense.

To be sure, the international community does not uniformly accept the principles described above. Indeed, perfectly plausible arguments can and have been made that the international community, through adoption of the UN Charter, has agreed that decisions to use force have been reserved to the Security Council to deal with such situations. But all of these examples involve situations in which states—at least states that would have the capabilities to protect themselves—will simply not defer and await the vagaries of action by the Security Council, at least in a world in which they see the Security Council as incapable of dealing with such threats effectively. Such states have enough confidence in the principles, and view the principles as so tied to interests they consider vital, that the absence of consensus does little to dissuade their reliance on them, and their potential for blowback from other states is not sufficient to offset the perceived imperative for action.

(b) Human Rights Rogues.

Things have evolved differently regarding the kinds of threats posed by human rights rogues. There has in fact been extensive evolution in the understanding that human rights abusers can pose a threat to international peace and security. Indeed, that understanding has been the legal predicate for the vast expansion over time in the Security Council’s use of its authority under chapter VII of the UN Charter, and indeed was the predicate for the adoption of the Responsibility to Protect principles adopted at the United Nations in 2005.³² In addition, there has been greater acceptance over time of steps short of force that are aimed at promoting human rights as not being prohibited by the principle of non-intervention.³³

-
31. See, e.g., U.N. Secretary-General, *A More Secure World: Our Shared Responsibility: Report of the High-level Panel on Threats, Challenges and Change*, U.N. Doc. A/59/565 (Dec. 2, 2004).
32. *Id.* at ¶ 200 (“The principle of non-intervention in internal affairs cannot be used to protect genocidal acts or other atrocities, such as large-scale violations of international humanitarian law or large-scale ethnic cleansing, which can properly be considered a threat to international security and as such provoke action by the Security Council.”).
33. See, e.g., Maziar Jamnejad & Michael Wood, *The Principle of Non-Intervention*, 22 LEIDEN J. INT’L L. 345, 381 (2009) (referring to the principle of non-intervention as an “essentially relative concept” that has been “profoundly affected by the development of international human rights law and globalization, and arguably also by widespread acceptance of the importance for international relations of such

But we have not seen nearly the same evolution regarding resort to armed force against human rights abusers not authorized by the Security Council. Why not? Is it simply not possible to construct plausible legal arguments to support such an evolution? That seems doubtful—or, at least, a less than complete explanation—and, in fact, a small handful of states *have* put forward legal arguments.³⁴ There are any number of ways such arguments might be constructed, including, for example, based on:

- principles of necessity;
- the limiting effect of the phrase “against the territorial integrity or political independence” in Article 2(4) on the scope of the obligation to refrain from the use of force;
- the notion that rights to use force that preceded the Charter are “revived” where the Security Council is sufficiently dysfunctional that it is failing to carry out the kind of use of force decision-making that was the predicate for states agreeing to the Charter’s limitations on use of force;
- the notion that the Charter was specifically designed to “promot[e] and encourage respect for human rights;”
- the idea of a moral order that preempts an otherwise inconsistent legal rule to the extent necessary to protect innocent civilians from being slaughtered.

Is there something else about use of force to stop human rights abuses that accounts for the difference? It is sometimes suggested that the human rights interests protected by such uses of force are not typically particular to the intervener, but rather are interests that are common to the international community as a whole, and that therefore any particular country or countries—as opposed to the mechanisms that the international community has established to protect its common interests, most notably the Security Council—

principles as democracy, good governance, and the rule of law.”); Lori Fisler Damrosch, *Politics Across Borders: Nonintervention and Nonforcible Influence over Domestic Affairs*, 83 AM. J. INT’L L. 1, 5 (1989) (noting states’ increased toleration and indeed encouragement of trans-boundary political activities, and treatment of such activities as not constituting violations of international law prohibitions on non-intervention in the internal affairs of other states).

34. See, e.g., *Chemical Weapons Use By Syrian Regime: UK Government Legal Position*, U.K. PRIME MINISTER’S OFFICE (Aug. 29, 2013), <https://www.gov.uk/government/publications/chemical-weapon-use-by-syrian-regime-uk-government-legal-position/chemical-weapon-use-by-syrian-regime-uk-government-legal-position-html-version> [<https://perma.cc/JA8W-4FNY>].

should not be allowed to “make the call” on whether to resort to force for humanitarian intervention purposes.³⁵

It may well be true that the threats posed by human rights rogues are not particular to any group of states, but is that not also true of the threats posed by security rogues? Do such security threats similarly fall on the international community as a whole? That may be true in the abstract, but leaders of strong states may well perceive the threat from security rogues as directed in particular against them and may well perceive a special responsibility for protecting against the kind of security threats they present. Leaders may thus see less of a direct vital interest in international law being molded in a way that permits them to take on particular responsibility for a humanitarian burden, and may additionally fear that that permission will too quickly evolve into an obligation. We thus should not be blind to the possibility that herein rests the underlying reason that there has been less evolution in the rules on use of force for humanitarian purposes than in the rules regarding self-defense.

That is not to say that there are not situations in which humanitarian considerations play an important role in U.S. decisions about resort to force. But at least arguably, in each case, there is an essential security context. In Kosovo, for example, which many people recall today in humanitarian intervention terms, the Clinton administration’s justification for military action was laced with security considerations, and the narrative often began by recalling the circumstances of the start of World War I in the Balkans.³⁶ And even something like the recent April 14, 2018, airstrikes in response to use of chemical weapons in Syria involved active hostilities in a theater in which U.S. military personnel were already operating;³⁷ and it is certainly not hard to conceptualize the underlying threat as based on special security concerns regarding “breaking the seal” on proliferation

35. See Franklin Berman, *The UN Charter and the Use of Force*, 10 *SING. Y.B. OF INT’L L.* 9 (2006).

36. See, e.g., Daily Press Briefing, State Department (23 March 1999), available at <http://www.hri.org/news/usa/std/1999/99-03-23.std.html> [<https://perma.cc/YQ6E-4VMT>] (“Serbia’s actions constitute a threat to the region, particularly Albania and Macedonia and potentially NATO allies Greece and Turkey”); Madeleine K. Albright, Secretary of State, Remarks and Q&A Session at The Brookings Institution National Issues Forum: A New NATO for a New Century (Apr. 6, 1999) (“Kosovo is part of an area, the southeast corner of Europe, where *World War I began*” (emphasis added), available at <https://1997-2001.state.gov/statements/1999/990406.html> [<https://perma.cc/F88V-JY6D>]).

37. Helene Cooper & Ben Hubbard, *Pentagon Says Syria Strikes Hit ‘Heart’ of Chemical Weapons Program*, *N.Y. TIMES* (Apr. 14, 2018), <https://www.nytimes.com/2018/04/14/world/middleeast/syria-airstrikes-analysis.html> [<https://perma.cc/3YJ3-BUGN>].

and use of weapons of mass destruction, and as a threat that falls with particular force on the United States and its allies. Indeed, it is worth noting that the April 14 airstrikes were directed against Syrian chemical weapons facilities,³⁸ notwithstanding other actions that could have been taken to provide more protection for a greater number of civilians if the action were driven solely, or even predominantly, by a desire to protect civilians. If the objectives were predominantly humanitarian, there would have been better ways to get greater humanitarian bang for the buck.

CONCLUDING OBSERVATIONS.

There is thus a distinct possibility that the absence of a humanitarian intervention doctrine results more from the absence of political will than from an inability to craft plausible legal arguments. Policymakers do not push for legal theories to make permissible things that they do not particularly want to do, and their lawyers do not reach for theories for which policymakers do not push.

In light of this, there are at least two things worth considering for those who would want to encourage a greater willingness to use force in the face of humanitarian catastrophes. First, on a case-by-case basis, proponents of such uses of force may want to work to develop legal arguments that are tailored in a fact-specific manner to particular situations, that express the humanitarian goals of a particular mission in terms that resonate from a security perspective, and that better fit into the pattern of arguments that have been used to justify use of force for self-defense. This may not be as hard as it seems at first blush as it may well be that any cases that entail a realistic prospect of U.S. military intervention will (like Kosovo) be laced with security considerations. Second, on a more general level, proponents of such uses of force may want to work to develop a more compelling narrative about the security threats that humanitarian catastrophes do in fact pose. There is certainly a strong case that can be made that the United States has a profound security interest in atrocity prevention, even if the risk posed by such atrocities does not fall on the United States alone. The premise that we have such a security interest is of course a cornerstone of President Obama's Presidential Security Directive 10, which stated that preventing mass atrocities is a "core national security interest, and not just a moral

38. Phil Stewart & Tom Perry, *U.S. Says Air Strikes Cripple Syria Chemical Weapons Program*, REUTERS (Apr. 14, 2018), <https://www.reuters.com/article/uk-mideast-crisis-syria/u-s-says-air-strikes-cripple-syria-chemical-weapons-program-idUSKBN1HK16M> [<https://perma.cc/WJ4S-6E4Z>].

responsibility,"³⁹ and established an Atrocity Prevention Board which has been embraced in bipartisan legislation that President Trump signed into law in January 2019.⁴⁰ All of that is good, but it may be that policymakers have said the words but not yet fully absorbed their own message.

-
39. Barack Obama, Presidential Security Directive/PSD10, Presidential Security Directive on Mass Atrocities (4 August 2011). *See also* MADELEINE K. ALBRIGHT & WILLIAM S. COHEN, PREVENTING GENOCIDE: A BLUEPRINT FOR U.S. POLICYMAKERS (2008), at xx (discussing ways in which genocide and mass atrocities threaten core U.S. national interests), *available at* <https://www.ushmm.org/m/pdfs/20081124-genocide-prevention-report.pdf>.
40. Elie Wiesel Genocide and Atrocities Prevention Act of 2018, Pub. L. No.115-441 (Jan. 14, 2019), 132 Stat. 5586. Among other things, this legislation provides that it shall be the policy of the United States to "regard the prevention of atrocities as in its national interest." *Id.*, section 3(1).