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Humanitarian Intervention

WHY, WHEN & HOW

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Why, when & how



In the aftermath of the 1990s genocide in Rwanda and ethnic cleansing in Bosnia, an International Commission on Intervention and State Sovereignty was convened in order to determine the legitimacy of acting across national borders to stop grave human-rights violations. In 2001 the commission issued its report, *The Responsibility to Protect*.

That report's core ideas were endorsed by most of the world's countries through the UN General Assembly, which declared in 2005 that "each individual state has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing, and crimes against humanity," and that should any state fail to meet this responsibility, the international community has the right and obligation to act in its stead—by peaceful means if possible, and if necessary by armed force.

The responsibility to protect (R2P) has generated passionate disagreement. Political "realists" hold that foreign policy should be determined by national self-interest, not moral responsibility to other nations and peoples; along these lines, former secretary of state Henry Kissinger has argued that the appeals to humanitarian values behind the U.S. and NATO actions in Somalia and Kosovo were a "sweeping overextension" and

risked the stability of the international order. At the other end of the political spectrum, some post-colonial thinkers see R2P as a form of neoimperialism—in effect, a twenty-first-century version of what France called its *mission civilisatrice*, the “civilizing mission” that incorporated large swaths of Africa and Southeast Asia into *la plus grande France*. The Ugandan scholar Mahmood Mamdani argues in his book *Saviors and Survivors* that R2P, with its focus on crises in Africa, masks “a big-power agenda to recolonize Africa,” an attempt by strong nations to justify imposing their will on weaker ones.

Other African thinkers disagree, among them the Sudanese scholar and diplomat Francis Mading Deng, who argues that a state’s sovereignty derives from its responsibility to the people it should be protecting, and that when a government fails in this responsibility—as Sudan has failed the millions of persons displaced by its north-south war—it has already compromised its sovereignty. Pope Benedict XVI, meanwhile, explicitly endorsed R2P in his 2008 speech at the United Nations affirming the centrality of human rights in international politics, and subsequently restated this support in his 2009 encyclical *Caritas in veritate*.

R2P’s success in drawing support from human-rights advocates like Deng as well as from Catholic leaders, including the pope, reveals the extent to which it is informed both by standards of international human rights and by the Catholic moral tradition. The commission that developed the resolution grounded it in international human-rights standards it lauded as “great achievements of the post–World War II era.” In the commission’s view, the emergence of human rights as ethical and legal norms for state behavior parallels a movement from “a culture of sovereign impunity to a culture of national and international accountability.” Such accountability is based on the conviction that all human beings possess a fundamental dignity and a legitimate claim to be protected by their own government against violations of this dignity.

For its part, the Catholic moral tradition recognizes the importance of states and of communities formed by cultural traditions, yet views them as subordinate to the inherent human dignity of their citizens. “The fact that one is a citizen of a particular state,” John XXIII wrote in his encyclical *Pacem in terris*, “does not detract in any way from his membership in the human family as a whole, nor from his citizenship in the world community.” Admittedly, Catholic evangelization has at times abetted the Western imperial project in deeply regrettable ways. But the Catholic conviction that all persons possess fundamental dignity as members of a single human family also has a noble history. It informed sixteenth-century moral arguments against imperial exploitation of indigenous people in the Western Hemisphere. In 1511, Anton Montesino, a Dominican friar on the island of Hispaniola, denounced such exploitation as “mortal sin,” challenging the Spanish conquistadors to “tell me, with what right, with what justice do you hold these Indians in such cruel and horrible slavery?” “Are they not men?” he continued. “Are you not obliged to love them as you love yourselves?” Montesino’s eloquent denunciations were further developed by Francisco de Vitoria, the sixteenth-century moral theologian who defended indigenous peoples against the depredations of empire. (When Pope Benedict XVI endorsed R2P at the United Nations, he cited

Vitoria's argument that the normative standards of *ius gentium* demanded defense of the Indians against Spanish domination.)

A strong sense of the unity of the human family does not negate the important role of states. How to know, then, when international interventions are called for? The answer is helpfully articulated by the principle of subsidiarity, a concept first explicitly formulated in modern Catholic social thought but now routinely invoked in secular contexts. Subsidiarity holds that more distant powers should intervene in people's lives only when nearer agencies cannot or will not take the necessary action. Governments have the prime duty to protect the rights of their own citizens; only in emergencies does the responsibility move to the international community. Sovereignty and territorial integrity, while remaining important values, are ultimately limited by the unity of the human family and the right of all human beings not to face abominable abuse. Without such limitation, the nation-state would effectively become totalitarian. Resistance to such state absolutism was central to the twentieth-century development of the human-rights ethos. More recent experience of state power run amok in Bosnia and Rwanda has made the responsibility to protect people everywhere from genocide and ethnic cleansing an urgent demand.

The responsibility to protect is first and foremost a negative duty. Every state has a grave obligation not to inflict harms that "shock the conscience of mankind"—just as the international community has a *prima facie* duty not to intervene in the internal affairs of independent countries, and should enter the picture only when states fail in their duties. This built-in restraint should reassure those who see R2P as a wedge for neoimperialism. *Only* if a state engages in the gravest of human-rights violations, or fails to protect its people against such crimes, is intervention potentially justified.

Responsibility can also take positive forms. Within individual states, protecting human rights, after all, requires that citizens do more than simply leave each other alone: they must use their freedom to create the kind of political and economic institutions needed to secure human rights effectively. The international community also has positive duties under R2P, including helping to prevent the gravest rights abuses from occurring. Consider the intense diplomatic activity following postelection violence in Kenya three years ago. When interethnic violence began ominously to resemble the first stages of the genocide in Rwanda, Kofi Annan, Condoleezza Rice, and several African heads of state descended on Nairobi and pressed the contenders for the Kenyan presidency to share power in a coalition government. The coalition remains fragile, and a stable future for Kenya depends in part on implementing the rule of law through a constitution ratified earlier this year. But events in Kenya show that international agents can in fact take successful preventive action.

Positive exercise of R2P also means building peace where conflicts cause grave human-rights violations. In 2005, the United States, the United Kingdom, Kenya, and other countries pressed the government of Sudan and the Sudan People's Liberation Movement to reach a peace agreement ending the decades-long war between Khartoum and southern Sudan. In line with this agreement, a January 2011 referendum

in southern Sudan will decide the question of secession from Khartoum. Since the South would take much of Sudan's oil with it, there is real danger that a vote for independence could lead to renewed war. The United States, which played an important role in mediating the negotiations that led to the 2005 treaty, has launched initiatives it hopes will help prevent such an occurrence.

The hardest questions for proponents of R2P, of course, concern military intervention. Following the International Commission's argument, intervention is strictly governed by the norms of just war developed in Catholic tradition and now codified in the law of armed conflict. The UN has restricted *just cause* under R2P to the gravest abuses of human rights: genocide, ethnic cleansing, crimes against humanity, and war crimes. Military action must be a last resort, taken only when nonviolent, diplomatic efforts have failed. The harm caused by military intervention, moreover, must be proportionate, and there must be a reasonable hope that such intervention will succeed. These criteria ensure that R2P will justify military intervention very rarely. (As the International Commission argued forcefully, for instance, it would *not* have justified the U.S. intervention in Iraq.)

Clearly, state or nation-building remains the responsibility of each nation's own people; as John Stuart Mill observed, if a people does not value its own freedoms strongly enough to forge a government that respects these freedoms, it is unlikely that another nation will be able to do so for them. Nevertheless, there exist systems of oppression so severe, and moments of violence so turbulent, that those living amid them may be powerless to stop genocide and other grave crimes against humanity. Such situations call for international action—and various forms of economic and political support may be necessary to forestall such eventualities in the first place. Failing to recognize and meet these duties would be both naive and irresponsible.

In my judgment, R2P today demands serious and sustained effort by the international community, including the United States, to prevent Sudan from falling back into war following the coming referendum. George W. Bush took creative diplomatic steps to get both sides to sign the 2005 peace agreement, and while President Barack Obama has become personally involved in this issue of late, his willingness to exert the necessary pressure to keep both Khartoum and Juba (the South) moving ahead remains uncertain. There is evidence that the Obama administration, like the Bush team before it, has stayed engaged with Khartoum on issues of terrorism. But will it take the actions needed to prevent new violence and to protect the peoples of Sudan from a recurrence of the war crimes that surely occurred before the 2005 peace? If President Obama supports the responsibility to protect, the time for him to protect the Sudanese is now.

An earlier version of this essay was presented at the recent conference Catholic Theological Ethics in the World Church held in Trent, Italy.

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Humanitarian Intervention Legal and Political Aspects. Contents. Preface. Chapter I Introduction. Chapter II The political and moral aspects of humanitarian intervention. Chapter III Humanitarian intervention with authorisation from the UN Security Council. Chapter IV Humanitarian intervention without authorisation from the UN Security Council. Chapter V Bringing political and legal aspects together. Chapter VI Conclusions. Notes. Humanitarian Intervention. Legal and Political Aspects. Several notions of humanitarian intervention exist. Different scholars espouse either a broad or narrow definition of humanitarian intervention, and these differing approaches sometimes create confusion. "Classical" humanitarian intervention' is the unilateral intervention for protection of another state's nationals from human rights violations.⁹ "The theory of intervention on