

## R2P or Not R2P? More Statebuilding, Less Responsibility

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### Introduction

In 2001, in the aftermath of the war in Kosovo, when the concept of ‘the responsibility to protect’ was first articulated,<sup>1</sup> it appeared that the growing demand for a right of humanitarian intervention might fatally undermine the authority and structures of the United Nations. Firstly, it was argued that the UN Security Council was unsuitable as the final arbiter of whether military force was lawfully used, with suggestions of independent criteria for judging the ‘legitimacy’ of force. Secondly, it was argued that the concept of sovereign equality, the bulwark of the UN international legal order, no longer seemed to be adequate when some states abused their sovereign rights to claim impunity for mass atrocities and human rights abuses.

In 2009, it appears that the UN has successfully weathered the challenge of demands for humanitarian intervention. This short contribution to the discussion of the Secretary General’s Report seeks to highlight how the concept of ‘the responsibility to protect’ has been transformed from constituting a powerful normative challenge to the UN’s status to one which it hopes will enforce its international authority. This has been done through separating the concept of ‘protection’ from the discussion of non-consensual military intervention. This was achieved through the preparations and outcome document of the 2005 World Summit.<sup>2</sup> The Secretary-General’s follow-up Report makes

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<sup>1</sup> In the Report of the International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa; International Development Research Centre, 2001).

<sup>2</sup> For more detailed discussion of the separation of the R2P from the use of force see the recent books, Gareth Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All*

it clear that this will not be revisited (§2). In fact: ‘the responsibility to protect does not alter, indeed it reinforces, the legal obligations of Member States to refrain from the use of force except in conformity with the Charter’ (§3).

### Redefining the ‘Intervention Dilemma’

After Kosovo, advocates of intervention argued that we faced ‘the painful dilemma of being damned if we do and damned if we don’t’.<sup>3</sup> Intervention would mean violating international law and undermining the UN Charter order while non-intervention would mean being complicit in human rights violations through standing aside in the face of atrocity crimes. The initial way forward was to argue that, in cases of urgent humanitarian intervention, states could undertake coercive military action which would be seen as internationally legitimate if not formally legal.<sup>4</sup>

The 2001 ICISS report reposed this dilemma as a false choice between the right of intervention and the rights of state sovereignty. Rather than focusing on international law, the unconditional nature of sovereignty was highlighted as the barrier to intervention. The dilemma could then be overcome through building an international consensus for conditioning or limiting this right of sovereign ‘impunity’. Sovereignty was redefined in terms of the ‘responsibility’ to protect people from extreme abuses of human rights, rather than as a formal right of political autonomy and legal equality.<sup>5</sup> This was seen to remove the dilemma, thus justifying non-consensual military intervention in the limited circumstances of gross abuses of human rights.

In 2009, the ‘intervention dilemma’ is posed rather differently. There is no longer a question of challenging international law or of conditioning the rights of sovereignty to allow military intervention. It appears that it is military intervention itself which is problematised by R2P. According to the Secretary-General:

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(Washington, D.C.: Brookings Institution, 2008) and Alex Bellamy, *Responsibility to Protect: The Global Effort to End Mass Atrocities* (London: Polity Press, 2009).

<sup>3</sup> Ramesh Thakur and Albrecht Schnabel ‘Unbridled Humanitarianism: Between Justice, Power and Authority’, in A. Schnabel and R. Thakur (eds.), *Kosovo and the Challenge of Humanitarian Intervention* (Tokyo: UN Press, 2000), p. 497.

<sup>4</sup> The findings of the Independent International Commission on Kosovo’s *Kosovo Report* (Oxford: Oxford University Press, 2000).

<sup>5</sup> Following on from the formulation of ‘sovereignty as responsibility’ of Francis Deng et al in *Sovereignty as Responsibility: Conflict Management in Africa* (Washington, D.C.: Brookings Institution, 1996).

Humanitarian intervention posed a false choice between two extremes: either standing by in the face of mounting civilian deaths or deploying coercive military force to protect the vulnerable and threatened populations. Member States have been understandably reluctant to choose between those unpalatable alternatives. (§7)

In 2001, the response to the choice between ‘standing by’ and military intervention was to challenge sovereignty in order to allow military intervention; in 2009, the response to the same choice is to focus on avoiding both outcomes through strengthening sovereignty to avoid the need for military intervention. On the basis of distancing R2P from coercive intervention, the UN Secretary-General has taken the language of R2P and turned it into a moral imperative for UN institutional capacity-building.

### **The Statebuilding Solution**

The Secretary-General’s report picks up on the aspects of the ICISS report which attempt to soften the pill of greater permissiveness for military intervention. For the ICISS report, it is fairly clear that the development of the idea of a continuum of intervention, of the ‘3Rs’ – the responsibility to prevent’, ‘the responsibility to react’, and ‘the responsibility to rebuild’ – was tactically designed to win greater support for the core concern of enabling military intervention.<sup>6</sup> The Secretary-General’s report substitutes the ICISS report’s ‘three pillars’ with its own ‘three pillar strategy’: Pillar one is ‘the protection responsibilities of the State’; Pillar two is ‘international assistance and capacity-building’ for the State; Pillar three is ‘timely and decisive response’ by the international community.

Rather than focusing on the responsibilities of Western states to prevent, react and to rebuild, the reshaped R2P is focused on the responsibilities and capacities of the ‘weak’ or ‘failing’ state, held to be in need of assistance. It is the non-Western state which is at the centre of today’s R2P. This is clear in the Report’s reinterpretation of the fundamental cause of mass atrocities, taking the emphasis away from the context of war and conflict and shifting an understanding of causation towards the institutional framework of the state concerned:

The twentieth century was marred by the Holocaust, the killing fields of Cambodia, the genocide of Rwanda and the mass killings of Srebrenica...the

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<sup>6</sup> Bellamy, *Responsibility to Protect*, p. 52.

brutal legacy of the twentieth century speaks bitterly and graphically of the profound failure of individual States to live up to their most basic and compelling responsibilities. (§5)

This shift is of fundamental significance for the ‘operationalisation’ of R2P. Framing mass atrocities as occurring as the result of failings at the level of the ‘individual State’ concerned, implicitly takes these abuses out of any international context of war and conflict and is an interesting re-reading of the history of these events which all occurred in the context of war and intervention and a question over the nature and borders of the state.

The focus on the responsibility of the non-Western state, while having a shaky basis in any historical understanding of the context of mass atrocities, distances the discussion from overt and coercive Western intervention. The R2P of the 2005 World Summit inverts the problematic at the heart of the 2001 ICISS report – the problem is seen to be the weak institutional capacity of some sovereign states not the legal barrier of sovereignty itself:

As the assembled Heads of State and Government made absolutely clear, the responsibility to protect is an ally of sovereignty not an adversary. It grows from the positive and affirmative notion of sovereignty as responsibility, rather than from the narrower idea of humanitarian intervention. By helping States to meet their core protection responsibilities, the responsibility to protect seeks to strengthen sovereignty, not weaken it. (§10a)

Where ‘humanitarian intervention’ put the emphasis on leading Western states overtly intervening to take responsibility for stopping mass atrocities, the new-look R2P argues that Western responsibility is much more limited. Essentially the role for Western powers is an indirect one, providing support to the ‘weak’ and ‘failing’ state in enhancing its ‘sovereignty’. As the Secretary-General’s report asserts: ‘The State...remains the bedrock of the responsibility to protect, the purpose of which is to build responsible sovereignty’ (§13). Rather than the R2P being a coda for direct humanitarian intervention it has become the key normative justification for the more indirect forms of intervention associated with international statebuilding.<sup>7</sup>

## Evading Responsibility

Today’s framework of R2P shifts responsibility away from direct Western solutions, whether economic, political or military, and towards indirect Western

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<sup>7</sup> See further, David Chandler, *Empire in Denial: The Politics of International State-building* (London: Pluto Press, 2006).

engagement which is held to be able to ameliorate problems but cannot be expected to prevent them:

The responsibility to protect first and foremost, is a matter of State responsibility, because prevention begins at home and the protection of populations is a defining attribute of sovereignty and statehood...the international community can at best play a supplemental role. (§14)

‘Pillar one’ therefore foregrounds the non-Western state as the bearer of responsibility for mass atrocities.

‘Pillar two’ asserts that the problems of scarcity and conflict in the non-Western world can be understood through the framework of state institutional capacity. The Report asks the question ‘why one society plunges into mass violence while its neighbours remain relatively stable?’ The answer it provides is the rational choice perspective which argues that the institutional framework of the state is the key to paths of development or conflict, asserting that this abstract schema is one based on principles which ‘hold across political and economic systems’ and hold ‘regardless of a country’s level of economic development’ (§15).

This liberal institutional approach understands mass atrocities outside of a concern with economic and social relations, focusing merely on the institutional structures which are held to shape the behaviour of individuals, either providing opportunities and incentives for mass atrocities or limiting the possibility of these occurring:<sup>8</sup>

Genocide and other crimes relating to the responsibility to protect do not just happen. They are, more often than not, the result of a deliberate and calculated political choice, and of the decisions and actions of political leaders who are all too ready to take advantage of existing social divisions and institutional failures. (§21)

The understanding of mass atrocities as a product of institutional shortcomings then sets the agenda for international preventive engagement to assist in institutional capacity-building that would make states ‘less likely to travel the path to crimes relating to the responsibility to protect’ (§44):

Experience and common sense suggest that many of the elements of what is commonly accepted as good governance – the rule of law, a competent and independent judiciary, human rights, security sector reform, a robust civil society, an independent press and a political culture that favours tolerance, dialogue and mobility over the rigidities of identity politics – tend to serve objectives relating to the responsibility to protect as well. (§44)

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<sup>8</sup> For a good overview of the liberal institutionalist approach see Douglass North, *Institutions, Institutional Change and Economic Performance* (Cambridge: Cambridge University Press, 1990).

These policies flow less from evidence linking institutional frameworks to mass atrocities (§44), than from the desire to lower expectations about both Western willingness and capacity to make a substantial difference to ongoing conflicts and instability. Here, the best that the international community can do is to indirectly work to facilitate good governance mechanisms and capacity-build state institutions which are the ultimate solution, rather than the direct provision of expensive social, economic and military resources.

## **Conclusion**

Far from demonstrating Western or international willingness to prevent mass violence, the revival of R2P at the 2005 World Summit has operated to distance Western powers from responsibility. Understanding mass violence as a product of individual opportunists and institutional incapacities doubly distances Western policy-makers – first, through attributing responsibility to individuals alleged to be making a ‘deliberate and calculated political choice’; secondly, through asserting that these calculations depend on the institutional framework of the state concerned, with the implication that the correct institutional framework would minimise the possibility for political actors to choose mass violence over cooperation.

The consensus behind R2P is not one of humanitarian intervention to respond to mass atrocities. Any discussion of coercive military action would clearly be dependent on the international political context rather than any abstract principles and would be likely to be highly problematic for the UN. Rather than building on some new consensus on humanitarian military intervention, the R2P’s revival indicates that the UN has been able to capitalise precisely on the failure of Western powers to build any such consensus. The Secretary General’s report takes up the language of the ICISS report in order to enhance the institutional framework and legitimacy of the UN as the one international institution capable of ruling on the use of military force and coordinating state capacity-building.