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Did the UK and Australia have a special responsibility to protect the Iraqi people from Islamic State in 2014?

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“...while some people would say that our [2003] intervention in Iraq means that we should not intervene in this case, I think that there is a heightened responsibility for us precisely because we did intervene in Iraq, and—with all kinds of implications—the Iraqi state that has emerged is partly our responsibility.”

Ed Miliband, House of Commons, 26 September 2014

In August 2014, the US and its allies resumed air-strikes over Iraq. The target of these operations was the movement known as Islamic State (IS). It had emerged as a major force in the Syrian civil war, and during the summer of 2014 it extended its operations into Iraq. IS seized Iraq's second largest city, Mosul, and the coalition's strikes were designed to support Kurdish ground forces in defence of the strategically important Mosul dam. IS's summer offensive also caused a humanitarian crisis as mainly non-Sunni populations fled its advance. In fact, before fully committing to the defence of Iraq the US-led coalition launched a humanitarian operation primarily to protect the Yazidi population stranded on Mount Sinjar, which included air-drops of humanitarian aid and military strikes against IS ground forces. By the end of 2014, six western governments (the UK, Australia, Belgium, Canada, France,

and the Netherlands) had joined the US in conducting air-strikes against IS. Only the US had extended the campaign against IS into Syria.

For some of these states, including the UK and Australia, the air-strikes marked a troubling return to Iraq. The UK and Australia had been part of the 2003 US-led invasion force, which overthrew Saddam Hussein's regime and, in the eyes of some, had sown the seeds of the crisis in 2014. Indeed, as the UK's leader of the opposition, Ed Miliband, stated to the House of Commons on 26 September 2014, the UK had a 'heightened responsibility' to act because it had helped create the context in which IS had emerged. The purpose of this paper is to interrogate this line of reasoning. While recognizing the limited role of this argument in debates over intervention in Iraq against IS, we contend that the UK and Australia did indeed bear a special responsibility to protect the Iraqi people during 2014, based on the widely-held principle of reparation. This is because the invasion and subsequent policy failures greatly exacerbated Iraq's vulnerability to external shock from an aggressive actor such as IS. We further contend that an acceptance of such a special responsibility would enjoin these two states to do more to protect Iraq's people than they did in 2014, such as protecting a greater number of Iraqi refugees. Given that the acceptance of a special responsibility can lead to more demanding expectations for action, it is unsurprising that political elites in the UK and Australia have sought to frame their return to Iraq as fulfilling a *general* responsibility, allowing them to argue that they have done 'their fair share' by incurring the costs of military action.¹

We purposely focus on the UK and Australia (and not the US), as we wish to highlight the significance of special responsibilities which flow only from the principle of *reparation*, rather than those which stem from the special *capability* of particular actors. The argument that states with an effective capability bear a special responsibility to protect the vulnerable is explored in a recent work by a group of leading constructivist scholars, who contend that 'special responsibilities ought to be assigned to those states and non-state actors with the relevant capability to make the biggest difference to alleviating the plight of those who are

¹ For instance, see David Wroe, 'Australian troops face threat in Iraq amid slow international response', *The Age*, 20 January 2015 <<http://www.theage.com.au/federal-politics/political-news/australian-troops-face-threat-in-iraq-amid-slow-international-response-20150119-12tkmy.html>> (accessed 03/05/2015).

most vulnerable to particular global or transboundary risks'.² There is no question that this kind of special responsibility rests with the US and, given that President Obama has claimed that 'our endless blessings bestow an enduring burden',³ the US seemingly recognizes this responsibility. Since the US also bears significant responsibility for the deepening of Iraq's vulnerability that we highlight in this article, it follows from our argument that the US's special responsibility towards Iraqis is especially strong, as it does not only derive from capability, but also from a reparative obligation.

In contrast, as middle-ranking powers, the UK and Australia arguably do not have any special capacity to make a difference to the protection of Iraqis and do not, therefore, bear a special responsibility on this basis, but rather only a *general* responsibility under doctrines such as the Responsibility to Protect (R2P).⁴ We argue, however, that the UK and Australia *did* indeed bear a reparations-based special responsibility to protect Iraqis in 2014, given their role in the 2003 invasion. While the special responsibility of the US towards Iraqis is powerful whether one believes that this responsibility is based on capability and/or reparative grounds, we wish to emphasize the UK and Australia's reparations-based special responsibility even in the absence of any special capability, given their contribution to Iraq's vulnerability alongside the US through the invasion.

We make our argument in four sections. The first outlines the distinction between general and special responsibilities, noting that the latter are more demanding and therefore not necessarily discharged by actions designed to meet the former. The second and third sections explore how, in the 2014 debates on Iraq in the UK and Australia, talk of special responsibilities was marginal, despite the strong reparative obligations of these two states towards Iraqis. In the fourth section, we argue that the finding of a reparative responsibility creates moral pressure for these two states to go beyond action that otherwise discharges a general responsibility. This does not necessarily mean the two states should have contributed

² Mlada Bukovansky, Ian Clark, Robyn Eckersley, Richard Price, Christian Reus-Smit and Nicholas J. Wheeler, *Special responsibilities. Global problems and American power* (Cambridge: Cambridge University Press, 2012), p.222.

³ 'Statement by the President on ISIL', 10 September 2014 <<https://www.whitehouse.gov/the-press-office/2014/09/10/statement-president-isil-1>> (accessed 03/05/2015).

⁴ It is possible, of course, that the US, for political reasons, was not capable of acting alone. In this sense, Australia and UK may have a special responsibility emerging from their interoperable capabilities because these make it possible for the US to act. See Toni Erskine, 'Coalitions of the willing and responsibilities to protect: informal associations, enhanced capacities and shared moral burdens', *Ethics and International Affairs* 28:1, 2014, pp.115-145.

more to the military mission. We argue, however, that the special responsibility to protect Iraqis could be met through humanitarian aid and a more generous asylum policy.

General and Special Responsibilities: What Is At Stake?

In political philosophy, general responsibilities are commonly understood, on the interpersonal level, as responsibilities ‘we have to people as such’, whereas special responsibilities are those ‘we have only toward particular people with whom we have had certain significant sorts of interactions or to whom we stand in certain significant sorts of relations’.⁵ In this article, we apply these terms to the state level, using the notion of a *general* responsibility to refer to a responsibility to other states or individuals borne by the international society of states as a whole, and a *special* responsibility as one which is held only by certain states towards other states or individuals on account of certain interactions, relationships or connections between them.

On first glance, it might be thought that the threat posed by IS created only *general* responsibilities for international society. First, although the UN Security Council did not pass a Chapter VII resolution authorizing collective military action to restore international peace and security in response to IS’s seizure of territory a general responsibility to respond was established by the Iraqi government’s appeals for assistance. Iraq is a recognised sovereign state and, under Article 51 of the UN Charter, it has a right to defend itself. As UN members committed to upholding the Charter, other states have a collective, general responsibility to assist Iraq in defending itself.⁶

Second, as noted above, IS’s advance caused a humanitarian crisis, which included the possibility that the group would engage in genocide and other atrocities. Under the R2P principle, states have a collective responsibility, acting through the Security Council, to take action in ‘a timely and decisive manner ... should peaceful means be inadequate and national authorities manifestly fail to protect their populations from genocide, war crimes, ethnic

⁵ Samuel Scheffler, *Boundaries and allegiances. Problems of justice and responsibility in liberal thought* (Oxford: Oxford University Press, 2001), p.49.

⁶ We set aside the possible argument that each state bears a *special* responsibility to protect based on its *membership* of international society or, for certain states, Security Council membership. On the latter point, see Tim Dunne, ‘Distributing duties and counting costs’, *Global Responsibility to Protect* 5:4, 2013, pp.443–465.

cleansing and crimes against humanity.’⁷ Again, the UN Security Council did not authorise military action for this purpose, but the Iraqi government’s appeals for assistance meant states were not under any legal obligation to seek such authorisation when responding to their R2P.

However, when it comes to deploying ‘timely and decisive’ military force, international society – in the language of Security Council resolutions – ‘calls upon member states’ to deliver the capability. In this sense, there is a significant collective action problem. Without specifying which states or institutions bear responsibility, ‘there is a real danger that appeals to a responsibility to protect will evaporate amid disputes about where that responsibility lies’.⁸ A consequence of this is often that no state takes responsibility, and international society *as a whole* fails to meet its collective responsibility.⁹ In other words, the responsibility to protect remains an imperfect duty, in the sense that ‘no one has been assigned the duty, and it is not specified what anyone is to do’.¹⁰

How can such an apparently general and imperfect duty be translated into a special responsibility to act? As David Miller has suggested, one obvious way is to look for morally relevant connections between a given situation of vulnerability and particular agents. This can be achieved by identifying agents with the capability to remedy the situation in question, as Bukovansky et al. emphasise, but such connections may also potentially be established on the basis of other factors, such as association or shared community.¹¹ This could conceivably lead to a special responsibility being assigned to Iraq’s neighbours, or to Western powers which have long been involved in Iraq’s affairs. Setting aside this possible rationale for assigning special responsibilities, we focus on the powerful criterion of *reparation*, which assigns a special responsibility to protect to those who have harmed, or rendered vulnerable, a given individual or group.

Assignments of responsibility on the basis of reparation are most powerful when an actor has brought about a situation of vulnerability *culpably*; that is, when they have acted

⁷ United Nations, *World Summit Outcome Document*, A/RES/60/1.

⁸ Alex Bellamy, ‘Responsibility to protect or Trojan horse? The crisis in Darfur and humanitarian intervention after Iraq’, *Ethics and International Affairs* 19, 2005, pp.31-53, p.33.

⁹ David Miller, ‘The responsibility to protect human rights’, in Lukas H. Meyer, ed., *Legitimacy, justice and public international law* (Cambridge: Cambridge University Press, 2009), pp.232-251.

¹⁰ See Kok-Chor Tan, ‘The duty to protect’ in Terry Nardin and Melissa S. Williams, eds., *NOMOS XLVII: Humanitarian intervention* (New York: New York University Press, 2006), p.104.

¹¹ For discussion, see David Miller, ‘Distributing responsibilities’, *Journal of Political Philosophy* 9:3, 2001, pp.453-471.

‘deliberately, recklessly or negligently’.¹² Importantly, however, an agent may bear reparative duties even if they caused the situation non-culpably. This idea has been aptly captured by Tony Honoré in his concept of ‘outcome responsibility’, which he defines as ‘being responsible for the good and harm we bring about by what we do’.¹³ Importantly, an agent can bear outcome responsibility ‘even in the absence of fault’.¹⁴ Applying this concept to the topic at hand, if it can be shown that the UK and Australia contributed to Iraq’s latest crisis, they may bear a special responsibility to protect Iraqis whether or not they acted culpably.

Once a general responsibility has been translated into a special responsibility on a particular basis, there remains the further task of specifying what it is that a particular actor has a special responsibility *to do*. In short, it is necessary to translate a broad special responsibility into a specific obligation or ‘concrete moral requirement’.¹⁵ We address this challenge in the fourth section.

It might be objected that there is little at stake in this distinction between general and special responsibilities. As the following section demonstrates, the UK and Australia have mainly framed their actions in terms of a different form of special responsibility (to protect their own nationals) and a general responsibility (to the Iraqi people), and these actions might be taken also to discharge any reparations-based special responsibility they may have had. We respond to this challenge by observing that, in common moral thought, special responsibilities are often thought of as ‘significantly more strenuous’¹⁶ than general responsibilities. Bukovansky et al capture this idea by claiming that those bearing a responsibility ‘should not be entitled to successful appeal to undue costs in those situations where they deliberately, recklessly or negligently created the situation of vulnerability’.¹⁷

If this is the case, then these distinctions become highly consequential, for several reasons. First, further action and a greater degree of sacrifice may be needed to protect Iraqis fully from IS, and the acceptance of a special responsibility is capable of prompting that greater level of commitment. Second, limiting ourselves to the notion that the UK and Australia bore only a general responsibility to Iraqis marginalizes (if not silences) any serious consideration

¹² Bukovansky et al., *Special responsibilities*, p.220.

¹³ Tony Honoré, *Responsibility and fault* (Oxford: Hart Publishing, 1999), p.14.

¹⁴ Honoré, *Responsibility*, p.9.

¹⁵ Miller, ‘The responsibility to protect’, p.233.

¹⁶ Shelley Kagan, ‘Causation and responsibility’, *American Philosophical Quarterly* 25:4, 1988, pp.293-302.

¹⁷ Bukovansky et al. *Special responsibilities*, p.220.

of what these two *specific* countries might have owed them. That does not mean they necessarily had a reparations-based special obligation. Yet, to the extent that Australia and the UK *did* bear reparative obligations towards Iraqis in 2014, we need to guard against rhetorical or instrumental action. That is, we need to be aware that states will seek to avoid the reparations-based special responsibilities by representing their actions as the fulfillment of general responsibilities they would have sought to meet even if they had not contributed to a situation of vulnerability. International society would have welcomed the contribution to the mission against IS during 2014 based on the Australia and the UK's general responsibility even in the absence of any reparative obligations. It would, however, reasonably expect a greater contribution to discharge the special responsibilities based on reparative obligations.

Special Responsibility Talk at the Margins

Although the argument that the UK and Australia bore a special responsibility to protect Iraqis from IS was made by various commentators during 2014,¹⁸ the UK and Australian governments framed the issue in different terms. This is reflected in two debates within the two states in 2014, on 1 September in the Australian House of Representatives and 26 September in the UK House of Commons. The Prime Ministers of the two countries, Tony Abbott and David Cameron, insisted that they not only had a special interest in seeing IS defeated, but also bore a *general* responsibility to protect Iraqis from atrocities. For instance, Abbott asserted that, '[i]n good conscience, Australia cannot leave the Iraqi people to face this horror, this pure evil, alone – or ask others to do in the name of human decency what we won't do ourselves'.¹⁹ Both leaders raised national security as a key concern, with Abbott highlighting the fact that at least sixty Australians had travelled to the region and 'will seek to return', and Cameron arguing that 'protecting the streets of Britain should not be a task that we are prepared to entirely subcontract to other air forces of other countries'.²⁰

¹⁸ For instance, Financial Times, 'Where the blame lies over Iraq' 19 June 2014, <<http://www.ft.com>> (accessed 09/01/2015).

¹⁹ Tony Abbott, House Hansard, 1 September 2014, p.9147.

²⁰ House of Commons Hansard, 26 September 2014, col.1256-68.

In contrast, the themes of special responsibility and reparation played a highly limited role in both debates. Indeed, Miliband's claim that the UK bore a 'heightened responsibility' to Iraqis stands as something of an exception. Miliband made this argument in response to Labour MP, Kevin Brennan, who suggested that the UK had 'a particular responsibility for subsequent events, and, therefore, a particular responsibility towards the Government and people of Iraq'.²¹ In Australia, Green Party Senator, Christine Milne, expressed the view that there was 'no doubt' about Australia's culpability.²² Acknowledging that the situation had been made worse by 'the nature of the al-Maliki government [in Iraq]', she nonetheless argued that after 'the 2003 engagement in Iraq we left a major vacuum which has been filled by this ethnic violence and tension that has gone on ever since'.

Cameron, in contrast, only engaged with the charge of culpability by seeking to delink the 2003 invasion from the government's proposed actions. He did so in his response to an intervention by Conservative MP, Sir Edward Leigh, who claimed that air-strikes alone would be insufficient because the Iraqi army lacked the will to fight. Leigh prefaced his question by suggesting the UK and its 2003 allies had caused 'this mess'. Although Cameron agreed that 'a...well formed Iraqi armed forces' were important, he disagreed with Leigh 'on the cause of how this came about'. Explaining his point, he stressed two significant intervening factors: the current Syrian and Iraqi regimes.²³

While the 2003 invasion did therefore figure in debates – with Cameron, for instance, insisting that the lessons of history had been learned – references to the invasion were mainly made to reassure Parliament and the wider audience that the same mistakes would not be made again. Of course, it is not surprising that those who supported the 2003 invasion would avoid making the link to Iraq's vulnerability to IS. We argue in the following section, however, that the UK and Australia's role in the 2003 invasion did establish a reparations-based special responsibility to protect Iraqis. This is consequential because it creates a moral obligation to respond to Iraqis' vulnerability in ways that go beyond actions that discharge merely general responsibilities. By refusing to acknowledge this, and by hiding behind the argument that they are fulfilling the state's general responsibility to protect, the UK and Australia fell short of reasonable moral expectations for action.

²¹ House of Commons Hansard, 26 September 2014, col.1271.

²² Christine Milne, Senate Hansard, 1 September 2014, p.6052.

²³ House of Commons Hansard, 26 September 2014, col.1257.

The UK and Australia's Special Responsibility

The argument that the UK and Australia bore a reparations-based special responsibility to Iraqis could take various forms, which are glossed over in Miliband's claim. First, it could take the form that direct causal links exist between the 2003 invasion and the rise of IS in 2014. Alternatively, it could take the form that, by participating in the invasion, the UK and Australia came to owe a debt to the Iraqi people that can be repaid through assistance in the fight against IS, even if causal links between the invasion and the current crisis cannot be proven. In what follows, we contend that the most powerful argument that these two states bear a special responsibility to protect Iraqis is that the 2003 invasion and subsequent coalition policies left Iraq in a highly vulnerable position, such that it partly succumbed to an external threat such as IS. This, we believe, is the case whether one believes that coalition members acted culpably in the invasion and its aftermath, or whether one believes they bear only outcome responsibility for the vulnerability of Iraqis, although we suggest that the concept of outcome responsibility is particularly well-suited to the argument advanced here.

Linking the rise of IS to the 2003 invasion

One obvious reading of Miliband's claim is that there is a direct link between the 2003 invasion and the rise of IS in 2014. As we will argue shortly, the invasion created a power vacuum which has never been adequately filled, and failures of rebuilding set in motion a cycle of violence that has never been effectively quelled. This link has been made even by President Obama, who has stated that 'ISIL is a direct outgrowth of al-Qaeda in Iraq, that grew out of our invasion'.²⁴ However, an argument that coalition members bore a special responsibility towards Iraqis because of causal links between the invasion of Iraq and the rise of IS would ignore numerous examples of 'intervening agency'.²⁵ In other words, such causal links are, at most, highly indirect, given the significant influence of other actors on the rise of IS between 2003 and 2014. Indeed, Tony Blair's insistence that '[w]e have to liberate

²⁴ Vice News, 'President Obama talks with Vice News', 17 March 2015, <<https://news.vice.com/video/president-obama-speaks-with-vice-news>> (accessed 13 April 2015).

²⁵ See Thomas Hurka, *Drawing morals. Essays in ethical theory* (Oxford: Oxford University Press, 2011) pp.247-51.

ourselves from the notion that “we” have caused this [the current crisis in Iraq]’ may have been self-serving, but he nonetheless correctly identifies intervening variables such as ‘the sectarianism of the Maliki Government’ which alienated Iraq’s Sunni population, and the Syrian civil war which allowed IS to emerge. He also questioned ‘whether the withdrawal of US forces happened too soon’.²⁶

The difficulties of clearly establishing causal links between the invasion of 2003 and the rise of IS in 2014 can be illustrated by focusing briefly on the character of the debate over IS in Washington DC during summer 2014. From one perspective, responsibility for IS’s rise lay not with the Bush administration’s decision to invade Iraq. Mistakes may have been made in the way regime change had been handled, but these had been corrected by the ‘surge’ in 2007 and the so-called Anbar Awakening. Rather, responsibility for IS’s rise rested squarely with the Obama administration, and there were two aspects to this: first, the decision not to back pro-democracy groups in Syria and, second, the withdrawal of American forces from Iraq.²⁷ From another perspective, responsibility for the rise of IS lay with Assad’s regime in Syria, the Maliki government in Iraq and those regional actors that have provided the movement with material assistance. In particular, the Maliki government insisted that the US withdraw its troops by December 2011,²⁸ and so it might be thought that responsibility for the consequences of this decision should lie with the Iraqi government and that Obama’s hands were effectively tied in this respect. On this view, it was the acts and omissions of these powers within the Middle East that created the IS threat and there was little the Obama administration could have reasonably done differently to prevent it.²⁹ The argument that a bombing campaign in response to Assad’s use of chemical weapons in 2013 could have prevented the IS threat fails to take into account the target would have been Assad (either his regime or his chemical weapons, or both), not IS.

In some ways, this debate on whether the Bush or Obama administrations are responsible for the rise of IS misses a crucial point: both arguments suggest that *the US state* bears reparative

²⁶ Tony Blair, ‘Iraq, Syria and the Middle East’, 14 June 2014, <<http://www.tonyblairoffice.org/news/entry/iraq-syria-and-the-middle-east-an-essay-by-tony-blair/>> (accessed 09/02/2015).

²⁷ ‘Dick Cheney Is Still Right. Obama’s return to Iraq reveals how wrong he has been about the world’, *Wall Street Journal* 11 September 2014 <<http://www.wsj.com/articles/dick-cheney-is-still-right-1410305068>> (accessed 16/04/15).

²⁸ Toby Dodge, *Iraq. From war to a new authoritarianism* (London: Routledge, 2012), p.14.

²⁹ For a review of the arguments see Robert W. Merry, ‘Who Is More Responsible for the Rise of ISIS? Bush or Obama? *The National Interest* 17 September 2014’ <<http://nationalinterest.org/feature/who-more-responsible-the-rise-isis-bush-or-obama-11296>> (accessed 16/04/15).

obligations towards Iraqis. Only those willing to accept that the Bush administration had paid its debt to Iraqis, and that the Obama administration was right to withdraw from the region, are able to exculpate the US. The debate in the US does, however, illustrate two points that impact on the question of reparation: first, it further exposes how the intervening agency of actors such as Assad, Maliki, and possibly Obama can weaken any claim that the coalition bore a special responsibility to protect Iraqis in 2014; and, second, if the US did create the crisis in 2014 not because of what it did in 2003 but because of what it did *not* do between 2011 and 2013 (i.e. assist pro-democracy movements in Syria and keep US forces in Iraq), then this possibly releases the coalition of its special responsibility. In other words, if the rise of IS was a consequence of *Obama's* omissions, then it is possible that Australia and the UK cannot be held responsible because of the support they gave *Bush* in 2003. However, even if the case could be made that responsibility for the rise of IS rested with omissions of the Obama administration, it does not follow that this releases the coalition members from responsibility. Indeed, a case could be made that the US did not launch a bombing campaign in 2013 in part because *the UK parliament* had refused to support such action. In this argument, the UK's special responsibility flows not from what it did in 2003 but from what it did not do in 2013.

The complexity of the reasoning illustrates the point: it is difficult to establish causal connections between the 2003 invasion and the rise of IS in 2014; and indeed the indeterminate nature of this reasoning opens itself up (as the US debate clearly illustrates) to politically motivated narratives. Rather than making the argument that the coalition 'birthed' IS and postulating a direct causal link between the invasion and its rise,³⁰ we suggest that it is the vulnerable position in which Iraqis were placed as a consequence of the invasion that grounds the UK and Australia's special responsibility to protect them. This, as we shall see, involves the far less controversial task of identifying causal links between the 2003 invasion and Iraq's subsequent vulnerability, rather than showing a clear causal pathway from invasion to the rise of IS. Once the coalition had radically deepened Iraq's vulnerability to external shock through the invasion, the fact that the particular shock to which Iraq was eventually subjected – IS – was the responsibility of the coalition only in a fairly indirect and

³⁰ 'Noam Chomsky on how the Iraq war birthed ISIS', *Democracy Now*, 2 March 2015 <http://www.democracynow.org/2015/3/2/noam_chomsky_on_how_the_iraq> (accessed 9 April 2015).

attenuated manner does not affect its much more direct responsibility for Iraq's vulnerability to such a shock in the first place.

Vulnerability to External Shock

How did the invasion and the policies implemented in its aftermath lead to Iraq's considerable vulnerability to external shock? The process has been well-documented. The invasion prompted the collapse of the Iraqi state and created a devastating power vacuum. The coalition powers entered Iraq expecting to encounter a robust set of state institutions when, in reality, these institutions had been driven to the point of collapse by both decades of conflict and the international sanctions regime which had held in the years before the invasion.³¹ The flight of the Ba'athist administration following the invasion led to a power vacuum which could not be filled by the relatively low coalition troop numbers, while widespread looting dismantled the state's physical infrastructure. A climate of lawlessness, which allowed for the development of an insurgency, emerged.³² The extent of state collapse was then deepened by the Coalition Provisional Authority's de-Ba'athification decree, which dismissed those associated with the former regime from their posts and dissolved the Iraqi army, leaving almost 30,000 Iraqis out of work, and effectively removed the last remaining pillars of the Iraqi state.³³ The invasion led to a 'sharp increase in criminality', as prisons were opened just prior to the invasion, the police disappeared and borders were left unguarded and became highly porous.³⁴ The opportunities for looting rendered an insurgency relatively easy to organise, for weapons stockpiled by the previous regime across Iraq meant that such arms became easily accessible to those who went on to become insurgents.³⁵

Another way in which the coalition left Iraqis in a vulnerable position was by entrenching communalism into a new political system. Despite the superficial secularism of the Ba'athist regime, Saddam Hussein's rule had possessed a significant communal dimension, especially during its final years as a result of the sanctions regime, which led it to reach out for support

³¹ Eric Herring and Glen Rangwala, *Iraq in fragments. The occupation and its legacy* (London: Hurst and Company, 2006), p.207.

³² Joseph Sassoon, *The Iraqi refugees: the new crisis in the Middle East*, (London: I.B. Tauris, 2009), p.30.

³³ Sassoon, *The Iraqi refugees*, p.130.

³⁴ Charles Tripp, *A history of Iraq* (Cambridge: Cambridge University Press, 2007), p.288.

³⁵ Dodge, *Iraq*, p.60.

from tribal leaders in what has been described as a ‘retribalization’ of the Iraqi state.³⁶ Yet, rather than seeking to forge an inclusive national Iraqi politics after 2003, the US institutionalised the communal differences which had resurfaced following its invasion. This has been characterised by Dodge as an ‘exclusive elite bargain’ which has effectively ‘demonised...the whole Sunni section of society’ and entrenched a Shi’a dominated political system.³⁷ Indeed, the creation of a disenfranchised Sunni minority greatly facilitated the rise of IS. The coalition also allowed sectarian politics to infiltrate the ministries of the Iraqi government, presiding over a system in which such ministries ‘became partisan fiefdoms, farmed out by powerful factions, made more powerful by their ability to command militias that were used to terrorise political enemies’.³⁸ For instance, the Ministry of Interior came to control Special Police Commandos run by Shi’a militias, which committed violence, torture and extra-judicial executions against Sunnis.³⁹

Such factors facilitated the emergence of full-scale civil war in Iraq from 2006, effectively creating a ‘disintegrative cycle’, in which sectarian groups moved into the power vacuum and went on to weaken state authority yet further.⁴⁰ This was not wholly corrected by the ‘surge’ of American troops and tactical alliances between the US and Sunni groupings, which had helped to reduce the levels of violence, given that the main drivers of post-invasion violence – such as persisting sectarian divisions and state weakness – remained in place after its conclusion.⁴¹

It might be objected that, despite these causal links between the invasion and Iraq’s vulnerability, this causal story problematically downplays the role of, or even exonerates, Iraqis themselves and other nationals in the unravelling of the Iraqi state. Perhaps, it might be suggested, the problem of intervening agency arises here too. Clearly, it would be absurdly reductive to claim that coalition members such as the UK and Australia bear *complete* responsibility for this unravelling. Indeed, those seeking to attribute total responsibility for Iraq’s vulnerability in this way would have to argue that insurgents who committed sectarian violence were somehow *compelled* to act in the way that they did, thereby implausibly

³⁶ Gareth Stansfield, *Iraq. People, History, Politics* (Cambridge: Polity, 2007), p.157.

³⁷ Dodge, *Iraq*, p.47.

³⁸ Tripp, *A history of Iraq*, p.277.

³⁹ Dodge, *Iraq*, p.63.

⁴⁰ Ali Ali, ‘Displacement in a fragile Iraq’, *Forced Migration Review* 43, 2013, pp.58-59.

⁴¹ Dodge, *Iraq*, p.203.

denying their agency and responsibility. This is certainly not what is being argued here. Iraq's vulnerability to external shock may have been further deepened by the actions of other agents such as insurgent groups, which were 'designed not only to discourage Iraqis from working for the new state but also to stop the growth of its institutions',⁴² but this does not remove the responsibility of the coalition as the primary architect of this vulnerability through its devastation of the Iraqi state. Even once the primary responsibility of Iraqi insurgent groups and other actors is taken into account, a significant share of responsibility is nevertheless borne by coalition powers such as the UK and Australia.

Another objection may be that, in supporting the invasion and contributing to the failed occupation, the UK and Australia were not culpable because they did not act negligently or recklessly. This can be debated, but we need not rest our argument upon it. This is because Honoré's concept of 'outcome responsibility' can be used to explain why the UK and Australia have a special responsibility to protect Iraqis from IS without making this case. If it is *also* found that the coalition's involvement in Iraq from 2003 onwards was negligent or reckless, then the argument that the UK and Australia bore a special responsibility is only strengthened.

As discussed above, Honoré strongly argues that assignments of responsibility should not necessarily depend on the finding of fault. Honoré has used an analogy with betting in order to explicate his rationale for outcome responsibility: when we act as agents, we effectively take a bet on the outcomes of actions.⁴³ If we see ourselves as entitled to reap the rewards of our actions, then we should also be prepared to bear the costs of them if they harm others. Although Honoré's work focuses on the domestic context of tort law and the doctrine of strict liability, as David Miller's work has shown, it can also be powerfully applied to the international level.⁴⁴ This analogy with betting is useful when exploring the relationship between the coalition's actions in Iraq since 2003 and the eventual rise of IS. In the absence of the Arab Spring or the Syrian civil war which allowed IS to gain a foothold in Syria, Iraq would not have suffered from any outside aggression and the coalition's gamble may not

⁴² Dodge, 'War and resistance in Iraq: from regime change to collapsed state', in Hinnebusch, R. and Fawn, R., eds., *The Iraq war. Causes and consequences* (London: Lynne Rienner, 2006), pp.211-224, p.219.

⁴³ Honoré, *Responsibility*, pp.25-27.

⁴⁴ David Miller, *National responsibility and global justice* (Oxford, Oxford University Press, 2007).

have been exposed.⁴⁵ Yet, once an external aggressor *had* in fact attacked Iraq, the former members of the coalition bore a special obligation to mitigate the vulnerability of Iraq for which it is partly responsible.

A Special Responsibility to Do *What*?

Whether or not one believes that the UK and Australia bear a general or a special responsibility to protect Iraqis, the analysis will be incomplete without taking the further step of seeking to specify what concrete actions should be taken to discharge their responsibility. Despite the lack of any algorithm for precisely determining when a responsibility has been fully discharged, if the UK and Australia bear only a general responsibility towards Iraqis, then their contribution during 2014 to the air-strikes, humanitarian aid, and asylum are arguably sufficient in discharging that responsibility, with any further necessary action having to be taken by *other* states who are yet to fulfil their own share of international society's collective responsibility to Iraqis. On the other hand, if – as we have argued – the UK and Australia bear a reparations-based special responsibility, then their contribution during 2014 should be seen as insufficient. While it is *debatable* that they should have made a greater military contribution, either in the form of air-strikes or even ground troops, we now suggest that the acceptance of a special responsibility would *certainly* have enjoined these two states to offer greater levels of humanitarian aid, as well as asylum and resettlement opportunities.

Our caution over the greater use of military force in whatever form derives from the complexity of the moral and political issues, and the moral risks inherent in military intervention, which would need to be resolved for military action to be deemed the most appropriate means of discharging the UK and Australia's special responsibility towards Iraqis. These issues relate to the application of the criteria of just war theory,⁴⁶ such as whether a ground invasion stood a reasonable chance of success, and whether it would have been a last resort (pursued only after air-strikes had conclusively been shown to be

⁴⁵ This, however, is not to suggest that the intervening powers did not have a special responsibility to address Iraq's vulnerability to external shock. A special responsibility to remedy the vulnerabilities by rebuilding Iraq stemmed from the invasion.

⁴⁶ See, for instance, James Pattison, *Humanitarian intervention and the responsibility to protect. Who should intervene?* (Oxford: Oxford University Press, 2010).

ineffective). Given public opposition to committing ground troops in the UK and Australia, there would also be an issue of internal representativeness; that is, whether a ground intervention could be legitimately pursued given these governments' democratic accountability to their people.⁴⁷

These important considerations must be left aside here. Our point, however, is that if calls for a larger military commitment satisfied these criteria, then the UK and Australia would have a special responsibility to meet them. Yet the analysis should not be distracted by a sole focus on the military response, for the responsibility to protect does not begin and end with questions of military intervention. In contrast to the significant uncertainties and moral risks inherent in the use of military force, we contend that non-military measures, such as humanitarian aid, asylum, and resettlement, are *certainly* required if the UK and Australia's reparations-based special responsibility is to be discharged fully, whether in addition to, or instead of, military intervention.⁴⁸ Indeed, it is possible that the use of military force in Iraq was (or may become) inappropriate; and, even if this is not the case in this particular situation, it is prudent to consider each crisis on its individual merits and question whether military force can deliver adequate protection to those at risk. It would be strange in a situation where the use of force was imprudent to argue that states bore *no* remaining responsibilities. The reparations-based special responsibility of the UK and Australia would continue to exist even if the US no longer required Australian and British military capabilities.

Humanitarian aid is one form of action which can either supplement or replace military action and this has indeed formed part of the response of the US, UK and Australia to the IS threat; for instance, in the air-drops to assist the Yazidi population stranded on Mount Sinjar. We give particular attention to asylum here because it has been less readily linked to R2P by policy-makers and scholars than military intervention or humanitarian aid. As Jennifer Welsh

⁴⁷ See Pattison, *Humanitarian intervention*, ch.5.

⁴⁸ For instance, the former Canadian Prime Minister, Jean Chrétien, urged Canada to accept 50,000 refugees fleeing IS as an alternative to military action. Chrétien, 'Canada's true role in the Mideast conflict', *The Globe and Mail*, 17 October 2014 <<http://www.theglobeandmail.com/globe-debate/canadas-true-role-in-the-mideast-conflict/article21138349/>> (accessed 11/04/2015).

has recently noted, there is a tendency within areas such as the EU to see R2P as ‘a foreign policy issue: i.e. as something we do “outside” our borders’.⁴⁹

Discharging one’s R2P through an asylum policy is not wholly free from practical problems, given the potential of a generous asylum policy to deepen Iraq’s already significant ‘brain drain’⁵⁰, and the challenge posed by restrictionist attitudes towards asylum-seekers within both the UK and Australia. Nevertheless, the provision of asylum does constitute a clear way in which *immediate* protection against atrocities can be offered, in a manner that is free from the moral risks and longer-term uncertainties associated with military intervention. Indeed, as Barbour and Gorlick have put it, ‘[t]here may be no easier way for the international community to meet its responsibility to protect than by providing asylum and other international protection on adequate terms’.⁵¹

A focus on asylum is also apposite given that, after all, the vulnerability of the Iraqi state to external shock has prompted large-scale displacement, both within its borders, and to neighboring countries and further afield. Australia has responded to this displacement relatively more robustly than the UK. In August 2014, Australia offered resettlement places to almost 4,500 refugees from Iraq and Syria,⁵² 1,000 of which had reportedly been filled by November 2014, and 75% of whom were Iraqis.⁵³ However, this is in the context of a cut the country’s refugee resettlement quota from 20,000 places in fiscal year 2012-2013 to 13,750 places in 2014-2015,⁵⁴ and against the backdrop of the much-criticized policy of detaining spontaneous asylum-seekers, including Iraqis, in off-shore detention facilities.⁵⁵

⁴⁹ Jennifer Welsh, ‘Fortress Europe and the R2P: framing the issue’, EUI Forum, European University Institute <<http://www.eui.eu/Documents/RSCAS/PapersLampedusa/FORUM-Welshfinal.pdf>> (accessed 13/04/2015)

⁵⁰ See Sassoon, *The Iraqi refugees*, p.140.

⁵¹ Brian Barbour and Brian Gorlick, ‘Embracing the “responsibility to protect”: a repertoire of measures including asylum for potential victims’, *International Journal of Refugee Law* 20:4, 2008, pp.533-66, p.533.

⁵² Phil Mercer, ‘Australia offers to resettle thousands of Iraqi and Syrian refugees’ *Voice of America*, 18 August 2014, <<http://www.voanews.com/content/australia-offers-resettle-thousands-of-iraqi-and-syrian-refugees/2416769.html>> (accessed 09/02/2015).

⁵³ Norman Hermant, ‘Syrian and Iraqi refugees fleeing Islamic State militants resettling in Australia on humanitarian visas’ *ABC News*, 9 November 2014, <<http://www.abc.net.au/news/2014-11-08/syrians-and-iraqis-fleeing-is-boosting-refugee-numbers/5875960>> (accessed 09/02/2015).

⁵⁴ United Nations High Commissioner for Refugees, ‘2015 UNHCR subregional operations profile – East Asia and the Pacific’, <<http://www.unhcr.org/pages/49e487af6.html>> (accessed 09/02/2015).

⁵⁵ Bridie Jabour, ‘Scott Morrison refuses to halt return of asylum seekers to strife-torn Iraq’, *The Guardian*, 18 June 2014 <<http://www.theguardian.com/world/2014/jun/18/scott-morrison-refuses-to-halt-return-of-asylum-seekers-to-strife-torn-iraq>> (accessed 11/04/2015).

Still, Australia's record of resettling Iraqis compares favorably with the UK, which resettles only around 750 refugees from all countries each year. In contrast to the UK's establishment of a Syrian Vulnerable Persons Scheme in early 2014 – which had resettled 143 Syrian refugees by the end of that year – an answer to a parliamentary question in November 2014 stated that '[w]e have no plans to extend the scheme to include Iraqi refugees', and that '[t]he government believes that humanitarian aid and actively seeking to end the conflict in Iraq are the most effective ways for the UK to help the majority of those affected by the crisis'.⁵⁶ The answer also noted that a number of Iraqis from neighboring countries had been accepted under the UK government's Gateway resettlement programme, which resettled 787 refugees in 2014, including the aforementioned 143 Syrians. While Iraqis whose flight predated the rise of IS continued to await a decision on their asylum claims in the UK during 2014, Iraqis were not among the top ten nationalities applying for asylum in the UK over the course of that year.⁵⁷

Of course, whether or not the special responsibility of the UK and Australia is taken to include an obligation to offer asylum *in addition to* military intervention, or *instead of it*, will have implications for the numbers of refugees they should admit. Given that there is some level of resources that, in line with their special responsibility to Iraqis, both states should devote to their protection, the pursuit of military intervention in Iraq would use a portion of those resources that then cannot be used to offer asylum. At the same time, it is worth noting that, if military intervention were to be expanded, there is the risk that, despite it being aimed at protecting Iraqis, it may actually displace some of them in the process, as is a constant risk in even humanitarian interventions. This may mean that, in seeking to discharge a special responsibility towards Iraqis, the UK and Australia would generate a fresh round of such responsibilities, and bear a reparative obligation to protect the refugees they have created.⁵⁸

Conclusion

⁵⁶ Quoted in Ben Smith and Melanie Gower, 'Syrian refugees and the UK', *House of Commons Library*, SNIA/6805, 5 March 2015, <www.parliament.uk/briefing-papers/sn06805.pdf> (accessed 11/04/2015), p.3.

⁵⁷ UK Home Office, *Immigration statistics, October to December 2014*, <<https://www.gov.uk/government/publications/immigration-statistics-october-to-december-2014/immigration-statistics-october-to-december-2014>> (accessed 11/04/2015).

⁵⁸ James Souter, 'Towards a theory of asylum as reparation for past injustice', *Political Studies* 62:2, pp.326-342.

In this article, we have argued that the UK and Australia bore a significant degree of special responsibility to protect Iraqis against the threat of IS during 2014, on account of their role in bringing about Iraq's vulnerability to external shock since 2003. Observing that this argument has in fact played a rather marginal role in governmental debate in these two countries, we examined the implications of accepting this argument for government policy in the UK and Australia; arguing that, if these two states were to accept this kind of reparations-based special responsibility, then they would have to undertake other measures – either in place of, or in addition to – air-strikes, such as more extensive humanitarian relief efforts, and the provision of asylum and resettlement opportunities to Iraqi refugees.

Although the UK and Australia have been reluctant to recognize any special responsibility towards Iraqis, the discourse of special responsibilities will never be far from political discourse over the proper response to tragedies such as those which occurred in Iraq during 2014. However, the argument that these two countries bear a reparations-based special responsibility towards Iraqis will need to gain significantly more influence if policy were to shift. In debates over responsibility, we can expect those, such as governments, who seek to limit any further state liability to frame the responsibility to protect in terms that are general and less demanding. This should be taken into account by R2P advocates in their attempts to assess how states such as the UK and Australia meet the moral standards of that concept, and in their push for effective action to protect vulnerable populations from atrocities.