

Rethinking the Responsibility to Protect

by Alan J. Kuperman

One of the most recent innovations of institutional liberalism in international politics is the so-called Responsibility to Protect. Defined in 2001 by an international commission established by Canada, this emerging norm challenges the Westphalian tradition by arguing that sovereignty is neither absolute nor an entitlement of statehood, but rather a privilege that states may earn only by protecting their people. Moreover, if a state refuses to protect its people, or intentionally harms some of them, the international community has not merely the right, but the responsibility, to violate that state's traditional sovereignty to protect the at-risk population—if necessary, through military intervention.

As with many aspects of institutional liberalism, however, this noble principle has faltered in practice. Most obviously, as Darfur illustrates, the international community lacks the political will for the collective action necessary to protect vulnerable citizens. But even if the international community could muster the requisite political will, humanitarian intervention would remain bedeviled by two substantial obstacles—the logistical requirements of effective intervention and the perverse unintended consequences that result from moral hazard. Based on recent experience, the Responsibility to Protect not only often fails to achieve its goal of protecting at-risk civilians, but it may also unintentionally put others in danger. Even though the doctrine is quite new, it already requires a major rethinking if it is to promote its intended purpose of maximizing protection for innocent civilians.

THE EMERGING NORM

The norm of humanitarian intervention has emerged since the end of the Cold War, which broke the logjam in the UN Security Council and freed major powers to focus on more altruistic objectives.¹ The first case was in northern Iraq in April 1991, when a failed Kurdish rebellion sparked retaliation by Saddam Hussein's army, imperiling hundreds of thousands. The United States spearheaded a military intervention that protected civilians in several ways: by deterring ground attacks, facilitating the delivery of humanitarian aid, and preventing aerial attacks with a no-fly zone. Over the next four years, the international community launched similar high-profile humanitarian military interventions, of varying effectiveness, in

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southern Iraq, Bosnia, Somalia, and Zaire.

US President Bill Clinton enunciated the emerging norm in 1999, during NATO's aerial intervention in Kosovo, telling CNN, "If the world community has the power to stop it, we ought to stop genocide and ethnic cleansing."² Two years

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later, the Canadian-appointed commission formalized that declaration as the "Responsibility to Protect."³ In December 2004, a UN panel concurred: "We endorse the emerging norm that there is a collective international responsibility to protect...in the event of genocide and other large-scale killing, ethnic cleansing or serious violations of international humanitarian law."⁴ The following year, at the World Summit, the UN General Assembly codified this principle as the "responsibility to use appropriate diplomatic, humanitarian, and other peaceful means...to help protect populations from genocide, war crimes, ethnic

cleansing, and crimes against humanity." However, because members of the Group of 77 harbored concerns about threats to their own sovereignty, the General Assembly refused to endorse military intervention unless authorized "through the Security Council...on a case-by-case basis...should peaceful means be inadequate."⁵

INADEQUATE POLITICAL WILL

Although the international community has intervened in many conflicts since 1991, and even declared a responsibility to do so, it has typically lacked the political will to halt the violence until many civilians have already been victimized. Even in the midst of intervention, political will often disintegrates when intervention forces are confronted with casualties. In Bosnia, for example, the UN deployed peacekeepers in 1992, but did not authorize or equip them to end the violence until 1995, by which time some 100,000 Bosnians had died.⁶ In Somalia, the UN and the US did not deploy a significant military intervention until late 1992, after tens of thousands of civilians already had died from conflict-related famine. These forces then were withdrawn prematurely after 18 US soldiers were killed in October 1993.⁷ In Rwanda, when the genocide started in 1994, the UN quickly voted to withdraw most of its peacekeepers because ten of them had been killed on the first day.⁸ In Sierra Leone, British peacekeepers intervened successfully in 2000 to end a civil war, but only after less robust regional and UN interventions had failed to prevent gruesome atrocities and tens of thousands of killings over the previous nine years.⁹ Likewise, in Liberia, US Marines and regional peacekeepers led a successful intervention to end civil war in 2003, but only after previous regional interventions had failed to avert tens of thousands of killings during the previous 13 years of civil war.¹⁰

The Darfur region of northwest Sudan has witnessed the same pattern since 2003. Violence raged most intensely from mid-2003 to mid-2004, as state-supported Janjaweed Arab militias perpetrated a scorched-earth counter-insurgency against

villages suspected of supporting African rebels, displacing approximately 2 million people within Sudan and as refugees to neighboring Chad, while killing thousands more. During this bloodiest phase, the international community failed to muster the political will for any military intervention, instead providing only humanitarian aid to the small portion of the affected population it could reach.¹¹ Not until August 2004 did the African Union deploy 132 military observers and approximately 300 peacekeepers, but without the mandate or equipment to protect civilians. Over the next year, the AU force increased to nearly 7,000 peacekeepers and police, but still lacked materiel and logistical support, such as helicopters and fuel, for effective reconnaissance and rapid reaction. In many areas, the peacekeepers could neither escort humanitarian aid convoys nor protect camps for internally displaced persons, let alone protect villages.¹² In 2007, the United Nations authorized a larger, joint UN-AU force (UNAMID) of 26,000 personnel, including nearly 20,000 troops. But as of late 2008, the deployment had yet to reach half that size and still awaited the requested helicopters.¹³ Western states have repeatedly proved reluctant to deploy forces to Darfur, partly in fear of sparking a violent Islamist opposition against the occupying troops, as already confronts such troops in Iraq and Afghanistan.

LOGISTICAL OBSTACLES

Even if the international community could muster the political will for rapid and robust intervention in such conflicts, it would be impossible to protect at-risk populations in many cases where the perpetrators can act more quickly than the interveners. In Bosnia, for example, although the conflict dragged on for more than three years, the majority of ethnic cleansing was carried out in the spring of 1992. By the time Western media arrived on the scene later that summer, ethnic Serb forces had already occupied two-thirds of the republic and displaced more than one million residents. In Rwanda, at least half of the eventual half-million Tutsi victims were killed in the first three weeks of genocide in April 1994. When Croatia's army broke a three-year cease-fire in August 1995, it ethnically cleansed virtually all of the more than 100,000 Serbs from the Krajina region in less than a week. In March 1999, when Serbian forces in Kosovo switched from a policy of counter-insurgency to ethnic cleansing, in response to NATO's decision to launch air strikes, they expelled nearly half of the province's ethnic Albanians in the first two weeks. Later that year, in East Timor, following a vote for independence, Indonesian-backed militias damaged the majority of the province's infrastructure and displaced most of its residents in little more than a week.

By contrast, even with sufficient political will, it is physically impossible to deploy properly equipped intervention forces so quickly over long distances. For example, when Iraq's army invaded Kuwait in August 1990, the United States unquestionably possessed the political will to deploy forces to Saudi Arabia as soon as possible in order to protect oil fields. Nevertheless, the first unit of only 2,300 US troops required 9 days to reach the area, and another week to prepare itself for venturing beyond its makeshift base. Even though the United States has by far the

best force-projection capability in the world, and Saudi Arabia offered strong airfield infrastructure and a warm welcome, this small force still required more than two weeks to deploy. The reasons for such delay are numerous, but stem mainly from three factors: modern militaries cannot operate without their equipment, their equipment is extremely heavy, and there are limits to the rate at which such equipment can be airlifted to remote countries. Indeed, delays would be much longer for other potential interveners, larger forces, interventions that face armed resistance, or deployments to states with inferior infrastructure (as is typical in humanitarian crises).¹⁴

In Rwanda, even if the United States had acted as soon as the genocide came to light, at least six weeks would have been required to deploy a task force of 15,000 personnel and their equipment. A larger US force – matching those deployed previously to Haiti, Panama, and the Dominican Republic – would have taken longer. A multi-lateral intervention would have required even more time because other potential troop contributors lack the US capacity for rapid deployment. Unfortunately, by the time the international community realistically could have deployed an intervention force to Rwanda, the vast majority of the targeted population would have already been dead.¹⁵

The fact that much civil violence is carried out more rapidly than intervention forces could arrive to stop it is no excuse for failing to intervene; indeed, some lives could still be saved, even by belated intervention. However, the life-saving potential of humanitarian military intervention is smaller than commonly realized. This is important as the following section considers the unexpected costs of intervention.

MORAL HAZARD

The most counter-intuitive aspect of the Responsibility to Protect is that it sometimes contributes to the tragedies that it intends to prevent. The root of the problem is that genocide and ethnic cleansing often represent state retaliation against a sub-state group for rebellion, or armed secession, by some of its members. The emerging norm, by raising hopes of diplomatic and military intervention to protect these groups, unintentionally fosters rebellion by lowering its expected cost and raising its likelihood of success. Intervention does sometimes help rebels attain their political goals, but it is usually too late or inadequate to avert retaliation against civilians. Thus, the emerging norm resembles an imperfect insurance policy against genocidal violence. It creates a moral hazard that encourages the excessively risky behavior of rebellion by members of groups that are vulnerable to genocidal retaliation, but it cannot fully protect these groups against the backlash. The emerging norm thereby causes some genocidal violence that otherwise would not occur.¹⁶

In the early 1990s, for example, Bosnia's Muslim leaders sought to secede from Yugoslavia so that they could establish their own state in which Muslims would enjoy a near ethnic majority. But because they faced opposition from ethnic Serbs in Bosnia and the rest of Yugoslavia, who possessed considerably greater military

power, the Muslims initially eschewed secession as suicidal. By 1992, however, the international community had pledged to recognize Bosnia's independence if it seceded. This pledge, combined with the Muslim leaders' knowledge of previous humanitarian interventions in Iraq and Croatia, led them to believe that they had a guarantee of protection if they armed themselves and seceded from Yugoslavia—which they proceeded to do with the support of Bosnia's ethnic Croat minority.¹⁷ The Serbs retaliated in April 1992, but the international community did not intervene with decisive force until 1995, by which time tens of thousands of fighters and civilians were already dead.

A similar scenario played out a few years later in the Serbian province of Kosovo. The local ethnic Albanian majority sought independence but, in the face of Serb military superiority, they prudently hewed to peaceful resistance throughout the early 1990s. Even after an influx of light weapons from neighboring Albania in 1997, most of Kosovo's ethnic Albanians, including the rebel Kosovo Liberation Army, believed that, by themselves, they were no match for heavily armored Serb forces. Nonetheless, the rebels expected that if they could provoke the Serbs into retaliating against Albanian civilians, the international community would intervene on their behalf, thereby facilitating independence.¹⁸

The plan played out almost perfectly. In late 1997, the rebels started shooting large numbers of Serb police and civilians, which provoked the Serb forces to retaliate in 1998 with a counter-insurgency that killed approximately 1000 ethnic Albanian rebels and civilians. In 1999, NATO intervened on behalf of the Albanians with air strikes that, after 11 weeks, compelled Serb forces to withdraw and accept a NATO occupation. In 2007, this intervention culminated when the United States and most European states recognized Kosovo's independence.

But NATO's intervention had initially backfired, as noted, by compelling the Serbs in March 1999 to commence ethnic cleansing, which displaced about 850,000 Albanians and killed approximately 10,000. Then, when Serb forces withdrew in June 1999, the Albanians took revenge by ethnically cleansing some 100,000 Serb civilians, killing several hundred. Notably, the rate of violent death in Kosovo was roughly thirty times higher during the NATO bombing campaign than it had been during the year of conflict prior to intervention.

Much of this death and displacement in the Balkans was a direct consequence of the emerging norm of the Responsibility to Protect. Research in Bosnia and Kosovo, including interviews with top Muslim and Albanian militant leaders, reveals that they launched their armed challenges – provoking violent state retaliation – based entirely on the prospect of sympathetic foreign assistance.¹⁹ The unavoidable conclusion is that the emerging norm of humanitarian intervention sometimes causes the tragedies that it aims to prevent.

Darfur is the most recent case in which the Responsibility to Protect has backfired. From 1983 to 2005, Sudan endured a brutal civil war between the northern-based regime and southern rebels, in which southern civilians bore the brunt of the violence. Starting in 2001, consistent with the emerging norm, the

United States expanded an international campaign to protect the southern civilians by pressuring Sudan's government to share power and wealth with the rebels. By 2003, the intervention succeeded in compelling Sudan to agree to a tentative peace with the south. However, this had the unintended consequence of spurring rebellion in Darfur by militants who hoped to emulate the southern strategy of attracting humanitarian intervention to gain a share of power and wealth. Despite the state's brutal response to rebellion in Darfur, the international community, at first, responded only with condemnation and sanctions.

This initially feeble implementation of the emerging norm merely emboldened the rebels to continue fighting, with the hope of soliciting greater intervention. The tragic consequence was to exacerbate and prolong the suffering of civilians. In 2006, Sudan's government signed a US-brokered peace agreement, but two of the three main rebel factions refused to join because they demanded additional concessions and greater foreign intervention "like in Bosnia."²⁰ This recalcitrance triggered a further fractioning of the rebellion, a breakdown in the peace process, and anarchic violence. In light of the fact that the rebels have never had any chance of battlefield victory on their own, one can reasonably conclude that their repeated refusal to make peace is driven by the hope of larger international intervention under the Responsibility to Protect.²¹ Once again, the emerging norm, which was intended to reduce genocidal violence, has produced the opposite effect.

ENABLING RAPID REACTION

The shortcomings of the Responsibility to Protect do not necessitate its abandonment; but the emerging norm does require a serious rethinking, in terms of conception and implementation, in order to achieve its intended goal. Even if the political will for intervention could be mustered more frequently and rapidly, the above analysis indicates that reform is needed in at least two other broad areas: the structure of forces for military intervention, and the strategy for all intervention—whether diplomatic, economic, or military.

States that want to play a leading role in humanitarian military intervention should adjust their force structure to reflect the empirical reality that violence against civilians can be perpetrated very quickly. One option is to modify some power-projection forces so they can deploy faster. Lighter forces, with fewer heavy weapons and less armor, would require fewer cargo flights, enabling them to arrive sooner to start saving lives. But shedding protective armor and weaponry can also increase casualties, as the coalition forces in Iraq initially learned the hard way.²² Such a trade-off cannot be made lightly.

An alternative strategy is to pre-position forces, or at least their heavy equipment, at forward bases closer to where they are most likely to be needed for humanitarian intervention, such as in Africa. Interventions could be launched from these bases using small cargo aircraft, which are more plentiful and better able to land at rudimentary African air fields than wide-body inter-continental airlifters. The cargo aircraft could make several round-trips per day to a conflict zone from forward

bases, rather than one trip every few days from distant US or European bases, sharply reducing deployment time from weeks to days. One obstacle, however, is that many African states oppose foreign military bases as tantamount to neo-colonialism, as recently demonstrated by the Pentagon's difficulty in establishing a proposed continental headquarters for its new Africa Command (AFRICOM).²³ An even bigger obstacle is that the world's major powers, so far, have proved unwilling to make significant military investments in missions other than those defined by traditional national interests.

In recognition of the West's lack of will to deploy ground troops to Africa, the United States, in the mid-1990s, launched the first in a series of programs to train indigenous African forces for peace operations. This initiative had a reasonable premise—African states would be more willing than others to risk the lives of their troops to stop conflict on the continent; nonetheless, it has faced several obstacles. First, due to inadequate resources and some concern about unintended

consequences, the programs have provided little, if any, weaponry or combat training. This means that the participating African forces are prepared only for the permissive environment of peacekeeping after a conflict ends, such as in Liberia in 2003.²⁴ Second, these initiatives, so far, have failed to pre-position heavy weapons, armored personnel carriers, or helicopters at African bases. As a result, such equipment would have to be transported and joined up with intervention forces on an ad hoc basis in the event of a crisis, wasting precious time. Third, most training has been conducted only within national

units, so that the few trained forces remain unprepared for the multi-national coalition operations that would be necessary for any large-scale intervention. The African Union has recently established the framework for an African Standby Force of five regional, multi-national brigades. But even after receiving some foreign assistance, the project is so woefully under-funded that it remains skeletal, adding little to the few high-quality national military units that already existed on the continent.²⁵ In light of these shortfalls, an all-African force has little hope, any time soon, of quelling violence or providing security in a situation such as Darfur.

A final alternative is to create a UN rapid response capability, as proposed in 2000 by an international commission headed by Algerian diplomat Lakhdar Brahimi. This panel called for expanding UN standby arrangements "to include several coherent, multi-national, brigade-size forces and the necessary enabling forces, created by Member States working in partnership, in order to better meet the need for the robust peacekeeping forces."²⁶ One problem with this concept is that it makes no provision for airlift operations. Only the US military has a sizeable, long-haul cargo air fleet, which means that rapid reaction to most parts of the world is wishful thinking unless the United States participates.²⁷ Another problem is that even

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if UN member states were willing to pledge troops in advance for humanitarian intervention, it is uncertain whether they would actually deploy them when called upon. Relying on a UN force that might not materialize when needed could actually delay the collective response to humanitarian emergencies by encouraging individual states, initially, to “free ride” on the expected institutional response.

REDUCING MORAL HAZARD

Potential interveners should also modify their implementation of the Responsibility to Protect in order to mitigate the problem of moral hazard. As currently implemented, the emerging norm has the unintended consequence of encouraging rebellion by members of vulnerable sub-state groups, prompting states to retaliate with genocidal violence before intervention can stop it. A theoretical

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solution would be for the international community to launch timely military interventions in response to every instance of state violence. But this is unfeasible for two reasons. First, even if the political will for intervention could be mustered, the pervasiveness of such violence would soon exhaust global resources. The decade of the 1990s witnessed major civil violence in at least 16 states (some on several occasions): Albania, Algeria, Angola, Azerbaijan, Bosnia, Cambodia, Congo Republic, Croatia, Ethiopia, Liberia, Kosovo, Sierra Leone,

Somalia, Sudan, Tajikistan, and Zaire (later renamed the Democratic Republic of Congo). Moreover, by the logic of moral hazard, each instance of humanitarian intervention raises expectations of future intervention, thereby encouraging rebellions that may provoke additional state violence, further overwhelming the international capacity for intervention.

Instead, the international community should modify its implementation of the Responsibility to Protect in five ways, so as to mitigate moral hazard and reduce the incidence of genocidal violence. This proposal builds on lessons from the economics literature on moral hazard and several case studies of humanitarian intervention.²⁸ The first reform is the most important: the international community should refuse to intervene in any way—diplomatic, economic, or military—to help sub-state rebels unless state retaliation is grossly disproportionate. This would discourage militants within vulnerable sub-state groups from launching provocative rebellions that recklessly endanger civilians, in hopes of garnering foreign intervention. At the same time, by retaining the intervention option for extreme cases, this reform would also discourage states from responding disproportionately to rebellion by intentionally harming civilians. All sides in civil conflicts would effectively be incentivized toward less violent action.

Second, when the international community intervenes in an internal conflict to deliver purely humanitarian aid (food, water, sanitation, shelter, and medical care), it

should do so in ways that minimize the benefits to rebels. Typically, rebels benefit from such deliveries by intercepting aid convoys or transforming refugee and Internally Displaced Persons (IDP) camps into training and recruitment centers. To prevent this, the interveners should militarily escort the aid convoys and provide well-trained troops or police to secure the perimeter of camps in order to prevent the entry of weapons.

Third, the international community should expend substantial resources to persuade states to address the legitimate grievances of non-violent domestic groups. In combination with the first point, this would undo the perverse incentive that arises from the emerging norm's current implementation, which effectively ignores non-violent groups because they do not provoke state retaliation, but rewards militants by intervening in ways that help them, thereby promoting violence. Rather than punishing states when they defend themselves against armed challenges, the international community should incentivize states to address non-violent demands in hopes of averting such rebellions.

Fourth, the international community should not apply coercive leverage to compel a state to hand over territory or authority to a domestic opposition, unless it first deploys a robust peacekeeping force to defend against the potential violent backlash. Failure to do so can have disastrous consequences, as exemplified in Bosnia, Rwanda, Kosovo, and East Timor.²⁹ In each case, international coercion backfired when the state resisted and retaliated against domestic civilians, who were perceived as allies of the enemy.

Finally, interveners should avoid falsely claiming humanitarian motives for interventions that are driven primarily by other objectives, such as securing resources, fighting terrorism, or preventing nuclear proliferation. The reason is that every ostensible "humanitarian" intervention increases the expectations of sub-state groups elsewhere that they too will benefit from intervention if they rebel and provoke a humanitarian emergency. Thus, a false justification for intervention in one case can inadvertently promote civil war in others. When states intervene for self-interest, they obviously have incentive to claim falsely, or exaggerate, their altruistic motivation. But before doing so, they should weigh seriously the potential unintended consequences.

Although these five proposed reforms could foster the goals of the Responsibility to Protect, their implementation could be hindered by several factors. First, there is no international institution strong enough to dictate when states may intervene. Second, despite the logic of the reforms, some states may still prefer to aid provocative rebels or ignore non-violent movements for reasons of national interest. Third, norms can be difficult to change quickly because they both reflect and perpetuate past habits and bureaucratic procedures.

On the other hand, the Responsibility to Protect might prove relatively easy to modify because it is so recent (it is, after all, still an "emerging" norm) and because only a handful of states have the potential for major intervention. The United States, in light of its preeminent military power and economic leverage, can and should take

the lead. By modifying its implementation of the Responsibility to Protect, the new administration of President Barack Obama could set an example that would help maximize protection for innocent civilians around the globe.

Notes

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