

Imperfect Duties? Humanitarian Intervention in Africa and the Responsibility to Protect in the Post-Iraq Era.

Symposium Thematic Guide

It is rather mundane to note that the modern system of international relations finds its origins in the Treaty of Westphalia (1648), which put an end to the Thirty Years War with the famous words *cuius regio, eius religio* (whoever reigns, his religion). But that this expression came to inform an important principle of what we know of today as state sovereignty is reason once again to center Westphalia in our deliberations. Theorists of international relations of all schools and practitioners of international diplomacy of all ideological persuasions recognize the importance of the principle that prevents outside interference in the internal affairs of sovereign states. In 1648 the principle of non-intervention into sovereign territory was seen as the best guarantor of peace in a Europe long suffering from bloody religious war. Today, international legal scholars still hold, in nearly all but a few areas, the principle of state sovereignty to be inviolate. It is, in fact, still viewed in many corners as the best foundation for a peaceful, post-imperial, world.

Beginning in the 1980s and 1990s, however, the practice and scholarship of international diplomacy began to reflect the limits of Westphalian thinking. Looking back at the holocaust and the Armenian Genocide, and more recently at Rwanda, Darfur and DR Congo sovereignty skeptics ask if nothing more can be done than the repeated but seemingly useless calls for a greater respect of human rights on the part of the worlds' sovereign governments. Many began to decry the fact that the worst human rights violations – and violators – were often protected by the principle of non-interference, or at least by politically motivated vetoes at the UN Security Council justified by reference to it.

In response to these challenges, many in the academy, in government and in international organizations have pushed the boundaries of our understanding of sovereignty. The “sovereignty as responsibility” framework advanced by Francis Deng (see Rothchild et al, 1996) highlighted the *obligations* of sovereigns as well as their concomitant *rights*. Kouchner and Battati (1987), and others following their lead, asserted that this implied both a right and a duty to intervene (*le devoir or le droit d'ingérence*) in cases of gross human rights violations. In December 2001, the International Commission on Intervention and State Sovereignty took up this question and concluded that indeed “state sovereignty implies responsibility...” and as a result, “where a population is suffering serious harm, as

a result of internal war, insurgency, repression or state failure, and the state in question is unwilling or unable to halt or avert it, the principle of non-intervention yields to the international responsibility to protect.” These principles were unanimously adopted by the 191 governments at the 2005 World Summit.

In response to the new interventionism, defenders of classical sovereignty remind us of its origins in the religious wars of 16th and 17th Century Europe – an allusion especially relevant in an age characterized by civilizational clashes and what many view as a growing American bellicosity as manifest in its preemptive wars on drugs and terror. Calling into question a foundational principle of the international system could have profoundly destabilizing effects on the international system. Other critics fear a Trojan Horse legitimizing a new imperialism grounded in the old language of *la mission civilisatrice* (Bello 2006). Indeed, ardent and articulate critics of the “responsibility to protect” are found across the globe and across the political spectrum and need not be so enamored with sovereignty *per se*. Supporters of the new interventionism, however, are equally firm in their conviction that the principles upon which the United Nations was founded demands the right of – and places on the international community an obligation of, however imperfect – humanitarian intervention. Indeed, on the eve of the US invasion of Iraq, Ignatieff called on the world hegemon to embrace its “imperial burden” (2003).

So the terms of the debate at the turn of the millennium were fairly clear: To what extent, and under what conditions, if ever, is it ethically, legally or politically justified to use, or threaten to use, force across sovereign state borders for the purpose of securing for threatened populations their fundamental human rights, indeed their very survival? The context in which this debate must take place, however, has changed dramatically since the ICISS issued its report in 2001. *The Responsibility to Protect* was released only 3 months after the terrorist attacks of September 11, which were at the center of the political process that led to the invasion of Iraq in 2003. The tensions between territorial sovereignty and the putative responsibilities it implies for the international community must now be examined in light of the collapse into civil war that the invasion has facilitated.

Humanitarian intervention was only an *ex-post facto* justification for Operation Iraqi Freedom and thus for most observers – Tesón (2005) is a notable exception – Iraq is not an example of failed humanitarian intervention *per se*. Many are asking, however, as Stephen Holmes has, “how should we be thinking about humanitarian intervention today, after having seen how easy it was for the [Bush] Administration to steal the liberal agenda, packaging reckless bellicosity as liberation of the oppressed?” It is also a frightening reminder that questions regarding an agent’s capacity to effectively intervene ought always to be privileged. Poorly designed or ill-timed interventions will lead the well intentioned, to say nothing of the not-so-well intentioned, to do serious harm. The lead up to the war, war’s appalling consequences, and the impact of the political instrumentalization of humanitarianism invite a host of questions we hope to consider: Whither sovereignty in an international society constituted by states with interventionist responsibilities? What rights, defined and prioritized on whose terms, are to be protected? To whom are the “protectors”

to be accountable? Is the “selectivity” that has characterized the protectors’ agenda defensible under an R2P regime? Can conflict *prevention* and post-conflict *rebuilding* be integrated into the new interventionist framework? Or do the structural conditions of the international political economy preclude a meaningful western involvement in conflict prevention? Likewise, does the imperial threat of an interventionist doctrine doom meaningful commitments to rebuilding, especially when that requires international administration?

A post-Iraq era will also require the international community to come to terms with the fact that the scale of the humanitarian tragedy that has followed in the wake of the 2003 invasion is surpassed, at present, only by that wrought through the decade-long *economic* intervention that preceded it. The economic sanctions aimed at bringing about liberalizing reforms in Baghdad were apparently responsible for the deaths of somewhere between 500,000 and 1,000,000 Iraqi children. Among the fallout of the tragic US-Iraq relationship is that the international community finds itself choosing from among only these two kinds of intervention on the one hand and abandoning populations to their genocidal fates on the other. This is, as Richard Falk put it, the uncomfortable choice between action and inaction (1995). Indeed, as Anne Orford has argued, this myopic conundrum is the functional result of the discursive practices that constitute the humanitarian intervention debate, its standard “heroic narrative” and the objects of Western intervention (2003). Rescuers and victims, heroes and villains, popular discourse reduces complex humanitarian crises to an unhelpful Manichean simplicity. And in what might be construed as the apparent return to Conrad’s *Heart of Darkness*, this heroic narrative has taken on especially African tone.

To be sure, something like a perfect storm of local, national, regional and global factors has gathered in and around Africa, ensuring for it a central place in the humanitarian intervention discourse. Infamously weak states, most long bereft of meaningful *de facto* sovereignty, reside in a post-colonial grid of arbitrary borders that constitutes a key structural determinant of the conflicts for which the continent has become known. These colonial states, with their assiduous capacity to reconstitute themselves in the post-colonial era, perversely structured domestic politics in ways that produced chronic malgovernance and the profound grievances among disaffected peoples that rebellious entrepreneurs like Charles Taylor have exploited to tragic effect (Sawyer 2004, Reno 1998). A decades-long stream of international interventions has played its part. Cold war bankrolling of kleptocratic tyrants – and an apparent Terror War return to that policy – morphed into punishing post-cold war neoliberal demands for good governance that often produced states even less capable of managing their increasingly desperate societies’ conflicts. Into such a tinderbox western (and now increasingly Chinese) arms manufacturers continue to provide the means for African self-destruction. Exploitative commercial relations, focused on enclave-produced oil, timber, gold, diamonds, and other cursed resources, provides seemingly endless revenue streams for both governments and their rebel challengers to sustain their conflicts, despite, or in fact, precipitating, the collapse of the state around them. Paradoxically, the more *de facto* sovereignty has waned, the more stridently Africa’s

de jure sovereign leaders have pronounced inviolate the principle of non-intervention. And with devastating consequences for Africa's peoples, the less they have ruled with an appreciation for, or the capacity to deliver on, sovereignty's responsibilities.

Typifying these conditions, highly complex humanitarian crises persist unabated in Darfur, Uganda, and the Democratic Republic of the Congo. This is despite the requisite heroic narratives in the west – which invariably fail to fully appreciate western or global culpability in creating them (see, for example, Rice 2005). The 1994 Rwandan genocide represents for many the quintessential failure to intervene (Melvern 2000, Barnett 2002) though for others it is a reminder of the limits of western capacity to effectively save strangers (Kuperman 2001, Rieff 2003). Sierra Leone and Liberia now, however, may appear to be Phoenix states, emerging from the ashes of abject state failure. Collectively, these crises offer potential lessons for the all three elements of the international community's emergent protective responsibility: prevention, reaction, rebuilding.

It is clear that a central problem in the discourse and practice of humanitarian intervention is that it has been rather too narrowly articulated in hard power terms. The doctrine itself is clear, however, that R2P is about much more than a militarized response to a threatened or existing humanitarian emergency. The ICISS found that *prevention* of the humanitarian crisis “is the single most important dimension of the responsibility to protect” and that the “exercise of the responsibility to both prevent and react should always involve less intrusive and coercive measures being considered before more coercive and intrusive ones are applied.” But just what kinds of measures are Western powers prepared to consider under the preventive rubric? To what degree will the structural conditions and the root causes that give rise to complex humanitarian emergencies that necessitate intervention be on the table? Will western involvement in conflict-promoting arms trades, for example, or its history of supporting friendly, but corrupt, governments enjoy a place on the agenda along side the well-founded concerns about promoting transparency and good governance in Third World countries?

And finally, what will the R2P's doctrinal position on post-intervention obligations imply for both interveners and target populations? Specifically, what should post-colonial states make of the fact that the responsibility to protect, “may mean staying in the country for some period of time after the initial purposes of the intervention have been accomplished” (ICISS 2001, 39). Does this mean taking seriously the spirals of recurrent violence to which states that have experienced civil violence are more prone (Collier and Hoeffler 2002), such as the DR Congo (Autesserre 2008), or will it simply mean that international law will again underwrite empire?

The purpose of this symposium, then, is to explore the nexus of the ethical, legal and political dimensions of intervention in the post-Westphalian order that an entrenched R2P regime would inaugurate. It is only with a multidisciplinary approach that we can hope to make progress on these questions. Only a discourse that sustains an encounter between

mainstream and critical theoretical approaches to international politics is likely to help us construct a way out of the humanitarian intervention dilemma. Only by connecting empirical analysis of complex humanitarian crises to normative inquiry will anything like consensus regarding the conditions for legitimate intervention be possible. In light of the complementary as well as contradictory roles that scholars and practitioners of intervention play, it is only with a sustained conversation between them that we can hope to bridge the experiential chasm that precludes all synergy.

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