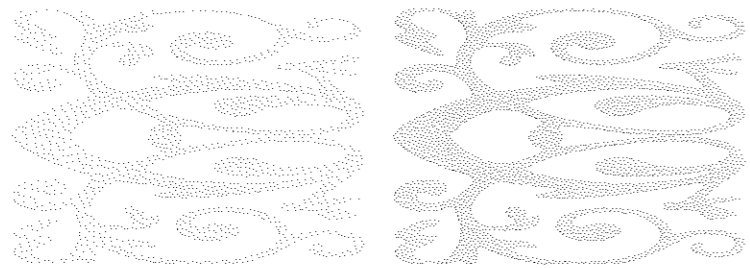


Opinion

THE RESPONSIBILITY TO PROTECT

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"Most of the important things in the world have been accomplished by people who have kept on trying when there seemed to be no hope at all."

~ Dale Carnegie

A world in conflict

OVER 200,000 people it has been estimated have died in the Darfur conflict since it began in February 2003, with some estimates reaching 400,000.¹ With talk of genocide and crimes against humanity, a growing number of humanitarian activists, NGOs and actors have joined the clamour of voices condemning the violence and demanding intervention.

No-one could deny that something needs to be done in situations like Darfur – but what is the appropriate response? Such delicate and complex situations require a proportionate and considered approach – one size does not fit all. This is a formidable challenge for the world. After all, when it began, Darfur was merely one of 32 conflicts that roiled the world that year.²

However, before the approach to intervention can even be contemplated, there is a critical question that needs attention. Do nation states have a right to intervene at all?

Debate on the 'right to intervention' has flourished since the early 1990's. However, the United Nations and the international political system failed to resolve the issue conclusively. Straight-jacketed with its Cold War-era legal and political frameworks which were designed to prevent interstate conflict, the world was ill-equipped to deal with the emerging predominance of intrastate conflict and atrocities.

The biggest stumbling block was the issue of sovereignty. Since its origins in the Treaty of Westphalia in 1648, sovereignty has been the basis of the modern nation-state system. Sovereignty encompasses two critical concepts - territoriality and the exclusion of external actors from the domestic jurisdiction. The developing world in particular felt that any erosion of the principles of sovereignty would amount to neo-colonialism and compromise their newfound independence.

So, how could this head-on collision between legal positivism and ideas of natural justice be resolved?

UN Secretary-General Kofi Annan waded into the debate with the concept of individual sovereignty. An idea usually more at home in anarchist theory, individual sovereignty is the idea that there exists an exclusive moral right to control one's own body and life. Kofi Annan argued that a workable balance be sought between individual and state sovereignty. However, this line of reasoning was more the result of frustration rather than of sound logic, as how could two mutually exclusive ideas of sovereignty balance and overlap? Gareth Evans commented that Kofi Annan's approach

"...fell on deaf ears, being seen not so much as resolving the dilemma of intervention but restating it."³

With increasing desperation, Kofi Annan made the following plea in his report to the General Assembly in 2000: "If humanitarian intervention is indeed an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica, to gross and systematic violations of human rights?"

The Canadian Government rose to the challenge in September 2000, instigating the International Commission on Intervention and State Sovereignty. Co-chaired by Algerian diplomat Mohamed Sahnoun and the aforementioned Gareth Evans, the Commission produced a report in December 2001. Admirably unclouded by the indelible mark that terrorism made upon the public consciousness on September 11, the report found the compromise that would appease the moderates on both sides of the debate.

The doctrine is called "The Responsibility to Protect" (R2P), and it turns the idea of a 'right to intervene' on its head. Instead of arguing that a positive right to intervene is entrusted in all nation-states, the doctrine advocated that all nation-states are burdened with an obligation, or *responsibility* to protect their own societies from atrocities. When this obligation is not discharged, it then falls to other nation-states of the world to uphold the R2P. Relevant and practical preconditions are incorporated into the doctrine as safeguards against political misuse for unwarranted intervention.

However, the doctrine, whilst well articulated, is clearly not going to change the world's practices overnight. As the report itself concluded:

Changing the language of the debate, while it can remove a barrier to effective action, does not, of course, change the substantive issues which have to be addressed. ...But if people

are prepared to look at all these issues from the new perspective that we propose, it may just make finding agreed answers that much easier.⁴

The International Crisis Group is one NGO that has been trying to help find these agreed answers. Under the direction of Gareth Evans and with the backing of philanthropists that include George Soros, this non-profit organisation undertakes field-based analysis and high-level advocacy to resolve deadly conflict around the world.

Through the efforts of the International Crisis Group, the advancement of the Responsibility to Protect has met some limited success. Instead of the doctrine being lost to obscurity, it has gained

ground on the international stage.

In 2005, at a meeting of more than 150 governments at the UN 60th Anniversary World Summit, the doctrine was thematically affirmed and provided with a legal justification through a broad interpretation of Chapters VI and VIII of the UN Charter. Later, in August 2006, it was invoked rhetorically in UN Security Council Resolution 1706.

However, 'backsliding' is still a real peril. Narrow interpretations of the doctrine continue when it is politically expedient, such as the Security Council's refusal to condemn Myanmar. The doctrine is also open to exploitation, for example when both the US and

UK governments invoked the R2P as a justification or their invasion of Iraq.

Added to this is the reality that all the UN resolutions and good intentions in the world don't change the fact that people are still dying in Darfur, and around the world in other conflicts. As they say, talk is cheap.

However, what the R2P does do is influence international norms and provide the foundations of a future legal framework. From these humble beginnings, momentum and hope for a brighter future can grow.

Hopefully the R2P will eventually reach a tipping point, reaching a critical mass that thrusts it into the forefront of the Western debate, much

like the issue of climate change has recently achieved.

¹ Hundreds Killed in Attacks in Eastern Chad, U.N. Agency Says Sudanese Militia Destroyed Villages, *Associated Press*, April 11, 2007. <<http://www.washingtonpost.com/wp-dyn/content/article/2007/04/10/AR2007041001775.html>>, accessed 15/1/08

² This figure includes both minor and major conflicts: *Uppsala Conflict Data Program*, Uppsala University, <<http://www.pcr.uu.se/research/UCDP/our_data1.htm>>, accessed 16/1/08

³ Keynote Address by Gareth Evans, to Human Rights Center, UC Berkeley International Conference on the Responsibility to Protect: Stopping Mass Atrocities, University of California, Berkeley, 14 March 2007, <<http://www.crisisgroup.org/home/index.cfm?id=4780&l=1>>, accessed 18/1/08

⁴ p12, *The Responsibility To Protect, Report of the International Commission on Intervention and State Sovereignty*, December 2001