

# Logical Extensions of the Responsibility to Protect

by

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## **Declaration**

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## **Abstract**

Are violent and non-violent mass atrocities morally different? According to the United Nations, they are. But why? The answer to this question is important as it in part determines our obligations to people living in other countries. This thesis seeks to determine if violent and non-violent mass atrocities are morally different and, if not, whether the latter should be included under the United Nations' doctrine of the responsibility to protect. In order to do this, the thesis first examines the conditions under which sovereignty exists in order to understand when intervention can occur. It also analyzes just war theory to discern when military intervention to halt non-violent mass atrocities is justified. Having established these two concepts, the thesis then presents three arguments for why non-violent mass atrocities are morally indistinguishable from violent ones and should also be included under the doctrine of the responsibility to protect. A discussion of the feasibility of implementing this extension and the long-term effects of these types of interventions follows. Finally, the thesis contains three case studies in order to apply the arguments presented earlier.

## Opsomming

Is daar 'n morele verskil tussen gewelddadige en nie-gewelddadige gruweldade? Volgens die Verenigde Nasies is daar so 'n verskil, maar hoekom? Die antwoord tot hierdie vraag is deels belangrik omdat dit ons verantwoordelikhede tot mense in ander lande bepaal. In hierdie tesis word daar gepoog om te bepaal of daar so 'n verskil tussen gewelddadige en nie-gewelddadige gruweldade is, en, indien nie, of nie-gewelddadige gruweldade ook moet tel onder die Verenigde Nasies se verantwoordelikheid om te beskerm. Die tesis poog eerstens om die kondisies vir soewereiniteit te bepaal ten einde te probeer verstaan wanneer 'n intervensie moreel regverdigbaar is. Dit analiseer ook die teorie van geregverdigde oorlogvoering ten einde te bepaal wanneer militêre inmenging om nie-gewelddadige gruweldade stop te sit geregverdig is. Na hierdie twee konsepte ondersoek is word daar drie argumente verskaf om aan te toon dat nie-gewelddadige gruweldade nie moreel onderskeibaar is van gewelddadige gruweldade nie, en dus dat nie-gewelddadige gruweldade onder die verantwoordelikheid om te beskerm behoort te tel. Dit word gevolg deur 'n bespreking van die praktiese haalbaarheid van die implementering van so 'n uitbreiding van die verantwoordelikheid om te beskerm, asook 'n bespreking van die langtermyn effekte van hierdie tipes intervensies. Die tesis eindig met drie gevallestudies ten einde die argumente wat reeds gemaak is toe te pas.

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# Introduction

## Chapter 1

Throughout history, conflict has primarily been interstate in nature as nations and kingdoms have battled for power and control of land, people, and wealth. While civilians have always suffered the consequences of these conflicts, the primary parties to the war remained the armed combatants on either side. In the latter half of the twentieth century, however, the nature of these conflicts changed. Partially as a result of poorly drawn boundaries and the creation of dozens of new states, the majority of hostilities became intrastate in nature, and civilians became deliberate targets. UN peacekeeping practices, designed to address interstate war, were inadequate in confronting this new type of conflict (International Commission on Intervention and State Sovereignty (ICISS) 2001: 5), and massive civilian casualties ensued.

The world, troubled by the brutality they saw, demanded something be done but long argued over the type of action to undertake. In Article 2(7), the UN Charter explicitly declares that external states cannot intervene in a country's internal affairs. Thus, any action may be a violation of the Charter, making intervention difficult.

After years of debate, the International Commission on Intervention and State Sovereignty formulated the doctrine of the responsibility to protect. The central premise of the doctrine is that when states do not fulfill their responsibilities to their own citizens, it is the international community's obligation to do so. Practically applied, it means that external states should intervene to halt certain types of mass atrocities – including genocide, ethnic cleansing, war crimes, and crimes against humanity – that a state may commit against its own citizens. The United Nations formally and unanimously adopted this version of the doctrine in the 2005 World Summit Outcome Document.

An exceptionally large amount of literature exists on the responsibility to protect, and support for the doctrine continues to increase. However, in recent years, some have called for the doctrine to be applied to other types of atrocities, and relatively little research addresses this extension. In May 2008, Burma's ruling military junta refused to allow aid to victims of Cyclone Nargis, and this briefly brought the issue of the doctrine's extension to the fore, although the debate largely subsided after the initial crisis period as the world returned its focus to terrorism.

Yet the question remains. Currently, the UN distinguishes between violent mass atrocities – including genocide and ethnic cleansing – and other acts that a government may commit to the detriment of its own citizens. *This thesis argues that certain of these acts, herein termed “non-violent mass atrocities” are morally indistinguishable from violent mass atrocities and thus should be also addressed under the responsibility to protect.* The characteristics of violent and non-violent mass atrocities are similar enough to warrant extending the doctrine to include both. Because of the large amount of literature that discusses the responsibility to protect against violent mass atrocities, this thesis only examines its possible extension to include non-violent ones.

The question of whether to include non-violent mass atrocities under the responsibility to protect is important. Its answer largely determines how the UN addresses such acts and whether victims of this type of suffering should be protected by the international community. Should non-violent mass atrocities be included under the responsibility to protect, the international community may forcefully intervene to halt them. Thus, its inclusion under the doctrine directly impacts whether victims of such atrocities will survive them.

What is a “non-violent mass atrocity?” While it is always difficult to precisely specify such things, this thesis defines a non-violent mass atrocity as an act not involving physical force that is permitted or committed by a government that knowingly or intentionally results in the large scale, severe suffering of its citizens. Examples include deliberately exposing such citizens to disease, intentional starvation, or withholding available lifesaving aid after a natural catastrophe. The most important characteristics of such acts are their intentionality, scale, and consequence.

In order to understand if the responsibility to protect can be extended to include non-violent mass atrocities, Chapter 2 opens with an explanation of the origins of the responsibility to protect, including the founding of the United Nations and the end of the Cold War. It then provides an overview of the doctrine as detailed in the four primary documents addressing it. It describes the similarities and differences in how these documents conceptualize the doctrine before discussing how the responsibility to protect represents a significant adjustment in our approach to international relations. The chapter concludes with an examination of the controversies surrounding the doctrine, including its approach to sovereignty and armed intervention.

Chapter 3 focuses on sovereignty, which, as discussed above, is one of the major controversies in the responsibility to protect. The chapter provides a brief history of the concept of sover-

eignty in order to understand the origins of our current conception of it. It then examines trends that are altering these conceptions. Provided with this background, the chapter then formulates an argument for a new conception of sovereignty more appropriate to the functions and relations found in the modern world. It then reflects on how this new conception would alter international relations. Finally, the chapter investigates objections to this new conception and how they may alter it.

Chapter 4 addresses the other major controversy in the responsibility to protect: armed intervention. This chapter argues that armed intervention is both necessary and justified to protect vulnerable populations from non-violent mass atrocities. Because non-violent mass atrocities are not, for lack of a better word, violent, the chapter first establishes why armed intervention may be necessary to halt them and whether prevention may be possible. It then outlines the three major theories on war: realism, pacifism, and just war theory. Because just war theory is most applicable to armed intervention to halt non-violent mass atrocities, the chapter then considers how it may be applied to such interventions. The chapter then provides an extensive discussion on the parties that should intervene and the effects that different parties will have on the intervention. Finally, the chapter addresses possible objections to its argument for the morality of armed intervention to halt non-violent mass atrocities.

After arguing for a new conception of sovereignty and the justification for armed intervention to protect vulnerable populations, Chapter 5 directly addresses the central premise of this thesis: non-violent mass atrocities are not morally different from violent ones and thus should be included under the doctrine of the responsibility to protect. In order to make this argument, the chapter first provides a brief discussion on how thinkers use different moral theories to justify or refute the responsibility to protect. It then provides pragmatic reasons for extending the doctrine to include non-violent mass atrocities. Section III follows by presenting three philosophical reasons for extending the doctrine, including the morally arbitrary nature of nationality, the demands of social contract theory, and the similarities between violent and non-violent mass atrocities. As with the previous two chapters, Chapter 5 concludes by confronting criticisms to the arguments that it contains.

Having established the moral obligation to extend the doctrine of the responsibility to protect to include non-violent mass atrocities, Chapter 6 explores the feasibility of doing so. In order to do this, it first reviews how the doctrine for violent mass atrocities is currently applied. It then de-

scribes how certain member states within the UN may seek to prevent the doctrine's extension. After that, the chapter examines the impact of political will and the obstacles it may present. Next, it describes operational barriers that may further hinder the doctrine's implementation. Finally, having considered all of these barriers, the chapter discusses whether extending the doctrine is actually feasible.

After arguing that the doctrine of the responsibility to protect should be extended to include non-violent mass atrocities in Chapter 5 and reviewing the feasibility of such an extension in Chapter 6, Chapter 7 evaluates the long-term effects arising from such an extension. It addresses the diplomatic impact implementing the doctrine may have as well as possible economic effects. It then examines how an intervention may alter relations between the state and its citizens. The chapter concludes with a discussion of how these possible long-term effects should affect our decision to intervene.

Chapter 8 seeks to apply the arguments offered in the previous five chapters. To do so, it provides three case studies and considers the possibility of prevention, the impact of our new conception of sovereignty, whether intervention in each case is necessary under just war theory, if the actions described in these cases should be covered under the responsibility to protect, the feasibility of intervention, and intervention's long-term effects. Importantly, each case contains different facts and circumstances in order to understand under what conditions the responsibility to protect against non-violent mass atrocities applies. The first case, the Ethiopian famine during 1984 – 1985, examines the doctrine in light of intentional mass starvation. The second one analyzes the Burmese government's decision to withhold aid after Cyclone Nargis in 2008, and the third addresses the ongoing political violence and increasingly dire circumstances in Zimbabwe. In each case, we seek to understand morally permissible actions (or inactions) under the responsibility to protect.

After reading this thesis, it is hoped that the reader gains a better understanding of the responsibility to protect and the importance of extending it to include non-violent mass atrocities. It is also hoped that the reader recognizes situations to which the doctrine applies and the consequences of not doing so.

# **The Responsibility to Protect: An Overview**

## **Chapter 2**

In order to understand whether and under what conditions intervention under the responsibility to protect can be extended to include non-violent mass atrocities, one must first understand what the doctrine entails and under what historical conditions it arose. This chapter provides a purely factual overview of the responsibility to protect in order to build on it in subsequent chapters.

First comprehensively formulated by the International Commission on Intervention and State Sovereignty in 2001 and unanimously adopted in modified form at the 2005 United Nations World Summit, the responsibility to protect is a moral doctrine that represents a dramatic shift in modern conceptions of sovereignty and international relations. This chapter begins by tracing the origins of the responsibility to protect and follows with a summary of the actual doctrine as written in four key documents. It then discusses how the responsibility to protect represents a dramatic change in how we regard sovereignty and human rights before concluding with the controversies it entails.

### **I. Origins of the Responsibility to Protect**

This section traces the responsibility to protect from its origins in the founding of the United Nations through to the end of the Cold War and subsequent dramatic rise in intrastate conflict it entailed. This greatly accelerated the doctrine's transformation from vague conceptions on the tension between human rights and sovereignty to a more formal doctrine.

#### *The United Nations*

The "Declaration by United Nations" was signed on 1 January 1942 as a pledge by the Allied Powers to continue fighting against the Axis Powers, and the United Nations was officially established on 24 October 1945 after the charter was ratified by a majority of signatories (UN Web Services Section 2005).

Members of the United Nations are bound by the UN Charter (1945), a treaty that dictates the basic principles of international relations (UNDPI 2009). The following sections are applicable to the doctrine of the responsibility to protect:

- *Preamble:* The preamble specifically “reaffirm[s] faith in fundamental human rights” and seeks to “establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained.” It also states that armed force should not be used except in the common interest.
- *Article 1:* Article 1 declares the maintenance of international peace and security to be the purpose of the United Nations.
- *Article 2:* This Article emphasizes that all UN members (1) are equal and sovereign, (2) must fulfill their obligations arising from the Charter, and (3) are not to use force against another state unless that force is consistent with the Charter. More importantly, this Article explicitly states that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.”
- *Articles 23 and 27:* Article 23 declares the Security Council’s five permanent members to be China, France, Great Britain, Russia, and the United States. Article 27 specifies that any non-procedural matters before the Security Council require an affirmative vote of nine of the fifteen members, including affirmative votes from all five permanent members.
- *Chapter 7 (Articles 39 – 51):* This chapter outlines the proper procedures for reacting to threats to peace and acts of aggression. The Security Council is the only body that has the authority to determine if a threat to peace or act of aggression exists and, if so, formulate a response to it, including the use of armed force and other measures.
- *Chapter 8 (Articles 52 – 54):* Chapter 8 discusses regional organizations. These types of alliances are allowed to address matters within their own regions, although the Security Council must first approve any use of armed force.
- *Articles 55 and 56:* The former Article promotes “universal respect for, and observance of, human rights and fundamental freedoms for all.” The latter states that all UN Mem-

bers are obliged to take action in order to achieve Article 55 but does not specify the means of doing so.

- *Article 103*: This Article subordinates all international treaties to states' obligations under the Charter.

Three years after members ratified the UN Charter, the Universal Declaration of Human Rights was also signed (Humphrey et al. 1948). This was the first document to formally recognize specific rights as fundamental, universal, and of international concern (c.b.b. 1964: 857); however, the Declaration did not specify whose responsibility it was to enforce these rights (Nickel 1993: 77).

Together, the UN Charter and the Declaration of Human Rights highlight the increasing emphasis on the importance of human rights since the end of World War II. Including references to human rights in both of these documents meant that individuals as well as states were now subjects of international law (Ayoob 2001: 127).

### *The End of the Cold War*

The Cold War directed much of the political development in smaller countries (ICISS 2001: 4), sustaining and containing otherwise non-functioning governments through both involvement from their former colonial masters and the feuding superpowers (Helman & Ratner 1992 – 1993: 4). As a result, these small states became a much larger source of conflict after this support was withdrawn. Several factors contributed to this. First, many of these states' borders resulted from colonialism or Cold War struggles, meaning that traditionally antagonistic groups were suddenly expected to cooperate within a single government, often with one of these groups dominating (Luban 1980: 172 – 173). Furthermore, in their rush to end the violence accompanying the fall of colonialism, the colonies were given the right to self-determination before possessing the capacity to govern (Sørensen 1994: 37). Many of these new states lacked experience in governmental affairs, possessed weak administrative and judicial institutions, were economically frail, and struggled to contain ethnic strife (Helman & Ratner 1992 – 1993: 5). Despite this, the superpowers had policies that armed these governments (Ayoob 2001: 136). The United States and the USSR used many developing nations to fight “proxy wars,” which necessitated large arms transfers to volatile regions (Ayoob 2001: 131). These policies greatly contributed to many developing countries' instabilities after the Cold War ended (ibid).

Because of the end of both the Cold War and colonialism, scores of new nation-states were created. In 1945, the United Nations counted 51 members; its current membership now totals 192 (United Nations Department of Public Information (UNDPI) 2006). Most of the conflicts since the end of World War II have occurred in these new, developing nations (Ayoob 2001: 127). Thus, although the United Nations was founded primarily to prevent wars and conflicts between states, the end of Cold War lessened the threat of interstate conflicts while intrastate conflicts have risen considerably.

### *The Contextual Basis Surrounding the Responsibility to Protect*

In response to the South African practice of apartheid, c.b.b. published an article in 1964 in the *Duke Law Journal* questioning the norm of prioritizing sovereignty over human rights, arguing that in certain extreme cases of human rights abuses, intervening into a state's domestic affairs to protect human rights was warranted. He thought that "world consensus may be reaching the point where, although international law still does not expressly authorize collective intervention, the world community will not condemn it if undertaken solely for humanitarian purposes" (c.b.b. 1964: 864). However, it was not until the 1980s and 1990s that these types of interventions began to occur on a large scale.

The increase in the number of external interventions is largely due to a dramatic rise in conflicts' threats and damage to the civilian population. Civilians now comprise most of the casualties incurred in conflicts (World Federalist Movement-Institute for Global Policy (WFM-IGP) 2009c), with civilian casualties increasing from ten percent of total conflict deaths at the beginning of the twentieth century to 90 percent by its end. Modern weapons allow for greater destruction at a more rapid pace (ICISS 2001: 4), and these are in part responsible for the more than six million deaths from 1994 to 2004 due to armed conflicts (Cook 2004: 1). Partially as a response to this, the UN Security Council has shown an increased willingness to authorize the use of force since the end of the Cold War (Global Centre for the Responsibility to Protect (GCR2P) 2009c).

Many critics called for more frequent authorization of force; however, they were met with a lack of political will from elected officials and generally apathetic or reluctant electorates. The starvation and suffering caused by Somalia's civil war that began in 1991 and the country's subsequent degeneration into lawlessness and famine resulted in a disastrous intervention that further weakened political will. Thus, when the Rwandan genocide began in 1994, other countries chose to

not intervene. Yet when the horrors of that genocide, which resulted in 800,000 brutal deaths, were revealed, it shocked the world's collective conscious. At the same time, the consequences of not intervening more forcefully in Somalia, including the flood of refugees the country produced and its greater prominence as a trafficker of both narcotics and persons, began to affect most developed nations. This prompted a more serious global discussion on the "duty to intervene," the idea that one state has a right to intervene in another state's affairs for humanitarian purposes.

Five years after the Rwandan genocide, NATO intervened in Kosovo in 1999 with an air bombing campaign designed to halt ethnic cleansing there after appealing unsuccessfully to the UN Security Council. This campaign, although successful, brought the tension between sovereignty and the "right to humanitarian intervention" to the fore (International Crisis Group (ICG) 2009). Western powers argued that mass atrocities must be halted while Russia, China, and many developing nations countered with the supposed supremacy of the concept of sovereignty. NGOs, now playing a much larger role in international affairs, agreed with the principle of a "right to humanitarian intervention" but criticized the term, fearing that their work would be associated with armed intervention (ICISS 2009: 9).

In April 1999, Tony Blair gave a speech entitled "Doctrine of the International Community" to the Chicago Economic Club. While the primary purpose of the speech was to explain the purpose and moral imperative of NATO's intervention in Kosovo, it was one of the first times that the principles behind humanitarian intervention were publicly discussed by the leader of a major state. One year later, then-UN Secretary-General Kofi Annan challenged the United Nations General Assembly to devise a framework under which the United Nations could act when faced with atrocities similar to those that occurred in Somalia, Rwanda, and Kosovo (GCR2P 2009a). In response, the Canadian government, in cooperation with several large foundations, formed the International Commission on Intervention and State Sovereignty (2001: VII).

## **II. The Responsibility to Protect: An Overview**

There are four main documents that discuss the doctrine of the responsibility to protect, although none of them creates binding international law (Stahn 2007: 101). The ICISS released the first comprehensive report on the subject in 2001, followed by a report from the Secretary-General's High-Level Panel on Threats, Challenges, and Change in 2004. In early 2005, Secre-

tary-General Kofi Annan released his own report, and the United Nations formally accepted the doctrine in the 2005 World Summit Outcome Document in September of that year.

### ICISS Report

Based in part on a concept called “sovereignty as responsibility” that Francis Deng and his colleagues developed at the Brookings Institution in 1996, the ICISS report was the first document to use the term the “responsibility to protect” (GCR2P 2009b). This change from “right to humanitarian intervention/duty to intervene” to “responsibility to protect” represented a monumental shift in thinking, and this will be discussed in more detail later. Released in 2001, the ICISS report ushered in a new era of debate regarding sovereignty and the protection of human rights. It promoted the idea that governments are obliged to protect their citizens, and should they be unwilling or unable to do so, that responsibility must be borne by the international community (ICISS 2001: VIII). While some nations embraced the ideas contained in the report, others were weary of what they perceived to be an erosion of sovereignty. This prompted further debate. The concept of the responsibility to protect began to circulate among member states in United Nations about the same time calls for reform in the United Nations were being considered. As a result, both the Secretary-General’s High-Level Panel on Threats, Challenge, and Change and the Secretary-General himself directly addressed the issue.

### The Secretary-General’s High-Level Panel on Threats, Challenges, and Change Report

Released in December 2004, the High-Level Panel report focused on institutional reform at the United Nations, and its discussion of the responsibility to protect occurs within that context (Stahn 2007: 105). The report explicitly recognizes the tension between sovereignty and human rights and endorses the responsibility to protect (High-Level Panel 2004: ¶29 – 30). It also recognizes that while the UN Charter promotes human rights, it also prohibits external interference into a state’s domestic affairs (¶199). However, the report stresses that individual rights should always take precedence over state rights (Cook 2004), which is in line with the ICISS report. For the Panel, the responsibility to protect could be used to strengthen the collective security system under the UN Charter (Stahn 2007: 105). As such, it primarily stressed the means to enforce the responsibility to protect, explicitly stating that actions should only be taken through the UN Security Council (High-Level Panel 2004: ¶203).

### *The Secretary-General's Report*

Released three months later in March 2005, then-United Nations Secretary-General Kofi Annan's report *In Larger Freedom* addressed many of the same issues as the High-Level Panel report; however, Annan's report focused not on the intervention that may be necessary to enforce the responsibility to protect but on the doctrine as a means to promote the rule of law and human rights (Stahn 2007: 107). For him, it was part of a larger vision of collective responsibility in developing the world, which included a range of metrics such as education, health, and the environment (Stahn 2007: 107 & Annan 2005: ¶28). Enforcing the responsibility to protect is one of the tools necessary to allow people to "live in dignity" (Annan 2005a: ¶135 and Section IV). As a result, Annan stressed that implementing the doctrine should be accomplished through peaceful means (Stahn 2007: 107).

### *2005 World Summit Outcome Document*

The United Nations formally and unanimously adopted the doctrine of the responsibility to protect in September 2005 in the 2005 World Summit Outcome Document, thereby providing the doctrine with the legitimacy of an official UN document as opposed to a report, academic article, or white paper. While paragraphs 119 – 120 in the document reaffirm member states' commitment to human rights and paragraph 135 reaffirms their commitment to democracy, the document specifically addresses the responsibility to protect in paragraphs 138 – 140. In paragraph 138, member states recognize their responsibility to protect their "populations from genocide, war crimes, ethnic cleansing, and crimes against humanity." Paragraph 139 states that responsibility for this protection must be enforced by the international community should a given state fail to do so. While the pledge stresses peaceful means, it also commits to requesting that the Security Council authorize force if necessary. Paragraph 140 simply affirms support for the Special Advisor of the Secretary-General on the Prevention of Genocide.

### *Shared and Core Elements of the Responsibility to Protect*

Given that all four documents are based on the concept of responsibility to protect, they share many elements. All four appear founded on the same ideas, each of which is articulated in the ICISS report (2001: XI): (1) with the power of sovereignty comes certain obligations to those people living within the sovereign's boundaries; (2) legal obligations regarding human rights exist under certain declarations, treaties, and laws; (3) it is the Security Council's responsibility to maintain international peace and security; and (4) the doctrine of the responsibility to protect is gaining wider acceptance among member states in the United Nations. The authors of all four

documents also appear to believe that the responsibility to protect is politically achievable (ICISS 2001: VIII).

According to Zehra Arat (1999: 126), “the state, an entity that is fully equipped with coercive power and authorized to use it, is the main institution that is trusted with the protection of human rights.” In accordance with this thinking, inherent within the doctrine of the responsibility to protect in all four documents is the argument that states are obliged to protect their citizens from mass atrocities (GCR2P 2009c). Should a state not be able to fulfill this obligation due to a lack of resources, it should be assisted by the international community (ibid). However, should a state willingly not fulfill its obligations and intentionally inflict atrocities on its own people, then it is the responsibility of the international community to intervene and enforce universal human rights (ibid).

In all four documents, the responsibility to protect has three basic components: (1) the responsibility to prevent, (2) the responsibility to react, and (3) the responsibility to rebuild. A brief explanation of each of these components is detailed as follows:

- *Responsibility to prevent:* The doctrine emphasizes the responsibility to prevent, considering this first component the most important aspect of the doctrine (ICISS 2001: XI). The purpose of prevention is to render coercive measures against a state unnecessary (23). Means to prevent mass atrocities include international assistance in addressing political, economic, legal, and military needs as well as strong diplomatic pressure in urging hostile rivals to settle disputes through peaceful means (ibid). Unfortunately, the responsibility to prevent has rarely engendered successful action. Parties within the international community that possess the means necessary to prevent atrocities rarely take action, instead hoping that the situation will resolve itself, not prove as serious as expected, or that atrocities can quickly be halted should they occur (20). As the ICISS report rightly notes, there is “always a compelling rationale for inaction” (72).
- *Responsibility to react:* The responsibility to react argues that the international community has a responsibility to act when confronted with certain atrocities (29). While the scope of these atrocities varies between documents, all four documents agree that four specific crimes should be included. Although these four crimes are collectively known as “mass atrocities” in most literature, this thesis will refer to them as “violent mass atrocities” in

order to distinguish these four acts from the “non-violent mass atrocities” discussed later. Note that both the responsibility to protect and its subcomponent of the responsibility to react are not seen as a solution to all issues arising within a society, which in part explains why they are currently limited to four specific atrocities (WFM-IGP 2008: 7). These four violent mass atrocities are defined as follows:

- Genocide: Article 6 of the Rome Statute of the International Criminal Court (2002) defines genocide as committing certain acts – including killing, causing serious bodily or mental harm, imposing conditions meant to bring about physical destruction, preventing births, or forcibly transferring children – in order to partially or fully destroy a national, ethnical, racial, or religious group.
- Crimes against humanity: Article 7 of the Rome Statute defines crimes against humanity as committing certain acts – including murder, extermination, enslavement, forcible transfer, torture, rape, enforced disappearance, and inhumane acts of a similar character intentionally causing great suffering or serious injury to body or to mental or physical health – as part of a systematic attack directed against civilian populations.
- War crimes: Article 8 defines war crimes as committing certain acts – including grave breaches of the Geneva conventions, willful killing, torture, intentionally causing great suffering, and taking hostages – as part of a plan or policy (ibid).
- Ethnic cleansing: The United Nations still lacks a formal definition for “ethnic cleansing,” and academia has not agreed on a standard definition either. Still, all four documents regard it as one of the four atrocities that create a cause for intervention under the responsibility to protect.

Note that the responsibility to react heavily emphasizes that armed intervention should be deployed as a last resort to protect human rights. The principles of this armed intervention and the appropriateness of applying them to the use of force in cases of non-violent mass atrocities will be discussed in Chapter 4.

- *Responsibility to rebuild:* The responsibility to rebuild occurs after any type of intervention has transpired. The purpose of including this responsibility as a component of the responsibility to protect is to stress that it is, in part, the international community's role to assist in rebuilding the affected society in such a way that the atrocities are not repeated (ICISS 2001: 39). This includes rebuilding security, justice, and economic institutions as well as conducting the efforts in such a way that revenge killings do not occur (40 – 41).

#### *Differences in the Responsibility to Protect Among the Four Documents*

While the four documents agree on the general principles of the responsibility to protect, they maintain important differences. These differences can be divided into two categories: (1) those specifying the types of atrocities that should prompt intervention and (2) those that discuss which parties have the authority and responsibility to intervene. Both are equally controversial and will be discussed in more detail in chapters 4 and 5. Still, a limited discussion is produced here.

Because the responsibility to protect may engender direct intervention into a state's internal affairs, it is crucial for the international community to understand and agree upon which actions are grave enough to warrant such intervention. Secretary-General Annan's report (2005a: 59) is the most restrictive, limiting actions warranting intervention to genocide, ethnic cleansing, and crimes against humanity. The 2005 World Summit Outcome Document (¶138) is only marginally less constrained, expanding Secretary-General Annan's list to include war crimes. The ICISS and High-Level Panel reports, however, deem other acts severe enough to also warrant a response under the responsibility to protect. The ICISS report (2001: VIII) specifically states that intentional starvation should also be included. The High-Level Panel report (2004: ¶201) expands and specifies the list even further, including not only the four violent mass atrocities but "mass murder and rape, ethnic cleansing by forcible expulsion and terror, and deliberate starvation and exposure to disease."

The reports also differ on which entities or organizations may intervene. While all four documents stress that authorization from the Security Council is the most legitimate and appropriate source for sanctioning force, some are also open to intervention by other parties. Both the 2005 World Summit Outcome Document (¶139) and the High-Level Panel report (2004: ¶203) limit any action to that approved by the UN Security Council. Annan's report (2005a: ¶126) stresses that the "task is not to find alternatives to the Security Council as a source of authority but to

make it work better.” Still, he does not explicitly eliminate other options, which may leave open the possibility of acting without Security Council approval (Stahn 2007: 107 – 108). Nevertheless, the ICISS report (2001: 53) specifically states that while the Security Council is the ideal body to authorize the use of force, they have been inconsistent in doing so in the past (see Chapter 6). As a result, options for intervening without approval from the Security Council should be considered (ibid).

### **III. How the Responsibility to Protect Represents a Shift in Thinking**

The doctrine of the responsibility to protect represents an important shift in thinking regarding the concepts of human rights, armed intervention, and sovereignty. How people and nations view each of these will largely influence the way governments behave toward both their own citizens and other governments. Thus, a change in thinking regarding human rights, armed intervention, and sovereignty will likely alter the nature of international relations, international law, and the actions of the United Nations.

According to Helen Stacy (2003: 2049), we live in a culture that now emphasizes human rights. Increasingly, these liberties are viewed not as the benefits of certain citizens living in certain nations but as the rights of all people living in all nations. As mentioned in Section I of this chapter, these rights are enshrined in both the UN Charter (1945: Article 55) and the Universal Declaration of Human Rights (1948) and are now part of international law (Ayooob 2001: 127). The respect for and enforcement of these rights has traditionally been viewed as the province of the state through civil institutions such as the legislature and judiciary. However, as the rise in intrastate conflict discussed in Section I of this chapter has shown, governments are sometimes unwilling or unable to protect these rights and, on occasion, purposefully violate them. The doctrine of the responsibility to protect has shifted how these rights should be enforced, stating that it falls to the international community to do so when a given state is either unwilling or unable to protect its citizens’ rights. Thus, while the idea that a state has obligations to its own citizens, a thought particularly prominent in Hugo Grotius’s 1625 work *De Jure Belli ac Pacis* (Hinsley 1986: 139), is not new, the claim that a state has duties to protect citizens other than its own is (Stahn 2007: 115).

The doctrine of the responsibility to protect shifts the debate in other ways as well, such as altering the discussion surrounding intervention from the “right to intervene” to the “responsibility to protect.” This change in focus is accompanied by important changes in our perceptions of

sovereignty. The responsibility to intervene emphasizes the intervening states' right to interfere in another state's affairs when the latter inflicts or permits mass atrocities to occur (ICISS 2001: 17). Smaller states often perceive this "right to interfere" as veiled threats from larger powers to intrude upon their domestic affairs. The responsibility to protect, however, concentrates on the protection of civilians in any state by any state (ibid). As a result, the attention moves from what are perceived to be actions among governments to what may be perceived to be actions between citizens. The former is often seen as one government overriding another government's actions towards its citizens. The latter is seen as citizens across the globe joining together to protect the rights of fellow citizens in less fortunate circumstances, with the governments of the former viewed as the instruments most efficient and legitimate to do so. The responsibility to protect also shifts our thinking about sovereignty away from the idea that a state possesses complete control of activities within its borders to the claim that states have both national and international accountability for their actions (14). This accountability, when viewed as having consequences, may in turn shape how a state behaves towards its citizens and the international community.

Finally, the formulation of the responsibility to protect shifts focus from simply reacting to atrocities after they have begun to emphasizing measures to prevent them from ever occurring. Historically, the world has not reacted to mass atrocities until after they have begun, if they react at all, despite often having information that a large scale loss of life is about to occur.<sup>1</sup> This has proven extremely costly in terms of both lives and money, and it is generally recognized that preventing atrocities, while still difficult, is far less onerous than attempting to halt them after they have commenced. Thus, the doctrine of the responsibility to protect refocuses the debate from how the international community should react to mass atrocities (although it addresses that as well) to the steps it should take to prevent them. This is an extremely important shift, especially given political will is far lower when faced with potential atrocities as opposed to actual ones. Unfortunately, despite increased discussions, the only (somewhat) successful application of the responsibility to prevent thus far appears to be the assistance in negotiating a power-sharing arrangement in order to prevent civil war in Kenya following its December 2007 election (*The Economist* 2008a).

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<sup>1</sup> The 1994 Rwandan genocide provides one such example. Despite being informed of Hutu weapons caches and their plans for Tutsi extermination, the UN declined to intervene to prevent the genocide (Carlsson, Sung-Joo, & Kupolati 1999: 10 – 15).

#### **IV. Controversies with the Responsibility to Protect**

Despite its unanimous adoption at the United Nations' 2005 World Summit, the responsibility to protect remains considerably controversial. Some of the controversy surrounding the doctrine is seen in the differences among the four primary documents outlining it (see Section II of this chapter), including what actions or atrocities warrant intervention and which entities or organizations may legitimately intervene. Other reasons for the controversy include its incompatibility with traditional notions of sovereignty and its perceived violation of Article 2(7) of the UN Charter.

Because forcible intervention into another state's affairs is a serious undertaking, much of the debate surrounding the responsibility to protect focuses on defining which actions are grave enough to warrant it. Most people who generally accept the principles behind the doctrine also agree that the four violent mass atrocities (i.e., genocide, crimes against humanity, war crimes, and ethnic cleansing) defined in Section II of this chapter warrant intervention. However, there remains significant disagreement as to whether the doctrine of the responsibility to protect should be extended to include non-violent mass atrocities, such as deliberate starvation and exposure to disease, as well. This debate is, of course, the focus of this thesis and will be addressed in considerable detail in Chapter 5.

The entities and organizations that may intervene under the doctrine of the responsibility to protect continues to be another point of considerable controversy. Some surmise that because it is the responsibility of the world community to protect and uphold human rights, any state within that community should be able to act to do so. Others, however, argue allowing any entity to intervene paves the way for more arbitrary interventions and maintain that the UN Security Council is the only legitimate authority to authorize action. In response, other people have countered that the Security Council has shown itself largely unwilling to respond to mass atrocities and, as a result, other options such as regional organizations (e.g., NATO and the African Union) may be the best means of enforcement. This debate is addressed in further detail in Chapter 4.

The doctrine's incompatibility with traditional notions of sovereignty also sparks a prodigious amount of debate. Traditional notions of sovereignty, specifically those derived from Westphalian sovereignty, hold that states should never intervene in one another's internal affairs. Thus, the global community remains divided between those who believe that sovereignty should

never be violated for political or legal reasons and those that are less concerned about legality and politics and more concerned with the moral obligation to protect human rights (GCR2P 2009a). Most countries in the West support the doctrine, and not surprisingly, these tend to be the countries that consider the protection of human rights to be an integral function and responsibility of government. The doctrine's most vocal opponents, including Cuba, Egypt, Russia, Algeria, and Burma (*The Economist* 2008a), are among those considered to commit the worst violations of human rights. Belarus, China, El Salvador, India, Indonesia, Iran, Pakistan, Syria, Venezuela, and Vietnam, several of which are also largely considered to not uphold human rights, oppose the doctrine of the responsibility to protect as well (WFM-IGP 2005). Again, they base their opposition upon traditional conceptions of sovereignty. The notion of sovereignty and its relationship to the responsibility to protect will be further explored in Chapter 2.

Finally, even for those inclined to agree with the doctrine, enforcement of the responsibility to protect is perceived as a clear violation of Article 2(7) of the UN Charter (again, "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state"). Should the UN intervene to halt mass atrocities occurring only within a given state's jurisdiction, it undermines the power and purpose of the UN.

Critics tend to respond to this claim with several points. First, should the UN prove unable or unwilling to halt such atrocities, its power and purpose will be undermined anyway. Furthermore, the UN Charter was written in the context of interstate, not intrastate, conflict and now must be reinterpreted to address these new realities. Finally, these critics argue that the enforcement of our moral obligations to others should not be solely hindered by a political document that cannot claim moral truth.

#### **IV. Conclusion**

The origins of doctrine of the responsibility to protect can be found in the increasing emphasis on human rights in the aftermath of World War II and as a reaction to the dramatic rise in and atrocities committed during the course of intrastate conflict following the end of the Cold War. Three conflicts in particular – the Somalian civil war beginning in 1991, the 1994 Rwandan Genocide, and the NATO intervention in Kosovo in 1999 – led to a more focused debate on the ideas surrounding humanitarian intervention. The International Commission on Intervention

and State Sovereignty finally provided the first comprehensive formulation of the doctrine of the responsibility to protect in 2001.

Three reports from the United Nations subsequently followed the ICISS one, including the 2005 World Summit Outcome Document that formalized the United Nations' adoption of the doctrine of the responsibility to protect. Together, the ICISS report, the Secretary-General's High-Level Panel on Threats, Challenges, and Change report, the Secretary-General's report, and the 2005 Outcome Document are considered the primary documents outlining the world's conceptions of the doctrine, and while they largely agree on its basic premises – including the responsibility to prevent, the responsibility to react, and the responsibility to rebuild – important differences between them remain.

The doctrine of the responsibility to protect represents a dramatic shift in thinking about the enforcement of human rights, and it has also altered the debate from the “duty to intervene” to the “responsibility to protect” with an accompanying change in focus from governments to individuals. The doctrine is also the first to emphasize the prevention of mass atrocities over appropriate reactions to them.

While many accept the doctrine of the responsibility to protect as an emerging norm in international relations (High-Level Panel 2004: ¶202), it remains significantly controversial. Not only are the conditions for invoking the responsibility to protect and the bodies most legitimate to enforce it still fiercely debated, many countries argue that it can never be compatible with their conceptions of sovereignty and represents a gross breach of the UN Charter. Many of these issues will be addressed in later chapters.

# The Nature of Sovereignty

## Chapter 3

Considered one of the most fundamental and essential principles in international relations (WFM-IGP 2008: 8), sovereignty is the “principal basis of the international system” (Cook 2004) and a “central concept for all of the major ways of understanding international relations” (Krasner 2001: 19). In his comprehensive book on the topic, F. H. Hinsley (1986: 1) defines sovereignty as “a theory or assumption about political power” yet adds that it is not a fact but “a concept which men in certain circumstances have applied – a quality they have attributed or a claim they have counterposed – to the political power which they or other men were exercising.” However, when discussing the concept of sovereignty in light of the responsibility to protect, it is beneficial to consider Thomas Heller and Abraham Sofaer’s (2001: 24) description of sovereignty as a “vague formula, with shifting components and uses, arrived at over centuries of experience, and reflecting the complex situation in which nations currently function in the world order.”

The concept of sovereignty is an important component of the responsibility to protect since the doctrine specifically states that a state’s right to territorial integrity can be breached when that state either purposefully inflicts or fails to stop certain mass atrocities occurring within its borders. This line of thought is in direct opposition to the widespread belief that sovereignty and its accompanying right to territorial integrity is an absolute right that should not be violated under any circumstances. This chapter first traces the history of the concept of sovereignty before exploring relatively recent trends, including human rights and globalization, that are changing our traditional notions of it. The chapter then argues, in opposition to the thinking that sovereignty is a “right” of states, sovereignty is a purely political construct that, while convenient and useful for international relations, may in no manner be used as a shield against intervention for the purposes of protecting populations from mass atrocities. As part of this, the chapter explores sovereignty in both democratic and non-democratic nations. The chapter will then conclude by examining objections to the arguments that it contains.

### I. The History of Sovereignty

Our ideas about sovereignty have changed throughout history, and this section examines those changes. Hinsley (1986: 25 – 26) notes that sovereignty “at the beginning, at any rate...was the

idea that there is a final and absolute political authority in the political community” while Krasner (2001: 10) maintains that “recognition as a sovereign state is a widely, almost universally, understood construct in the contemporary world.” However, the rise of the concept of sovereignty and our current conceptions of it are largely shaped by political conditions and power relations at a given time as opposed to deep moral truths (Stacy 2003: 2048). Still, until recently, the vast majority of sources across the years have generally concurred with Dan Philpott’s (2003) basic definition of sovereignty as the “supreme authority within a territory.” As we trace the history of sovereignty, we will see that Philpott’s comment on sovereignty as “one of the most formidable and successful political trends in modern times” is largely true. Because the history of sovereignty is well-documented elsewhere,<sup>2</sup> this section provides only an overview of the primary people and events that have led to our current conceptions of sovereignty.

The idea that a government has both rights and responsibilities traces at least as far back as ancient Greece. According to Plato (2003: 342e & 347d), an entity possessing both the power and skill to govern and control another requires the ability to make decisions and perform actions based on the latter’s best interests and not its own. Despite these early comments on the subject, Hinsley (1986: 27) contends that the Greeks did not fully succeed in formulating a comprehensive philosophy of government.

In 1576, Jean Bodin became the first person to develop a formal theory of sovereignty (71), and as a result, he is considered the father of our modern view of it (Maritain 1950: 344). For Bodin, the nature of the state was such that the sovereign must have absolute power over it, although the sovereign was still constrained by divine and natural laws, the customary laws of the political community, and the property rights of its citizens (Hinsley 1986: 122 – 123). Hugo Grotius, Alberico Gentili, and Francisco Suarez also agreed that there should be limits to state sovereignty (Philpott 2003). Grotius in particular thought that the rules governing the actions of states should be based on the assumption that these states exist for the benefit of their citizens (Stahn 2007: 111).

The Treaty of Westphalia, signed in 1648, provided a landmark moment in the modern acceptance of sovereignty. The treaty, also known as the Peace of Westphalia, ended the Thirty Years War (Philpott 2003). While the agreement did not explicitly establish a system of sovereign states, it had two features that became the basis for such a system (ibid). First, the state became

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<sup>2</sup> See F.H. Hinsley’s *Sovereignty* (1986) for a comprehensive account.

the primary form of authority in Europe, no longer rivaling either the Holy Roman Empire or the Catholic Church for political control (ibid). Secondly, the treaty ended the practice of intervening in other states' affairs on matters of religion (ibid). As the sovereign states system evolved in later years, the prohibition against intervention on matters of religion broadened into almost all other matters of state as well, thus forming the basis for our modern norm of non-intervention into another state's domestic affairs (ibid).

With the publication of *Leviathan* in 1651, Thomas Hobbes became the first person to clearly delineate the concept of sovereignty in English political thought (Hinsley 1986: 141). According to Hobbes, a sovereign state possessed absolute rule within its territory (Stacy 2003: 2032). Unlike Bodin, Hobbes did not think that the sovereign had any constraints, instead arguing that its power was unlimited (Hinsley 1986: 143).

Reacting against both Bodin and Hobbes, John Locke proposed that the state was constrained not by natural, divine, or customary laws but by its obligation to protect the rights of its citizens, including those rights to life, liberty, and private property (Stacy 2003: 2034). According to Locke, any deficiencies in these rights could only be remedied by rebellion, secession, or an independent judiciary (ibid).

Thus, while traces of the concept of sovereignty can be found in ancient Greece, Bodin, Hobbes, Locke, and the Treaty of Westphalia render it a phenomenon that is primarily modern as it follows the rise of modern nation-states.<sup>3</sup>

The beginning of the twentieth century generated renewed discussions on philosophical conceptions of sovereignty since the devastation of World War I brought calls and efforts to form an organization that would prevent another such war from occurring. This organization became the League of Nations. Unfortunately, the institution failed to prevent World War II primarily because it sought to restrict all external limits to state sovereignty while at the same moment the internal power of government was expanding dramatically and the concept of the state became an integral part of international relations (Hinsley 1986: 211).

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<sup>3</sup> Anthony Giddens (1990: 1) defines modernity as the “modes of social life or organization which emerged in Europe from about the seventeenth century onwards and which subsequently became more or less worldwide in their influence.” As shown in this chapter, the concept of sovereignty is, by Giddens definition, a product of modernity.

These conditions, especially the lack of external intervention and the rising internal power of government, in part led to the lack of interference in the actions that Germany took that eventually led to the Holocaust, a horror later seen as partially stemming from the sovereign state's lack of accountability (Philpott 2003). Thus, the aftermath of the Holocaust and trials at Nuremberg and Tokyo brought previous conceptions of sovereignty, particularly its absoluteness, into question (Stacy 2003: 2030) and prompted substantial legal and institutional changes limiting the rights of sovereign states (Philpott 2003). This can be seen in debates within the United Nations, especially the tension between respect for state sovereignty and demand for international recognition of human rights.

Created in the aftermath of World War II, the United Nations sought to correct the deficiencies inherent in the League of Nations in order to provide an institution with the means of preventing future world wars. As part of that, the UN Charter was constructed to emphasize the sovereign rights of states in order to deter aggressors (Cook 2004). At the same time the world was recovering from the war, the process of decolonization began, and the United Nations wanted to write its charter in such a way as to ensure that the former colonial powers would not intervene with the newly independent states (Paul Kennedy & Bruce Russert as cited in Mohamed 2005: 815). It thus created a norm of non-intervention (ICISS 2001: 12). Article 2(7) explicitly states that "nothing should authorize intervention in matters essentially within the domestic jurisdiction of any state." Thus, the Charter focused on conflict between nations and limited its concern for intrastate conflict (Olara Otunnu as cited in Mohamed 2005: 813).

Still, non-intervention into other states' internal affairs, while a norm, was by no means absolute. Chapter VII of the UN Charter provides for the Security Council to authorize action when a "threat to peace, breach of the peace, or act of aggression" exists. Separately, the Universal Declaration of Human Rights and the Genocide Convention, both signed in 1948, began coupling states' internal affairs with certain external obligations (Philpott 2003). The horrors of the Holocaust brought worldwide attention to the protection of human rights, and the rise of visual media made breaches of these rights more prominent and calls to action greater. In the 1960s, the Covenant on Civil and Political Rights and the Covenant on Economic, Social, and Cultural Rights made the respect for human rights a legal obligation for most countries (ibid).

In order to achieve greater rates of state compliance with international legal obligations of human rights, major powers regularly sought to influence the domestic affairs of smaller, weaker

states. These powers held the most leverage when potential states sought recognition in order to acquire international legal sovereignty (Krasner 2001: 332). In exchange for certain human rights protections, these major powers would grant the smaller states international legal recognition and sovereignty (ibid). However, once the smaller states acquired these dearly held prizes, larger countries' influence over the formers' internal affairs generally waned (ibid).

Absolute sovereignty began to erode in other ways as well. The Bretton Woods system, an international monetary system used from the end of World War II until the early 1970s, was constructed such that states essentially forfeited a portion of their economic sovereignty in return for financial stability and aid (Cohen n.d.). The creation of the World Health Organization, the World Trade Organization, and rise of regional organizations such as the European Union further impinged on traditional conceptions of absolute sovereignty as states entered into agreements that, while eroding aspects of their sovereignty, provided significant economic benefits.

## **II. Trends Further Altering Traditional Conceptions of Sovereignty**

As time progressed, the prevailing ideas regarding sovereignty slowly changed. While sovereignty was initially conceived as a means to end conflict between states, especially in the form adopted at the Peace of Westphalia, it has more recently been used as a shield to prevent ending conflict within states. Because much of the world's conflict is now intrastate in nature (see Chapter 4), our conceptions of sovereignty are evolving as we grapple with ways to halt these types of hostilities. Four trends are converging as we see a greater need to violate traditional conceptions of sovereignty: (1) the increasing prominence of human rights, (2) globalization, (3) the inability of certain states to govern, and (4) changing views on governmental legitimacy and authority.

### Human Rights

As mentioned in the previous section, human rights became a much larger focus in the aftermath of World War II, and the Universal Declaration of Human Rights was signed in 1948. At the same time, western populations became increasingly educated and visual media, particularly television and, later, the internet, both resulted in rising interests in humanitarian issues beyond one's own borders. Public opinion regarding the norm of non-intervention into another state's domestic affairs shifted dramatically in response to South Africa's apartheid practices as people came to believe that oppressive practices in any state should be halted (Boyle 1994: 31). Also, horrors such as the Ethiopian government's obstruction of relief efforts during the 1984 – 1985 famine, a catastrophe discussed in Chapter 8, caused NGOs to press the idea that a "duty to in-

tervene” in other states’ internal affairs existed in order for the organizations to gain access to victims affected by disasters without the permission of the affected territory’s government (Stahn 2007: 113). Thus began a trend in which the international community used the increasing prominence of human rights to claim legitimate intervention into affairs formerly protected by traditional notions of sovereignty (Schabas 2001: 605). In 1991, then-United Nations Secretary-General Javier Perez de Cuellar wrote that the principle of non-interference into a state’s domestic affairs could not be used to shield human rights violations (Thomas 1994: 18). The following year, the next Secretary-General, Boutros Boutros-Ghali noted this, adding “the time of absolute and exclusive sovereignty...has passed” (Boutros-Ghali 1992: ¶17).

Human rights have caused traditional conceptions of sovereignty to deteriorate in other ways as well. For example, it is increasingly common for international programs to require reforms of a wholly domestic nature, such as a stronger respect for human rights, in exchange for economic assistance (Helman & Ratner 1992 – 1993: 10). Furthermore, the establishment and increased prominence of institutions such as the International Criminal Court (ICC), an institution established to prosecute certain crimes when governing states are unwilling or unable to do so, have both symbolically and practically diminished the range and scope of sovereignty in relation to human rights. All states are now bound by the customary rules of international law that protect human rights, even if they have not signed the appropriate conventions (Pellet 2000). The ICC is designed, in part, to enforce these rules. Because of the international scope of human rights law, human rights violations are not solely within the domestic jurisdiction protected by Article 2(7) of the UN Charter. According to Caroline Thomas (1994: 16), “we are witnessing the erosion of sovereignty owing to technological progress, the workings of the international economy, and the increasing role of powerful non-state actors in world affairs.” It is these non-state actors that play the important role of drawing attention to human rights violations.

### Globalization

Globalization, meaning the compression of the temporal structure of space as it relates to human activities (Scheuerman 2006), is also transforming our traditional conceptions of sovereignty. Dramatic increases in international trade and foreign travel, a media with the capability of showing images from around the world into our homes, the rise of multiculturalism, and a heavy emphasis on the moral arbitrariness of nearly all biological characteristics (e.g., one’s skin color and gender) have made the “other” seem less unfamiliar and more like ourselves. We no longer

think of moral injustices occurring in another country as natural but as a violation of our common humanity that must be halted.

Furthermore, the increased level of interactions between nations means that what occurs in one nation will rarely affect only that nation. As the world becomes more globalized, John Boli (2001: 64) argues, it calls into question the concept of absolute sovereignty because interactions between nations, including those actions affecting treaty organizations, human rights groups, and scientific bodies, by definition affect multiple national polities, meaning that what happens to one polity will affect another. This is also true economically. For example, beginning in 2007, high default levels of subprime mortgages in the United States directly and indirectly affected banks, and thus their customers, in the rest of the world, which helped fuel a global recession. The consequences of Somalia's failed state are affecting international trade as pirating has increased dramatically in the Gulf of Aden. The fallout from the Rwandan genocide has affected that region for years and in part caused the civil conflict currently occurring in the Democratic Republic of Congo. As these examples show, it is simply false to think that what occurs within one state will not affect those living in other states. In this sense, "world citizenship" becomes relevant and important.

In line with this, international relations, law, and philosophy all appear to view traditional notions of sovereignty as evolving into a more globalized approach that emphasizes protecting human rights. This has shifted the emphasis on sovereignty away from the power that sovereign entities hold to their use of it to protect their citizens. In *A More Secure World*, the Secretary-General's High-Level Panel (2004: ¶30) asserts that states exist not because they hold deep moral truths but because they are necessary to protect the welfare of those living within their borders. The globalized approach to protecting human rights means that states will intervene to protect the rights of citizens outside their territories when the sovereign responsible for that territory fails to do so. Helen Stacy (2003: 2030) argues that this globalized approach is "transform[ing] the territorial and moral status of the nation state." Because of the focus on human rights, "the international community has become a party to the social contract between citizens and their government" (2034). It is because of their participation in this social contract that states have become obliged to protect those living outside their borders.

### *The Inability or Unwillingness to Govern Properly*

Because of the end of the Cold War and other factors discussed in Chapter 2, intrastate conflict has increased as a result of an inability or unwillingness of certain states to govern properly. For purposes of this discussion on sovereignty, “govern properly” is broadly construed to mean only that governments are to protect their citizens from mass atrocities, including genocide, crimes against humanity, and starvation. In recent years, some governments have used the concept of sovereignty as a shield against international intervention when these types of atrocities occur.<sup>4</sup> However, an increasing number of states, NGOs, and private citizens disagree with the idea that a sovereign should have unlimited power within its territory (ICISS 2001: 16). Thomas Weiss and Don Hubert (2001) argue that in an age when effective political and civic institutions are essential to protecting human rights, it is a “legal fiction” to assume that traditional conceptions of sovereignty apply to states that do not show proper governing capacity. Traditional conceptions on sovereignty, particularly as embodied in the UN Charter, were founded on the notion that a state had the capacity to govern its territory, being both willing and able to do so. However, in certain states, those conditions do not exist, meaning that the traditional notions of sovereignty should not apply.

### *Governmental Legitimacy and Authority*

Traditional conceptions of state sovereignty are also changing as the legitimacy and authority of a state’s government draws increased scrutiny. Under traditional conceptions of sovereignty, the governing are simply accepted as the legitimate rulers within a state without regard for the views of the governed. This is changing as international relations increasingly take into account the legitimacy of the ruling parties. This legitimacy is derived from several sources, including the manner in which the governing came to power, the strength and fairness of its civic institutions, and the views of those that it governs. As part of this, the protection of human rights is now viewed to be as important a priority in international relations as the deterrence of war between states (United Nations Development Programme as cited in Mohamed 2005: 837). Ensuring this protection of human rights in other nations is becoming an important aspect of foreign policy in its own right (Hubert & Weiss 2001).

Because of this, the new conception of sovereignty bases its power on the relationships between a state, its citizens, and the international community (Stacy 2003: 2044). Often, the inability or

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<sup>4</sup> Recent events in Zimbabwe and Burma provide excellent examples of this and will both be discussed in detail in Chapter 8.

unwillingness to govern properly occurs in governments that have not been democratically elected and thus lack the accountability to their citizens that is essential for governments in democratic states. Thus, the legitimacy of a government is in part viewed as a product of how much the governing respect the wishes of the governed and govern them according to international standards of democracy and human rights (Hubert & Weiss 2001). For proponents of the responsibility to protect, sovereignty “implies a dual responsibility: externally – to respect the sovereignty of other states, and internally, to respect the dignity and basic rights of all the people within the state” (ICISS 2001: 8). It is in fulfilling these responsibilities that governments gain legitimacy within the eyes of both their own citizens and the international community. The 2005 World Summit Outcome Document (¶138) represents the formal adoption of this change in thinking about the legitimacy of the sovereign as being derived in part from its fulfillment of its responsibilities to its citizens.

### **III. The Nature of Sovereignty and Its Impact on International Relations**

As noted above, sovereignty was first formally implemented in international relations with the signing of the Treaty of Westphalia. As it became an increasingly used concept in handling relations between states, the benefits of sovereignty were realized. First, it ended intervention on matters of religion (Philpott 2003), which reduced much of the cause of conflict occurring at the time. It also established the state as the primary form of government (ibid). This, in turn, laid the foundations for the accountability of governing officials, the desire for self-determination, and the eventual establishment of democracy. It also led to increased peace between states. With the rise of sovereignty came a reduction in the almost continuous warfare that had existed in Europe for hundreds of years, instead inserting periods of increasing peace and greatly lessening “unofficial” conflicts (Hinsley 1986: 200).

However, even as peace was rising, the world again changed. First, as noted in Chapter 2, the nature of global conflict changed. While the respect for sovereignty in international relations led to a great reduction in conflict between nations, the termination of both the Cold War and colonialism saw a massive rise in conflict within nations, particularly smaller, newer ones. Concurrently, shocked by the horrors of the Holocaust and no longer distracted by never-ending wars, both politicians and constituents had the time and ability to focus on the human rights violations noted in the increasingly visual media. The other trend discussed earlier in this chapter – globalization – also changed our view of the interaction between states. Traditional conceptions of sovereignty appear to view states as individual silos that stand on their own. However, expo-

nentially increasing international trade and travel has led to an interconnectedness that does not conform to traditional models of sovereignty. States no longer act as silos standing on their own but engage in interactions more akin to those seen in webs and networks. Thus, the traditional mentality of “live and let live” held in international relations since the rise of the respect for sovereignty between states cannot work when actions occurring among citizens in one state now directly and indirectly affect citizens in another. Furthermore, as David Luban (1980: 166) notes, traditional conceptions of sovereignty are ineffective because they do not consider the legitimacy of the government in power. While traditional conceptions of sovereignty did not need to consider the legitimacy of another state’s government given the silo nature of states, the newfound global interconnectedness has given the subject of legitimacy increased prominence due to its direct effects on human rights and international trade.

Finally, and often overlooked, traditional conceptions of sovereignty were founded in a time when the state – and its accompanying military power – was the highest authority. Hinsley (1986: 196) notes that although by the middle of the eighteenth century most serious thinkers had come to accept that there was some form of higher restraint on state sovereignty, the world lacked the global institutions (e.g., legislative and judicial) necessary to act as that restraint. However, because of the establishment of international bodies and organizations such as the United Nations, the International Criminal Court, and the World Trade Organization, international society has now developed the means necessary to act as restraints on state sovereignty. Thus, as our ability and capacity to restrain state sovereignty have increased, our conceptions of the notion must change as well.

The rise in the effectiveness of these organizations has led some to argue that society no longer needs the concept sovereignty in international relations. However, others argue that the day in which sovereignty is no longer needed will not arrive for quite some time (Heller & Sofaer 2001: 39 – 40). This seems more reasonable. While our traditional conceptions of sovereignty must evolve to reflect our more interconnected world with its greater focus on human rights and ability to respond to illegitimate regimes that do not act within the best interests of their citizens, sovereignty still maintains an important place in managing the competing interests and desires of different groups of people.

### *Sovereignty in Our Modern World*

It is in attempting to understand the changes necessary to traditional conceptions of sovereignty that we still struggle, and this has led to inconsistencies in our formulations of it. This subsection outlines the place for sovereignty in our modern world, and the next one discusses how that conception should impact international relations.

Once the respect for sovereignty was established as the norm in international relations, it was, at least on a formal basis, extended to all nations equally, and this continues today. This, as discussed above, is problematic given that, due to various historical and social factors, many countries recognized under the sovereign states system still do not possess the necessary political and civil institutions to govern effectively. Hinsley (1986: 225) maintains that states lacking the capacity to govern properly must still be accepted as sovereign, although he acknowledges that this application of sovereignty rests on a “fiction.” According to Hinsley (*ibid*), the extension of the benefits of sovereignty, especially non-interference into a state’s internal affairs, is the logical requirement of accepting a state into the international system.

In line with this, sovereignty and, again, its norm of non-intervention have come to be viewed as a “right” of states. It is cherished above all else, with many regarding it as an intrinsic good instead of the simply useful social construct from which it evolved. It is here that our conception must change.

The idea of sovereignty evolved from our conceptions of the state; thus, a brief examination of the origins of the state is helpful in understanding the place for sovereignty in modern times. States originally developed as a result of ever-larger groups of people joining together. By uniting together, these groups enjoyed the benefits of trade and, more importantly, protection that such cooperation brings. However, as the size of these groups increased, a need for a more formal authority structure emerged in order to manage the increasingly complex and competing demands of the various parties within each group. These authority structures eventually led to the establishment of the state. As noted earlier, these states were nearly always at war with one another (200) until the signing of the Treaty of Westphalia and the eventual emergence of the sovereign states system.

Thus, the creation of the state in large part resulted from people’s need for protection and the material benefits of trade. The establishment of the sovereign states system can be viewed as an

extension of this. The construction of a system that significantly reduces war between states materially increases the protection of people within those states since it has the obvious consequence of greatly reducing the effects of war, including death and starvation. Trade also benefits from the establishment of peace as it increases both the number of goods and consumers available to engage in economic transactions. Thus, the sovereign states system can be viewed as a logical extension of the state in that it carries material economic and security benefits for those living within it.

As a result, it is erroneous to view both the state and the sovereign states system as intrinsically good. When discussing such systems, we must be mindful that they are beneficial only in so far as they protect the people existing within them. When these systems do not fulfill the purposes for which they were originally established, meaning the people within them are not protected, we must re-evaluate how we use and view them.

With this in mind, it is, at best, difficult to accept the claim that sovereignty can be used as a shield against intervention when a state commits or allows mass atrocities against its own citizens. The reasons are two-fold. First, in not protecting and benefiting those living within its borders, it is difficult to argue that those governing the territory can claim all of the rights and benefits of a state. Because a state was established to protect its citizens, governing authorities not fulfilling that responsibility have great difficulty in establishing that they are, in fact, a state. Then, because of this difficulty, it is even more troublesome for that authority to prove that it deserves the benefits of the sovereign states system, a system that, as we have seen, was established to protect and benefit those living within it. In keeping with this, the benefits of sovereignty should only be extended to those states that demonstrate their ability to effectively protect those living within their borders; sovereignty should not be automatically extended to each governing authority that makes such a claim or continue to be extended when the conditions under which the state governs changes. This will be further explored in the next section.

A conception of sovereignty operating in our modern world must also account for the new and increasing interconnectedness within it. As detailed above, the state was established to benefit those living within its borders, and its primary obligations continue to be to its own citizens; however, given increasing levels of transnational interaction, the state must also consider how its actions affect those living in other states. As Anne-Marie Slaughter (2005: 629) rightly notes, “where the defining features of the international system are connection rather than separation,

interaction rather than isolation, and institutions rather than free space, sovereignty as autonomy makes no sense.” In other words, a state should no longer view its sovereignty as the ability to exist in a silo without regard to the outside entities that its actions affect. Governing authorities must understand that their decisions may greatly affect those living outside of their geographic boundaries and be prepared to accept limits to traditional areas of sovereignty in return for the greater amount of good produced. Boli (2001: 64) argues that sovereignty alone cannot make a state successful, and a state’s success partially depends on the international community. In accordance with this, it is difficult for a state to advocate that it should receive all of the benefits of transnational interaction (e.g., trade and technology) without the accompanying responsibility (e.g., the protection of human rights). Just as a sovereign states system is a natural extension to the establishment of the state in the sense that both enhance the economic and security benefits for those living within them, the acceptance of curbs to this sovereignty further extends those benefits. Thus, a tension exists between a state’s obligations to its own citizens and its obligations to the international community at large. By accepting certain limits on its traditional sovereignty and understanding that a sovereign’s interactions can now substantially affect those outside of its borders, the governing authorities must act in such a way that more people are able to benefit from the interaction in and between states.

As discussed previously, the acceptance of limits to traditional areas of sovereignty is already well established, albeit not commonly acknowledged. The constraints on economic sovereignty established by the European Union and International Monetary Fund and limits to diplomatic immunity under the International Criminal Court provide examples of how respect for absolute sovereignty no longer exists. As these and other international institutions continue to play a greater role in society, erosion of traditional areas of sovereignty will continue. As a result, it is difficult for nations to claim absolute sovereignty even while willingly accepting limits to that sovereignty. For example, a state should not invoke the concept of absolute sovereignty as a shield against permitting or committing human rights abuses even while it accepts funds from the International Monetary Fund or World Bank.

Thus, a conception of sovereignty appropriate for the workings of our modern world retains some of the concept’s original ideas while discarding others. A sovereign states system is still largely beneficial. First, particularly in democratic nations, it allows for people’s right to self-determination of government. By not mingling in internal affairs, it also enables the preservation of culture. Furthermore, respect for sovereignty increases the prospect of peace, which in turn

carries significant trade and security benefits. It is also useful in managing competing claims and interests by acknowledging helpful economic constructs such as property rights. Note that in each of these examples, traditional conceptions of sovereignty are beneficial because the outcomes are advantageous for those living in the system.

However, others areas falling under traditional conceptions of sovereignty must be discarded in order to reflect the workings of our modern world. First, sovereignty must not be seen as an absolute “right” of states that cannot be breached. Instead, it must be viewed as a construct seen as beneficial to people affected by it. When the sovereignty of a state is no longer beneficial to those living within that state (e.g., the state commits gross human rights abuses), the respect for sovereignty accorded to that state must be reassessed. Furthermore, sovereignty must no longer be viewed as allowing states to operate within silos but instead as allowing states to operate within certain limits due to the increasing interconnectedness of the world. In other words, states must understand that their actions affect those living within other states and thus need to view the possible outcomes of their decisions in light of the broader community that it affects. Finally, it must be understood that, practically speaking, part of our traditional conceptions of sovereignty arose from the lack of effective global institutions before the middle of the twentieth century. Now that some of these institutions have been established, they are able to act as a restraint on the moral decisions made by states. As the prominence of these institutions increases, we must allow them to fulfill their role of placing the necessary external constraints on states that were not available seventy years ago.

With these ideas duly noted, what will inform a conception of sovereignty that is appropriate for the modern world? First, and as noted above, this conception of sovereignty will retain certain aspects of traditional conceptions of sovereignty. This includes a respect for a people’s right to self-determination of government. It also includes a respect for culture and a solid understanding of what does and does not comprise morally arbitrary differences between cultures.<sup>5</sup> However, this conception of sovereignty will also account for the world’s greater focus on human rights and emphasize that a condition of sovereignty is that the sovereign must benefit those living within its borders. A conception of modern sovereignty also recognizes that absolute sovereignty does not exist and that states are already subjected to many forms of external constraints.

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<sup>5</sup> What does and does not comprise a morally arbitrary difference between cultures is a contentious topic that will not be further developed in this thesis. For purposes of this thesis, it is only important to acknowledge that the willful killing or intentional suffering of individuals is widely recognized as not being a morally arbitrary difference. This idea is further elaborated upon in Chapter 5.

Some advocates of the responsibility to protect claim that the doctrine strengthens our present conceptions of sovereignty, arguing it does not redefine sovereignty but instead only adds an obligation to avoid mass atrocities to it (GCR2P 2009a). This depends on how one defines sovereignty. If a person views sovereignty in the traditional sense of absolute non-interference, then the responsibility to protect radically redefines it given that the doctrine specifically states that certain actions are just cause for forcible intervention into a state's internal affairs. However, should sovereignty be viewed more in line with the ideas discussed above, especially the emphasis on its importance in protecting and benefiting people, then the responsibility to protect closely aligns to that notion of sovereignty.

#### *How This Conception of Sovereignty Impacts International Relations*

Naturally, this new conception of sovereignty – a conception that respects differences in culture but emphasizes the importance of benefiting those living within its system – will significantly impact international relations. Instead of extending sovereign recognition as a “right” resulting from the establishment of statehood, sovereignty is seen as a reward resulting from the recognition of good governing practices, specifically the practice of benefiting those living within the state.

There are several ways to evaluate if people within a state benefit from its government. First, people within the state will view the government as legitimate. David Luban (1980) argues that a government is legitimate only if it exists as a result of the will of the people that it governs. According to Luban, a state not based on consent is not legitimate (170). He argues that it is highly unlikely that people would consent to being governed by a dictatorial or repressive regime they could only change through armed resistance (171). Thus, the nature of the government, while not necessarily an elected or representative democracy, will reflect the form by which its people desire to be governed.

As discussed in the previous section, people within a state benefit from its government when they live in more favorable economic conditions than they would have without the government. The government's policies and practices should materially benefit those living within its territory and not just those comprising the ruling elite. The economics of that people group should function better and more effectively than they would without the government. In doing so, the governing fulfill one of the primary purposes of the state.

Alongside this, people within a state also benefit from its government if they live in a more advantageous security system than they would without that government.<sup>6</sup> Thus, those living in states that practice genocide, ethnic cleansing, and other mass atrocities obviously do not benefit from their government's commitment of such atrocities and those practices therefore significantly lessen the legitimacy of the governing.

These conditions are not difficult to meet and only comprise minimal standards of good governance. Thus, should these basic conditions of benefiting one's people not be met, caution should be used when deciding whether to extend the benefits of sovereignty to that state. Even if sovereignty is viewed as a right, discretion is still warranted. Michael Walzer (1977: 54) asserts that the "rights of states rest on the consent of their members." When consent of people regarding their government is not present, the accompanying "right" of sovereignty is not necessarily justified.

Hence, a more appropriate application of sovereignty in our modern world is to extend it by degrees. As Dan Philpott (2003) notes, "external sovereignty depends on recognition by outsiders," meaning that it is external states that determine whether another state's actions warrant the complete extension of sovereignty. As a result, conditioning the extension of sovereignty upon how well a government reflects the will of and benefits its people will likely incentivize those in power to govern properly. Stephan Krasner (2001: 7) touches upon this idea when he asserts that perceptions of authority and control influence how governments behave. Given that a government's authority and control is strengthened or lessened by its degree of sovereignty, governments desiring more control over their own affairs (as most governments do) are thus incentivized to govern in such a way (i.e., produce economic and security benefits for those living within its territory) as to gain a greater degree of sovereignty by outside governments.

States warranting the full extension of sovereignty will likely have functioning civil and political institutions, including a legislative and judicial system as well as a legitimate, non-repressive police force. While they may not be rich, they will not enrich the governing elite while impoverishing their citizens. They will also not be aggressive towards other states, particularly militarily.

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<sup>6</sup> This does not mean that security is perfect. For example, while South Africa suffers from among the highest rates of violent crime globally, its citizens remain better off than if the state did not exist.

States not warranting full extension of sovereignty fall into two categories. In the first, the government exists in accordance with the will of the people but does not have the institutions necessary to govern properly, such as states that only recently gained political independence. In this case, the willingness to govern properly exists but the capacity does not, so in accordance with the responsibility to prevent, that government works with external governments and institutions such as the United Nations to create and implement the structures necessary to allow the state to function in such a way as to benefit its citizens. In this case, the goal is to extend full sovereignty once the capacity to govern properly is in place. This has two primary benefits. First, building appropriate government institutions will prevent any abuses of power that the lack of such institutions may allow. Secondly, in working with states who have more governing experience, the new states will likely achieve sovereignty more quickly since the institutions will be more rapidly constructed due to outside expertise.

The second category consists of states whose governments function without the consent of their people and often operate to the detriment of those living within their territories. This category includes not only obvious dictatorships but also those nations in which democracy is merely a sham. These states are also more likely to be aggressive towards outsiders. In such cases, sovereignty may be extended by degrees or not at all. For example, as Walzer (1977: 101) notes, “when a government turns savagely upon its own people, we must doubt the very existence of a political community to which the idea of self-determination might apply.” Thus, instead of permitting diplomatic immunity or the continuation of the government in power, both benefits of sovereignty, officials involved in mass atrocities may be subjected to trial under international law, and the international community may intervene in order to create and implement a government more closely aligned with the will of the people it governs. Traditional benefits of statehood, including membership in the United Nations, may also be withheld until the state fulfills the purposes for its existence (i.e., protecting and benefiting its people). Also, note that governments deemed illegitimate are viewed as forfeiting their rights to non-aggression (and thus of sovereignty) by other states (Orend 2005), and this is further explored in Chapter 4.

Even when “full” sovereignty is extended, it is not absolute, no matter how much the government benefits its people. As discussed previously, absolute sovereignty no longer exists and is now subject to restraints set by international bodies. In modern times, state sovereignty is in part derived from a body of law (Philpott 2003). While historically governments have only been subjected to the limits set by their domestic constitutions, they are now also subjected to customary

and accepted international law. As Francis Deng notes, certain standards of governance are increasingly imposed on all nations (Stacy 2003: 2036), and as a result, the concept of absolute sovereignty no longer exists.

On a practical basis, the extension of sovereignty predicated upon good governance means full sovereignty is far more likely to be extended to older democratic nations than younger or non-democratic ones. Established democratic nations have the institutions necessary to govern properly and have governments that are accountable to their constituents for the economic and protective well-being of their citizens. Younger democracies will likely receive a degree of sovereignty appropriate to the strength of their civil and political institutions. Non-democratic nations are likely to find the extension of sovereignty more problematic.

Theoretically, non-democratic nations can also be fully sovereign. It is possible that a theocracy or monarchy may reflect the will of its people to be governed in such a manner. Those living in that territory may see themselves subject to a Rawlsian “benevolent dictatorship” that promotes their well-being and thus fulfills its purpose as a state. However, practical examples may be few and far between. Singapore, a one-party state with a generally compliant population, may be one example. What is important to note is that such states are theoretically possible and sovereignty should not automatically be withheld from non-democratic governments.

Still, non-democratic nations are far more likely to be repressive regimes, and in such cases, the extension of sovereignty should be carefully considered. That said, even if sovereignty is fully or partially withheld, other nations should not necessarily act to forcefully induce change. Conditions under which justification for intervention exists are explored in Chapters 4 and 5.

#### **IV. Criticisms**

Although this conception of sovereignty is slowly gaining acceptance in many academic and political circles, it still garners much criticism, especially from those who continue to accept more traditional conceptions of it. This section explores three of those criticisms.

##### *Criticism 1: Sovereignty is necessary for the protection of smaller states*

According to Caroline Thomas (1994: 19 – 20), sovereignty protects weaker states from stronger ones, especially in an era with large inequalities in political, economic, and military might. She cites superpower meddling in smaller countries’ affairs during the Cold War and Iran during the

Iran/Iraq Gulf War as examples of when larger countries interfered not only for material gain but actually sought to influence ways of life (20). Furthermore, as a result of colonialism, states that gained independence after 1945 value sovereignty – particularly absolute sovereignty – far more than older states in part because the former view it as a form of protection against interference by the latter (Helman & Ratner 1992 – 1993: 9 – 10). This protection, it is argued, is vital in allowing smaller countries to conduct their own affairs given the history of the conduct of larger, more powerful states.

Given the past actions of stronger states interfering into the domestic affairs of weaker ones, it is understandable that the latter desire some form of protection against this. As discussed earlier, all people should be allowed the right to self-determination, and strong meddling by outside parties significantly jeopardizes this. However, a return to absolute sovereignty is not the solution as it is too vulnerable to abuses, particularly the ability to commit human rights abuses with impunity.

It appears that very few serious thinkers in the West accept the view that the state is untouchable, particularly when discussing gross violations of human rights and mass atrocities. In fact, close parallels with the freedoms and privacy accorded to individual citizens can be drawn. Citizens in western countries largely enjoy the freedoms of speech, religion, and association and value a right to privacy. However, these freedoms can be diminished or completely revoked should, for example, child pornography be found on one's computer. In that case, the right to privacy is withdrawn and more thorough searches conducted. This is not because the society does not value the right to privacy but because it holds other values such as the protection of children and right to bodily integrity dearer.

This new conception of sovereignty is similar. Countries are largely given the ability to conduct their internal affairs as they wish; however, should governments commit or allow certain actions to be committed, especially mass atrocities, then, like a person's right to privacy in the previous example, the state's sovereignty is partially diminished or, in extreme cases, temporarily revoked. This is not because the world does not value a state's ability to conduct its own affairs but because it holds other values, such as human rights, to be more important.

Thus, the answer is not to use the concept of absolute sovereignty to defend against large state interference but to find other means to limit that interference. The checks and balances in

United Nations Security Council are one such means. Regional organizations including the European Union, the African Union, and the Association of Southeast Asian Nations (ASEAN) can also provide balances to larger countries' power and influence.

Furthermore, and as noted before, smaller countries already do not accept the notion of absolute sovereignty anyway. Many regularly appeal for assistance from larger countries, and these requests are often met with aid that contains conditions, including economic and security improvements, that are readily accepted. Even institutions such as the IMF and World Bank, both of which have been repeatedly criticized by smaller countries regarding the terms attached to the funds, are still frequently used. Furthermore, most small countries have protection agreements with larger ones (e.g., the U.S. and South Korea), thereby eroding territorial integrity anyway. Thus, it is logically inconsistent to claim that weak states must, at all costs, be protected from stronger ones when they already largely form agreements and engage in transactions to the contrary.

*Criticism 2: Diminishing traditional sovereignty will destabilize our international system*

Thomas (1994: 21, citing Richard Falk) also cautions that we must carefully consider the consequences that a substantial change in our conception of sovereignty may entail, particularly the possibility that chaos may ensue (although she does not detail what such chaos may entail). Fernando Tesón (2003: 111) notes that many view any violation of sovereignty as possibly destabilizing our system of states and endangering our primary means of international relations.

Tesón proceeds to answer that this is a rather dubious objection. First, he writes, it is problematic to uphold a system of states by supporting repressive regimes (112). This response touches upon arguments produced earlier in this chapter. While we value the current system of states and the stability and means to international relations that it provides, we must be mindful that these are not in themselves intrinsically good but useful only insofar as they protect the people living within them. When the system of states no longer provides the means to that protection, we must re-examine it.

Tesón also argues that repressive regimes are at least as likely to threaten stability and incite chaos as any violations of traditional conceptions of sovereignty (112 – 113). He may largely be correct. Gross violations of human rights and the commitment of mass atrocities generally causes hunger, spreads disease, and produces massive outflows of refugees. Furthermore, given

that countries most likely to attempt to shield themselves under absolute sovereignty may also be the most likely to be aggressive towards other states (e.g., North Korea), it is not obvious that any violations or revocations of that sovereignty would produce further chaos.

Finally, Tesón responds that the claim that violations of traditional conceptions of sovereignty incite chaos is simply not supported by empirical evidence (113 – 114). This is largely true. While generating much discussion and passionate responses on both sides, NATO's intervention in Kosovo in 1999 and Kofi Annan's negotiations in Kenya in 2008 did not diminish sovereignty. Even more egregious examples of sovereignty violations such as the 2001 invasion of Afghanistan and the 2003 invasion of Iraq, while arguably producing chaos in those countries and Pakistan, did not destabilize our entire system of states. Tesón reasons that this is because invasion, even if only viewed in economic terms, is extremely costly – again, Afghanistan and Iraq provide excellent examples – and therefore cannot be undertaken regularly (113 – 114). Thus, even if viewed as only a matter of practicality, revising our conceptions of traditional sovereignty does not mean chaos will ensue.

*Criticism 3: The concept of sovereignty is never philosophically acceptable*

While the first two criticisms examined objections to changing the traditional conception of sovereignty, this third objection considers the other side of the argument. In his 1950 article “The Concept of Sovereignty,” Jacques Maritain argued that sovereignty always leads to absolutism and is thus not philosophically acceptable. Maritain finds it especially problematic to allow a state the kind of power available in sovereignty without conditioning it on some form of accountability given this tendency towards absolutism (356). As a result, he argues that the concept of sovereignty must be completely discarded (357).

While Maritain's argument contains many elements of truth, it is too extreme. As discussed throughout this chapter, sovereignty may indeed lead to absolutism and serious human rights violations, but that does not mean it must be completely discarded. The concept and use of sovereignty in international relations retains many benefits, including the right to self-determination, and should continue to be used. However, we must now revise it from the concept of absolute sovereignty that has traditionally been invoked to a more limited and conditional sovereignty as outlined in this chapter. The latter contains the checks and balances necessary to prevent absolutism while still retaining the benefits of more traditional conceptions of sovereignty.

## V. Conclusion

This chapter opened by tracing the concept of sovereignty from its origins in ancient Greece through to its thinkers in the sixteenth and seventeenth centuries and the landmark signing of the Treaty of Westphalia in 1648. It then examined the renewed interest in the subject brought about by the twentieth century's two world wars and subsequent increased focus on human rights.

The chapter next detailed four trends that are changing traditional notions of sovereignty. First, the increased attention on and value of human rights is generating stronger calls for violations of traditional sovereignty. Secondly, the world's increasing interconnectedness wrought by globalization means that events occurring in one state will eventually affect people living in another. It is thus in everyone's best interests to uphold certain standards of governance. Next, the world has seen an increase in states that lack either the ability or willingness to govern properly. As a result, this has contributed to the tolerance of certain human rights abuses. Finally, there is a new focus on governmental legitimacy and authority in deciding upon the extension of sovereignty.

After analyzing both the history and trends of sovereignty, this chapter then argued for a new conception of it. This new conception would retain certain traditional aspects of the concept, including the respect for people's right to self-determination of government and culture. It would also recognize the morally arbitrary differences between cultures in order to better apprehend what actions warrant external intervention. Yet this new conception would also view the extension of sovereignty as a conditional privilege and recognize that the notion of absolute sovereignty is no longer practiced.

This new conception of sovereignty would also alter international relations. It would be conditional and extended in degrees based upon the establishment and effectiveness of certain civil and political institutions and how well the government benefits the governed. Should sovereignty not be extended, nations will work with the weak state to create the conditions and institutions under which it can be extended.

Finally, this chapter examined three objections to this new conception of sovereignty. First, it analyzed whether absolute sovereignty, not conditional sovereignty as discussed here, is the only means by which smaller states can be protected from external interference by larger ones. It then discussed if changes to traditional conceptions of sovereignty would destabilize the current sys-

tem of states. Finally, it addressed the objection that sovereignty is simply never philosophically acceptable. It then concluded that these objections are not strong enough to override the benefits of sovereignty.

# Justification for Military Intervention

## Chapter 4

The last chapter established that sovereignty is not an absolute right of states but a conditional privilege that should be extended based upon how much the people living within a state benefit from its government. In extreme cases of poor governance, a state commits or fails to prevent mass atrocities from occurring in its territory. In these instances, as established in the previous chapter, the right to sovereignty and its accompanying benefit of territorial integrity are forgone and the state cannot claim a right to non-interference based on sovereignty. This chapter seeks to establish under what conditions military intervention may be justified.

The legal foundations for military intervention for humanitarian purposes include Articles 55 and 56 of the UN Charter, the Universal Declaration of Human Rights, the Genocide Convention, and the Geneva Conventions (ICISS 2001: 16). A large body of research and academic writing justifying military intervention to halt violent mass atrocities, including genocide and ethnic cleansing, already exists and thus will not be further explored here.<sup>7</sup> Instead, this chapter seeks to understand on what grounds intervention to halt non-violent mass atrocities committed upon vulnerable populations may be justified. As noted in Chapter 1, these atrocities include intentional starvation and exposure to disease, which can be just as lethal as more direct forms of killing.

When violent acts are committed upon vulnerable populations, it seems obvious that armed intervention is necessary to stop them given that perpetrators rarely lay down arms without the use of force. The case for armed intervention to stop non-violent mass atrocities is less clear. When the perpetrators are not armed, why should the interveners be?

The hope, of course, is that they do not need to be. Current United Nations Secretary-General Ban Ki-Moon (2009: 23) specifically states that his institution “has a strong preference for dialogue and peaceful persuasion” over armed means. It is also likely that intervening parties have a strong preference for such means given that armed intervention is far more costly and politically

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<sup>7</sup> *Humanitarian Intervention* (Eds., J.L. Holzgrefe & Robert O. Keohane) and *Turbulent Peace* (Eds., Chester A. Crocker, Fen Osler Hampson, & Pamela Aall) both provide excellent examples.

tenuous. However, conditions exist under which armed intervention to halt non-violent mass atrocities may be necessary.

Should countries choose to intervene to help victims of natural or man-made disasters despite the territorial state's objections, they will likely need to use armed personnel in order to protect supply routes and ensure that relief reaches the people for whom it was intended. They also need to protect aid workers. Between 1992 and 2003, over 200 UN civilian staff were killed while delivering food aid, medicine, and shelter, with another 270 members, both civilian and military, held hostage (UN Document A148/187 as cited in MacFarlane, Thielking, & Weiss 2004: 988). In 2008, 260 humanitarian aid workers were attacked and 122 were killed in 155 violent incidents across the globe (Humanitarian Policy Group 2009: 3). The number of attacks represents a 177% increase over those reported in 1997, with absolute numbers of those attacked and killed rising from 73 and 39, respectively (2 & 11). This type of work is dangerous and reinforces the need that states engaging in intervention to halt even non-violent mass atrocities will incur some level of human risk. Thus, protecting supply routes to relieve non-violent mass atrocities is likely necessary. While the intervention may be planned as an operation to simply guard supplies, it is possible that it can degenerate into armed conflict as the violated state may attack supply routes and military and aid personnel.

This is not to be taken lightly. Military intervention essentially supplants a state's authority for its duration, with the interveners becoming responsible for many of the state's operations (ICISS 2001: 29). Furthermore, it can fan civil strife (31). As a result, this chapter analyzes just war theory to determine if armed intervention to halt non-violent mass atrocities is justified. After first understanding prevention and the use of force in the context of these types of atrocities, the chapter then provides a summary of the most prominent theories on war: pacifism, realism, and just war theory. Next, the principles of just war are applied to intervention to halt non-violent mass atrocities. An extended discussion of which bodies should intervene in such cases follows. Finally, the chapter concludes by examining criticisms to the arguments that it contains.

## **I. On Sovereignty, Prevention, and the Use of Force**

In Michael Walzer's 1977 groundbreaking book *Just and Unjust Wars*, he asserts "every violation of the territorial integrity or political sovereignty of an independent state is called aggression" (52), and Thomas Weiss and Don Hubert (2001) define intervention as "various forms of non-consensual action that are often thought to directly challenge the principle of state sovereignty."

Stanley Hoffman (2001: 277) perfectly captures the issue facing the proponents of intervention to halt mass atrocities when he argues they must show that state sovereignty can be defined in a way that maintains international order and yet allows for intervention in the face of human rights violations.

Chapter 3 outlined a conception of sovereignty that makes it conditional upon good governance, with the practical result being that governments who commit or allow mass atrocities to be committed against their own people have neither sovereignty nor territorial integrity. Lacking this, intervention is much easier to justify. In “Just War and Human Rights,” one of David Luban’s (1980: 165) central claims is that a duty of non-intervention into a state’s internal affairs does not exist when that government is illegitimate. He argues that we cannot respect the rights of a state, including the duty of non-intervention, when that state does not respect the rights of its people, and to do so would be to prioritize state rights above human rights (169 & 176). Given that the state exists for the purpose of protecting the people within it (see Chapter 3), human rights should always be considered supreme. As a result, sovereignty cannot be used as a shield to protect the rights of the state when a higher duty exists to protect the rights of its people.

Although sovereignty cannot be used as a shield against intervention, it does not mean that external states should automatically resort to armed force whenever mass atrocities occur. In keeping with the doctrine of the responsibility to protect, prevention is emphasized; however, prevention efforts for non-violent mass atrocities are problematic.

Can non-violent mass atrocities such as intentional starvation and withholding of aid after natural disasters be prevented? Yes, they can, and many of these prevention efforts will be similar to those needed to prevent violent mass atrocities. The international community should continue to work with governments to build functioning civil and political institutions. Also, NGOs and global organizations such as the United Nations must be alert and sensitive to government attitudes and actions toward civilian populations. When it appears that these populations may be threatened as a result of intentional government actions, these organizations must increase pressure on governments to protect such populations and devise contingency plans should atrocities begin. Furthermore, particularly for non-violent mass atrocities, functioning aid distribution systems and plans for relief efforts must already be in place. Such efforts will send a strong message

to repressive regimes that the international community is willing to protect vulnerable populations and in doing so may decrease the likelihood of such atrocities.

Thus, while it is theoretically simple to prevent and relieve non-violent mass atrocities, it is far more difficult to apply. States that intentionally inflict suffering on their own people (e.g., Ethiopia circa 1984 – 1985) are highly unlikely to self-report famines and suffering caused by natural disasters, which render prevention efforts far more difficult. Furthermore, the evidence of intervention needed to prevent impending large-scale deaths is often difficult for politicians to accept. Political will is difficult to muster after such deaths begin to occur and nearly impossible to mobilize before they occur (see Chapter 6). That said, it is “morally untenable” to be required to wait until civilians begin dying in order to intervene (ICISS 2001: 33).

The threat of armed intervention, even if only the engagement of military personnel to protect supply routes and aid workers as discussed above, can be used as a means to deter non-violent mass atrocities and should be seen as such. This threat should not be used as a means of intimidation but as a more extreme effort to ensure compliance with human rights. It can be likened to a functioning police force (i.e., not a “secret police” or military junta but the type of force often seen in Western democracies). These police officers have the power to use force when necessary. As long as citizens comply with the law, force is not needed nor even considered, and there are measures in place to prevent its abuse. However, should a perpetrator embark upon a serious violation of a victim’s rights (e.g., rape or assault), the police have the ability to use force in order to uphold the rights of the victim. Armed intervention to prevent non-violent mass atrocities can be seen the same way. Knowing that outside parties may intervene to prevent civilian deaths from occurring acts as a check on repressive regimes when embarking on such activities.

In “Conflict Resolution versus Democratic Governance: Divergent Paths to Peace?”, Pauline Baker (2001: 757) persuasively argues

Unlike during the Cold War, peace is no longer acceptable on any terms; it is intimately linked with the notion of justice. ... The need to ensure public accountability and entrench basic human and political rights is not only a luxury of the rich and stable; it is a demand being made by victims of oppression in societies around the world.

Thus, like Walzer (1977: 106), we recognize that although adhering to a general principle of non-intervention is ideal, there are certain actions so dire as to warrant armed intervention. The next

section explores the three primary war theories, particularly emphasizing just war theory, in order to understand under what circumstances armed intervention to halt non-violent mass atrocities is warranted.

## **II. Overview of Pacifism, Realism, and Just War Theory**

Pacifism, realism, and just war theory are the three main lines of thought under which most serious discussions about war and armed intervention can be categorized. This section briefly outlines the first two theories before exploring the third in order to understand if it justifies armed intervention to halt non-violent mass atrocities.

### *Pacifism*

Pacifism is a line of thought that always rejects war and favors peace (Orend 2005). Pacifists do not necessarily reject all types of violence but instead object to the “specific kind and degree of violence” involved in war (ibid). According to pacifism, there is always a better means to accomplishing goals than war, and war is never the answer.

Modern pacifism can be divided into two categories: (1) consequential pacifism and (2) deontological pacifism. Under the first, the cost of war always outweighs the benefits and thus fails to maximize utility (Orend 2005). Under the second, war is intrinsically wrong because it violates the duties of justice, including a prohibition on killing people (ibid).

This theory is problematic when considering non-violent mass atrocities. In the face of large-scale deaths such as the one million people who died in the 1984 – 1985 famine in Ethiopia, it is morally troublesome to say that the cost of intervention far outweighs the benefits of saving so many lives. Even accounting for far lower mortality rates – the 138,000 dead or missing as a result of the devastation wrought by Cyclone Nargis in Burma – it is still difficult to justify not engaging in some sort of intervention.

Deontological pacifism encounters the same issues. Prima facie duties of justice would indicate that we extend assistance to vulnerable civilian populations threatened with death or disease as a result of actions by their governments. To not extend such assistance would appear to prioritize the rights of the repressors over the repressed, a morally unjustifiable position.

### Realism

The realism theory of war states that war is inevitable (Orend 2005). Because, on a practical basis, realism argues state interests always trump moral concerns, it believes that it is futile to consider the morality of war (Moseley 2009). Instead, decisions for war should be considered based only upon whether they serve the needs of the state.

Like pacifism, applying this theory to the question of armed intervention to halt non-violent mass atrocities is problematic. First, upholding the responsibility to protect, while containing elements of self-interest given that, as argued in the Chapter 3, problems in one state will eventually affect other states, is usually not within the best interests of the intervening states. As previously recognized, armed intervention is a politically and economically costly decision, particularly when undertaken to protect civilians external to one's own state. Thus, deciding to undertake such actions is inherently not in a state's self-interests but arises out of the need to protect our common humanity.

Furthermore, should a state choose to intervene based on humanitarian grounds, particularly to prevent or halt mass atrocities, that state is choosing to protect and uphold civilian rights. Rights are, in part, value judgments, and it is peculiar to make a judgment to protect such rights yet then argue that there are no moral decisions necessary in the execution of that protection. Instead, in making the value-laden decision to uphold human rights by protecting vulnerable civilian populations from the horrors of starvation and disease, we must be prepared to justify the means we use to execute such decisions.

### Just War Theory

Just war theory concerns how and under what conditions wars may be justifiably fought (ibid). Just war tradition evolved from enemies that were culturally similar (ibid) but now extends to, although it is not necessarily adhered to by, all members of the United Nations. Note that the most powerful countries in the United Nations, particularly the five permanent members of the Security Council, are the least likely to be held accountable for violations, and this theme is further explored in Chapter 6.

Just war theory strives for a realistic framework for war, and it is divided into three sections. The first, *jus ad bellum*, concerns the justice of the war. The second, *jus in bello*, outlines just and fair conduct during the war, and the third section, *jus post bellum*, examines the principles of responsi-

bility and accountability after the war. A brief description of the principles in each of these three categories follows.

### *Jus Ad Bellum*

Because war is a violent way to determine what happens in a given territory (Orend 2005), the decision to undertake it is grave. As previously stated, *jus ad bellum* concerns the justice of war, meaning it outlines the principles necessary to declare a just war (ibid). In order to justly engage in war, six conditions must be met: (1) just cause, (2) last resort, (3) legitimate authority, (4) right intention, (5) reasonable chance of success, and (6) proportional means (ibid).

Just Cause: A war must only be fought for a just cause, and this is one of *jus ad bellum*'s most important principles. For some, resisting aggression, either at the level of the state or of individual citizens, is considered the only justifiable reason for going to war (ibid). However, for others, the infringement of rights also gives rise to just cause for war. Under the welfare theory of human rights, such rights are "legitimate claims to basic, human goods and to the means necessary...to secure those goods" (Joel Feinberg as cited in Deigh 1988: 173). Thus, possessing a right carries with it the possession of the means to protect and use that right (Orend 2005). As a result, severe infringements of rights such as those that occur when a government deliberately subjects its population to starvation or disease can be cause for armed intervention and resistance.

This is in line with much of Michael Walzer's thinking. He considers the basic rights to life and liberty to be at the heart of the most important decisions in war, and he argues that infringement of those rights justifies armed response from either the victim as a form of self-defense or from any other member of the international community in order to defend that victim's rights (Walzer 1977: 54 & 62). For Walzer, this armed resistance is important in order to maintain rights and deter future infringements upon those rights (59).

This deterrence is important. Michael Howard (2001: 37) argues that parties choose to engage in war only when they believe that armed struggle will achieve more than peace. Thus, a government that believes there will be no consequences for perpetrating mass atrocities upon its people is more likely to do so than one that knows it may be punished for its actions.

As a result, just cause for armed intervention generally arises from the severe infringement of individuals rights, and this often takes the form of some type of aggression. The application of

the just cause principles to armed intervention to halt non-violent mass atrocities will be further explored in Section III.

Last Resort: Armed intervention must be considered a last resort and should occur only after all prevention efforts have been exhausted. Because such types of intervention are economically, politically, and socially very costly, they should be undertaken only with the utmost gravity (Moseley 2009). Once such interventions begin, they cannot simply be stopped without great consequences, and external states making the decision to intervene must be mindful of this (ibid).

Legitimate Authority: The principle of legitimate authority concerns what parties can legitimately use armed force against a state (ibid). Some argue that only the United Nations can authorize the use of force while others believe that other parties may do so as well. This topic is extensively explored in Section IV of this chapter.

Right Intention: Under just war theory, intervening parties must have the right intention when using armed force. Specifically, the intervention should occur for moral reasons and not out of self-interest (ibid).

Reasonable Chance of Success: Just war theory recognizes that lives and resources should not be wasted and thus specifies that force should not be used unless there is a reasonable chance of success in achieving the desired outcomes (ibid). This means that the use of force should improve the situation (Orend 2005). For Walzer (1977: 95), this includes not subjecting third parties to undue risks.

Proportional Means: The proportional means principle specifies the universal benefits of using force must be weighed against the universal costs, including any long-term effects (Orend 2005). Furthermore, intervening parties should not use excessive or disproportionate force against aggressors.

### *Jus In Bello*

The *jus in bello* component of just war theory concerns what comprises just and fair conduct in war. *Jus in bello* aims to constrain the violence and range of the war and is primarily concerned with the principles of discrimination and proportionality (Moseley 2009). The principle of dis-

crimination determines the legitimate targets of war while the principle of proportionality, which overlaps with the proportional means principle of *jus ad bellum*, focuses on the amount of force that is appropriate (ibid). Note that while the proportional means principle under *jus ad bellum* ensures that the amount of force used is proportional to the just cause (ibid), the principle of proportionality under *jus in bello* also seeks to minimize overall destruction and strives to ensure that any amount of force used will not provoke a disproportionate response (ibid).

### *Jus Post Bellum*

*Jus post bellum* pertains to parties' responsibility and accountability after the war, specifically terminating the war and transitioning to peace (Orend 2005). This section of just war theory addresses considerations such as rights vindication, punishment, compensation, and rehabilitation (ibid). The purpose of *jus post bellum* is to conclude war and begin peace in such a way as to prevent the war from recurring (Moseley 2009).

### **III. Application of Just War Theory to the Responsibility to Protect**

Given just war theory is the most applicable war theory in choosing to uphold the responsibility to protect, this section examines under which conditions it would apply in choosing to intervene to halt non-violent mass atrocities. Its format follows the presentation of the theory presented in Section II.

### *Jus ad bellum*

As stated in the previous section, *jus ad bellum* concerns the justice of the war and contains six principles. This subsection will address each of those principles within the context of intervening into another country's affairs in order to prevent or halt non-violent mass atrocities.

Just Cause: Just cause for armed intervention to halt non-violent mass atrocities certainly exists. Walzer (1977: 51) argues that when an aggressive regime forces people to fight in order to defend their rights, armed resistance is "always justified" and the "morally preferred response." When a government intentionally deprives its people of basic necessities in life such as food or deliberately exposes them to disease, the most basic of rights – the right to life – is clearly violated and thus meets the just cause principle. Walzer considers intervention to be warranted when a regime commits acts "that shock the moral conscience of mankind" (107). Intentional starvation is surely one such act. Because of the Ethiopian government's refusal to allow food aid into its country, over one million people died, and most would agree that such numbers do

indeed shock our collective conscience. Furthermore, as discussed in the previous section, Walzer argues that the international community can fight on the victim's behalf (62), and this caveat is important as some states exercise such complete control over their people that these victims cannot fight for themselves on any meaningful level. Thus, external assistance is often necessary in the face of such violations.

As previously discussed, cause for armed intervention to prevent non-violent mass atrocities will be far more difficult to justify than cause for armed intervention to halt the atrocities after they have already begun. The potential scale of the loss of life is generally not fully understood until the body counts begin, and it is difficult to show that such things will occur. Thus, although prevention of atrocities would be far simpler and less costly, they will likely rarely occur.

Before intervening in order to stop such acts, external countries should seek the opinions and expertise of insiders, although these insiders do not necessarily hold a veto over intervention (Holliday 2005: 612 – 613). Insiders will have certain insights and information not available to those external to the state. NGOs with extensive operations inside the offending country may be excellent resources in deciding whether to intervene. Consulting such parties may help external actors to understand if just cause exists and increase the probability of success for an intervention.

If external parties decide that just cause exists and intervention is warranted, what form of intervention will it be? First, the intervention will be very mission-focused since the purpose will be quite specific. For example, should intentional starvation be the issue, intervention will consist solely of providing food aid and not include any larger military actions against the oppressors (this will be further explored in Chapter 6). Furthermore, the intervention must be planned in such a way as to account for possible unintended consequences (e.g., the development of black markets for the products provided by the aid (see Chapter 7)). Also, the intervention will need to be conducted in such a way that power vacuums or violent mass atrocities do not occur.

Last Resort: While armed intervention should be used as a last resort, this does not mean that all other measures must have been exhausted (ICISS 2001: 36). There may not be time for all other means to be tried, especially once people begin dying. NGO access may be a good indicator of when to intervene. While perceptions are changing, NGOs are still generally considered to be neutral, and as such, are often given access even after diplomatic access is rescinded. However,

when governments deny access to these organizations to continue working with potential or actual victims, these victims have no other means of support against their governments. As a result, the amount of NGO access to victims may be a good barometer of when to deem more aggressive responses such as armed intervention necessary.

Legitimate Authority: Walzer (1977: 59) asserts that when victims fight in self-defense, they are actually defending all of society since the infringement of rights is a crime against society as a whole. In this vein, external parties fighting on behalf of victims are defending universal human rights and common humanity and thus may legitimately intervene into a state's domestic affairs. Section IV of this chapter provides an extensive discussion on the parties that may legitimately intervene to halt non-violent mass atrocities.

Right Intention: Noam Chomsky asserts that all governments claim to use force with only the most benign intent (Chomsky 2007: 111). While this may be true, right intention has generally not been problematic when intervening to halt mass atrocities. Interventions in Kosovo and Rwanda did not lead to imperial claims, and future interventions will likely continue this trend. However, note that certain thinkers such as Nicholas Wheeler (2000: 105 – 110) argue that right intention is not necessary as long as the humanitarian outcomes are better due to the intervention. Jack Goldsmith and Stephen Krasner (2003: 59) assert that foreign policy actions should be assessed only on their consequences, not their intentions. While each of these points has merit, they do not invalidate the principle of right intention. While intervention is expected to produce certain outcomes (otherwise, it would not occur), the absolute certainty of these outcomes is unknowable. Thus, when facing a future that cannot be fully controlled, intentions are important.

Reasonable Chance of Success: Because armed intervention to halt non-violent mass atrocities is not undertaken out of self-interest, a decision to intervene will not occur unless there is a firm belief that success will be achieved, if only because failure is politically costly and thus provides a natural check to the system. Furthermore, it is unlikely that vulnerable populations will be worse off than before since they are already victims of mass atrocities. However, vigilance must be taken to prevent aid workers and their protectors from becoming targets or hostages (Crocker 2001: 245), as was the case in Somalia. If this occurs, political will will quickly decline and endanger the success of the mission.

Proportional Means: Because intervening to halt non-violent mass atrocities is specifically focused (e.g., only delivering food aid to famine victims), it would be difficult to not meet the proportional means principle. The purpose of the intervention is only to provide the victims with relief. Measures taken to sanction aggressive governments for such severe human rights violations would be undertaken separately through either the International Criminal Court or a form of long-term diplomacy (see Chapter 7).

### *Jus in bello*

While the principles of discrimination and proportionality are important components of just war theory, they are not as applicable in deciding upon armed intervention to halt non-violent mass atrocities as they are to more general war between states. Because intervention is undertaken solely to relieve victims' suffering and no military engagement (i.e., fighting) is desired, external states will not plan attacks on the perpetrators. Furthermore, this type of intervention renders traditional elements of war like secrecy and surprise of limited use (ICISS 2001: 62), and it is unlikely that the offending government will respond disproportionately.

However, the nature in which the intervention is conducted is still important. The intervention should be conducted in such a way as to ensure that civilians do not turn against the intervening parties (63). Furthermore, the intervention should not irreparably harm long-term prospects for a more just government that protects human rights.

Nevertheless, as previously mentioned, it is possible the aggressive government may choose to attack the intervening forces. Should this occur, the traditional *jus in bello* principles of discrimination and proportionality directly apply and will have to be reassessed in light of such events.

### *Jus post bellum*

Because this section concerns itself with war theory only for the purposes of halting non-violent mass atrocities, considerations such as punishment and compensation for the victims are not as applicable. One of the most obvious differences between intervention for these types of atrocities and traditional war is that the mission is very specific, with a goal only of relieving the immediate suffering of the victims. Long-term changes, specifically building a government that does not commit such atrocities, is undertaken through wider diplomatic effort, and this will be further developed in Chapter 7.

#### **IV. Who Should Intervene?**

As outlined in Section II of this chapter, the legitimate authority principle under *jus ad bellum* stipulates only certain parties have the right to declare and fight a just war, meaning that parties not meeting certain criteria cannot engage in morally justifiable use of force. This section discusses which parties can legitimately intervene to halt non-violent mass atrocities occurring in other states.

##### *United Nations Security Council*

As outlined in Chapter 2, the United Nations was established to prevent future world wars. As a result, member nations gave the organization the authority to mediate conflicts between nations and, when necessary, declare war or forcefully intervene. The power to authorize this force was given to the United Nations Security Council under Chapter 7 of the UN Charter.

Almost all states are members of the United Nations and have agreed to the terms of the UN Charter, including the use of force in accordance with Chapter 7. Furthermore, the United Nations has the military capacity and diplomatic means to undertake such responsibilities (ICISS 2001: 48). As a result, it is regarded as the most legitimate authority to declare the use of armed force, including intervention for violent and non-violent mass atrocities occurring only within the confines of one nation (ibid).

While most agree that the United Nations would be the ideal party to authorize the use of force, especially when the offending regime is aggressive only to its own people and not to other states, relying upon the United Nations to do so is problematic. First, as former UN Secretary-General Kofi Annan (2005b) acknowledges, international consensus is difficult to achieve. Repressive governments are not likely to vote in favor of intervening to halt violent and non-violent mass atrocities (Malone 2003: 1001). This is often seen with Russian and Chinese vetoes on Security Council resolutions, a trend further explored in Chapter 6. Furthermore, on occasions when the UN Security Council has chosen to pass resolutions, they usually do not result in effective action (ICISS 2001: 70). Even when such resolutions result in action, intervention is difficult. When several third parties (i.e., the armed forces of several nations joining together under the banner of the United Nations) choose to intervene, coherence and coordination between nations and among troops are crucial to determining the effort's success (Crocker 2001: 243). The United Nations has not proven effective in this respect.

Lee Feinstein and Anne-Marie Slaughter (2004: 148) argue given the past ineffectiveness of authorizing action through the UN Security Council, alternative parties must be considered. Brian Lepard argues should parties choose to act without Security Council authorization due to vetoes from repressive regimes, first obtaining majority votes from both the Security Council and the General Assembly will lend legitimacy to the use of force (as cited in Bellamy 2003: 180). However, he cautions that acting without the full support of the former may cause long-term damage to the United Nations (181).

Neither NATO's intervention in Kosovo nor the U.S.-led invasion of Iraq were legal under the UN Charter, yet the Security Council censured neither action, something many observers attributed to the size and influence of the United States (Falk 2003: 593). Thus, even if intervening parties lack UN Security Council approval, the institution is unlikely to officially punish those involved if they are large and powerful enough (although international relations may suffer dearly). As a result, the remainder of this section explores which other parties may legitimately intervene to halt non-violent mass atrocities.

#### United Nations General Assembly

The 2005 World Summit Outcome Document (¶80) notes although the Security Council bears the primary responsibility in maintaining world peace and security, the General Assembly also bears that same responsibility. As a result, should the Security Council decline to authorize the use of force, the matter can be presented to the General Assembly. While the General Assembly does not have the power to authorize the use of force, it can lend moral legitimacy to it. Article 18 of the UN Charter requires only two-thirds of the members present in order to pass resolutions on important matters. This is far more balanced than the UN Security Council in which a no vote from one of the five permanent members can override yes votes from the other four permanent members and additional ten rotating members. Furthermore, the General Assembly can claim many of the same moral benefits of legitimacy as the Security Council, including its broad membership base and significant diplomatic capabilities. Thus, while the actual actions the General Assembly can undertake are primarily limited to pressuring the Security Council to authorize the use of force, passing a resolution supporting the use of force to parties acting without Security Council authorization lends moral legitimacy to such actions.

### Regional Organizations

When a moral need for intervention to halt non-violent mass atrocities exists and the United Nations fails to act, other parties may have the moral justifications necessary to legitimately do so. Chapter 8 of the UN Charter discusses regional arrangements. While the Charter is generally supportive, it limits regional organizations to addressing matters only within their own region and stipulates that the Security Council must first authorize any use of force. Still, Don Hubert and Thomas Weiss (2001) observe “there seems to be recognition that the fabric of the world order can tolerate the occasional armed intervention justified on humanitarian grounds outside of the UN Charter.” NATO’s intervention in Kosovo in 1999 after the failure of the UN Security Council to do so set the precedent for regional organizations to intervene (Evans & Sahnoun 2002: 108). However, it was controversial, even among NATO members. The United States wanted to consider NATO’s intervention in Kosovo as the model for halting these types of atrocities when the Security Council fails to act while Germany and France preferred to view it as an exception (Dovi 2001: 19).

Yet the fact remains that the UN often fails to act and regional organizations may best fill that need. These organizations, while obviously lacking the exceptionally broad membership base of the United Nations, still have the largest memberships of the organized institutions remaining. Furthermore, because the effects of mass atrocities (e.g., loss of trade, refugees, etc.) will most likely be first borne by neighboring countries, they may be more aware of the need to act than other countries in the United Nations (ICISS 2001: 53). Nicholas Wheeler (2000: 301) argues that regional organizations are likely even better parties to intervene because the states comprising regional memberships have interests more closely aligned with regional security and are thus more willing to tolerate higher losses than those outside of the region.

While the regional organization directly related to the aggressive regime has the most incentive and moral legitimacy to intervene, other regional organizations may do so as well. These organizations still contain a sufficiently broad membership that is more likely to be united and legitimate than ad hoc alliances (Feinstein & Slaughter 2004: 148). Furthermore, these formal organizations have better distribution of costs and coordination of troops than ad hoc coalitions (Krasner 2001: 334). Like unilateralism, regional organizations gain the benefits of centralization (e.g., troop coordination), but like multilateralism, they contain more legitimacy and greater economic benefits (e.g., sharing costs). Also, because outside regional organizations have both broad

membership bases and are not directly related to the troubled regimes, they are less susceptible to claims of self-interests.

Unfortunately, the African Union, a regional organization comprised of all African nations except Morocco, is the only such organization that contains the principles of the responsibility to protect in its charter, formally recognizes sovereignty as non-absolute, and acknowledges the need for intervention to protect civilian populations under certain circumstances (WFM-IGP 2008: 3 & 27). While the European Union has the greatest operational and political capacity to intervene to halt mass atrocities, it has shown a great reluctance to do so without first exhausting all non-coercive options (22), a process that often grinds on even as body counts rise. Furthermore, members of regional organizations have generally shown a reluctance to intervene for fear they may one day become the targets of such intervention (ICISS 2001: 54). More importantly, these organizations do not always promote good. As *The Economist* (2008b) observes, “Too often...neighbours promising help stay to plunder.”

This is unfortunate. When regional organizations fail to act or act dishonorably, they, like the United Nations, risk undermining their credibility. For example, the African Union and the Southern African Development Community have both suffered a significant loss of respect for failing to address issues arising from Robert Mugabe’s misrule in Zimbabwe. Furthermore, regional organizations’ failure to halt mass atrocities means that such actions must fall upon ad hoc coalitions. While the moral case for legitimacy by such alliances can be made, it is a slightly more difficult prospect.

#### *Ad Hoc Alliances*

While intervention to halt non-violent mass atrocities through the UN Security Council is strongly preferred, none of the four primary responsibility to protect documents discussed in Chapter 2 explicitly precludes responses by a state or alliance of states (Stahn 2007: 119). Often, countries in ad hoc coalitions formed for the purposes of halting mass atrocities have the same moral legitimacy as do more formal institutions and organizations. Michael Walzer (1977: 108) argues that any party or state has the right to intervene for humanitarian purposes and that many of our legal paradigms simply do not account for moral realities. Nicholas Wheeler (1996: 40) echoes this, noting that it is possible that unilateral action may be the only means by which to halt these atrocities.

What lends moral legitimacy to such claims? First, all of the same principles and justifications under *jus ad bellum* still apply. The just cause for intervention – specifically, the taking of innocent lives by an aggressive regime – still exists even when the United Nations and regional organizations decline to take action. Furthermore, intervention by an ad hoc coalition is even more likely to be a last resort to halt atrocities given that more formal means were already exhausted. Countries not directly impacted by the atrocities are also more likely to have the right intention given that the lack of impact translates into a greater lack of self-interest.

Ad hoc coalitions and unilateral action also may center on the Rawlsian idea of the reflective equilibrium. In that veiled state, a vast majority of people would want those enabled with the ability to stop such horrors to undertake the actions necessary to do so, especially when, as Wheeler notes, legal means do not reflect moral realities. It is this argument that gives actions by such alliances more credibility, and it is further explored in Chapter 5.

Still, there are downsides. Ad hoc coalitions and unilateral action are especially expensive methods of intervention and may significantly undermine international relations and domestic support (Hoffman 2001: 303). Furthermore, unilateral actions, especially by neighboring countries, are more likely to degenerate into self-interest (Evans & Sahnoun 2002: 104). Finally, as a result of the recent war in Iraq, many people are weary of unilateral action and “coalitions of the willing” (WFM-IGP 2008: 8).

## **V. Criticisms of Intervention to Halt Non-Violent Mass Atrocities**

Not surprisingly, disagreement with armed intervention to halt non-violent mass atrocities exists. This section explores four objections.

### *Criticism 1: Sovereignty and the Price of Peace*

This objection is divided into two parts. The first argues that violations of sovereignty such as those occurring to halt non-violent mass atrocities are not legal unless authorized by the UN Security Council (Dovi 2001: 18). However, this is a purely legal argument. In the conflict between legality and new areas of ethics, the law is often not morally justifiable (e.g., the slave trade). For example, the Independent International Commission on Kosovo held NATO’s 1999 intervention to be “illegal, but legitimate” (Falk 2003: 591). As mentioned earlier, the law is often delayed in reflecting our moral sentiments and thus should not necessarily be used to guide them. Allen

Buchanan (2003) argues that intervention should occur as long as it is morally acceptable, and such interventions may lead to necessary and needed legal reform.

Yet Suzanne Dovi (2001: 20) raises a valid point: What if violations of traditional sovereignty by western nations for the purposes of humanitarian intervention lead more repressive regimes to do so the same? The 2008 Russian-Georgian war in which Russia invaded Georgia under humanitarian pretenses is one example. Thus exists the bifurcation between those who think that international peace is best maintained by traditional concepts of sovereignty and respect for non-intervention and those who believe that peace can never be maintained as long as brutal dictators are allowed to rule with impunity (Hubert & Weiss 2001). Those who advocate the former argue humanitarian intervention would lead to increased incidences of interstate war, which in turn would create far more casualties over the long-term (ibid). “Occasionally tolerating tyrannical rule domestically” is simply the price we pay for international peace (Bellamy 2004: 141).

The last comment sounds cynical. It essentially argues that we must pay for certain people’s peace (particularly those in rich nations) with the price of others’ lives, especially those who are poor, vulnerable, and unable to defend themselves. How this is fair and moral is completely unclear. It also assigns value to lives (i.e., it is acceptable to allow those living in poorer nations to pay – with their lives – the price of peace for those living in richer nations) based on the morally arbitrary quality of nationality, a topic further explored in the next chapter.

Furthermore, the claim that intervention to halt non-violent mass atrocities would lead to greater war is dubious. NATO’s intervention in Kosovo did not lead to greater war, but the lack of timely international intervention in Rwanda in 1994 continues to destabilize the region 15 years later (i.e., current atrocities in the Democratic Republic of Congo are linked to Hutu militias formed during the Rwandan genocide). While it is true that Russian did invade Georgia under humanitarian claims, this was widely considered false pretense. Furthermore, the war lasted only six days (Ertel et al. 2008) and did not lead to greater military engagement with more powerful countries. This is hardly the apocalypse critics predicted.

Not surprisingly, those claiming non-intervention based on traditional conceptions of sovereignty are among the countries with well-documented abuses of human rights, including Russia and China. As a result, their objections may possibly arise from self-interests (e.g., the continuance of their own repressive governments) and not from greater moral understanding and clarity.

### Criticism 2: Pacifist Objections

Pacifist objections to intervention for non-violent mass atrocities also exists. Alex Bellamy (2004: 136 & 141) argues morally good humanitarian *intent* does not necessarily produce morally good humanitarian *outcomes*, and justifying intervention on humanitarian grounds may lead to perpetual war. Ramesh Thakur (2008) writes “there is no crisis so dire that a war cannot make it worse.” Some cite the example of NATO’s air campaign that may have killed as many people as the Serbs murdered before the campaign began (Jeremy Rabkin as cited in Dovi 2001: 21). Edward Luttwak (2001) argues intervening in internal conflicts only serves to perpetuate them. However, he continues, if states are allowed to manage their own affairs, atrocities will eventually dissipate (ibid). Violence, he claims, is simply part of the process of state-building (ibid).

It is troublesome to view such arguments as valid. For example, it would be difficult to claim that more lives would have been lost in a forceful intervention to halt the intentional starvation in Ethiopia during the 1984 – 1985 famine than the one million that eventually died as a result of it. Furthermore, and as discussed in Chapter 3, each crisis sets a precedent. Should repressive governments observe that other governments committing non-violent mass atrocities receive no rebuke or harsh punishment for their actions, they are more likely to commit them as well. However, should governments know that the international community will stand against such behavior and seek to assist the victims of it, these governments will be more incentivized to respect the lives of their citizens. Precedent is important.

Furthermore, as stated in the answer to the previous objection, it is unlikely that intervention on humanitarian grounds would lead to perpetual war. There are many use-of-force restrictions – social, political, and legal – in international relations today that serve as a check on any resort to armed intervention or force. Furthermore, the simple economics of globalization highly discourage outright war, particularly between major powers. Simply put, the political, legal, and economic realities of today’s world will likely always render armed intervention the exception, not the rule. Furthermore, to assert violence as an integral part of state-building, particularly when that violence claims thousands of innocent lives, is, at best, especially cold. While violence may historically have been part of the process of state-building, it is difficult to claim that it is essential to the process and thus should be allowed to continue.

More interesting is the concern that repeated intervention under the responsibility to protect will render states highly unlikely to accept humanitarian assistance from NGOs (ICISS 2001: 25). Some repressive regimes view NGOs as puppets of western nations sent to undermine the government's legitimacy. If intervention to halt non-violent mass atrocities leads to increased suspicion of NGOs and their eventual expulsion from certain countries, large swathes of vulnerable populations will not be helped. This may lead to far worse outcomes than even a failed intervention.

Yet again, it is doubtful that such outcomes will occur. Much of NGOs' valuable work is done in nations with cooperative, open governments who are highly unlikely to expel these organizations (e.g., Cambodia, Botswana, and Brazil). Past NGO expulsions have tended to occur only under extraordinarily repressive regimes, including Sudan and Zimbabwe, already committing massive human rights violations, meaning it is difficult to claim intervention could make such situations even worse. Once again, some of the most vocal opponents of intervention tend to be those most likely to be affected by it given their human rights records. As a result, such criticism should be assessed with caution.

### *Criticism 3: Affected Populations Should Resist Their Governments without External Interference*

Some argue that people who are victims of repressive governments should resist those governments on their own terms without external assistance. Only this type of armed resistance is morally valid as it is an internal struggle for self-determination. Thus, the outcomes of such struggles, given their wholly domestic nature, are also morally valid.

It is difficult to consider this objection seriously. Michael Walzer (1977: 106) retorts "when people are being massacred, we don't require that they pass the test of self-help before coming to their aid." Some regimes have such a complete and oppressive hold over their civilian populations that resistance of any form is nearly impossible and subject to extreme punishment. Furthermore, even in cases in which resistance begins to occur (e.g., Tibet, Burma, Zimbabwe), it is quickly and brutally crushed. To assume that people can internally change such governments is simply not realistic. While people may be able to move from a ship into a lifeboat, they still need external help to complete the rescue.<sup>8</sup> As a result, it is a responsibility of the international community to do so.

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<sup>8</sup> Thank you to Ephraim Ntamuke for this excellent analogy.

#### Criticism 4: Self-Interest

The final criticism centers on self-interest and, interestingly, objections arise from both sides of the debate. The first set of objections argues that intervention for non-violent mass atrocities will cause states to attempt to justify wars based on moral claims that only serve to hide self-interests (Bellamy 2004: 132). This is a valid concern. It is natural, although not always moral, to act in one's self-interest, and recent history suggests that states may intervene under the pretense of humanitarian claims when, in fact, self-interests are at stake (e.g., the 2003 U.S.-led invasion of Iraq and the 2008 Russian invasion of Georgia). Still, this does not mean that armed intervention to halt non-violent mass atrocities should never be considered based on the abuses of the few. As detailed in the first criticism, there are enough checks and balances in the system of international relations to prevent abuses under such guises from occurring repeatedly. Furthermore, as outlined elsewhere in this thesis, the costs of not intervening are too great to not consider intervention based on such weak grounds. Instead of never considering intervention due to its possible abuses, time would be better spent structuring and strengthening the system of states in such a way that these abuses do not occur.

The other side of the self-interest objection argues that a state's vital interests must be at stake when justifying military action (Hoffman 2001: 277 – 278). If they are not, that state will suffer from over-commitment, declining support from its electorate, and damaged relations with foreign governments.

Once again, these consequences are not obvious. Intervention in Kosovo in 1999 was not likely in the "vital interests" of any of the major NATO powers, including the United States and Britain, and yet over-commitment, an unsupportive electorate, and damaged relations hardly occurred. Furthermore, choosing to intervene to stop one non-violent mass atrocity does not mean the state will always intervene to halt all such atrocities, so claims to over-commitment are likely overblown. Furthermore, intervention would likely never occur without first obtaining electoral support (see Chapter 6), and support is unlikely to be substantially withdrawn given the nature of such atrocities. Finally, intervention for these purposes is not likely to materially increase the strain on international relations before such an intervention occurred (e.g., the 1999 NATO intervention in Kosovo). It is thus possible, and arguably better, not to act within one's self-interests when choosing to intervene to halt non-violent mass atrocities.

## V. Conclusion

This chapter sought to understand under what conditions military intervention to halt non-violent mass atrocities could be justified. While such interventions are not intended to militarily engage offending regimes, the use of arms and military personnel may be necessary in order to protect supplies and aid workers from attack. Understanding the conditions necessary to justify intervention to halt non-violent mass atrocities are particularly important because these types of atrocities are much more difficult to prevent.

In order to understand these conditions, this chapter detailed the three most prominent war theories. Pacifism argues that war is never justified and that other means can always be used to obtain the same goals. Realism counters that war is not a moral choice but consists only in understanding and pursuing one's self-interests. Just war theory, on the other hand, argues that conditions exist under which war can be moral and then divides these conditions into three major sections. The first, *jus ad bellum*, details the six principles necessary to declare war or use armed force. The second, *jus in bello*, specifies the two primary principles for conducting the war. The last section, *jus post bellum*, discusses the means necessary to concluding the war and transitioning to peace.

The chapter then argued that situations arise under which intervention to halt non-violent mass atrocities may be warranted under just war theory. These situations meet all six *jus ad bellum* principles, including just cause, last resort, legitimate authority, right intentions, reasonable chance of success, and proportional means. The intervention can also be conducted in such a way as to fall under the *jus in bello* principles of discrimination and proportionality. However, because of the nature of the intervention, *jus post bellum* principles are not necessarily as applicable.

The next section sought to understand which parties or organizations could legitimately intervene to halt such atrocities. While the United Nations Security Council is widely regarded as the most legitimate body to authorize intervention, its past record of failing to act when faced with such atrocities means that other groups must be considered. The United Nations General Assembly would be the second preferred body, but its power is limited. Thus, regional organizations must also be considered. While these formal organizations are preferred, ad hoc alliances may also justifiably intervene to halt non-violent mass atrocities.

Finally, this chapter examined criticisms against military intervention to halt non-violent mass atrocities. It analyzed the price of peace, pacifist claims, and objections based on self-help and self-interests. However, it found none of these claims compelling enough to warrant a complete ban on intervention.

# **The Inclusion of Non-Violent Mass Atrocities**

## **Under the Responsibility to Protect**

### **Chapter 5**

The central premise of this thesis is the doctrine of the responsibility to protect cannot prescribe intervention to halt violent mass atrocities without also prescribing intervention to halt non-violent ones. This is a prescriptive chapter that argues why the doctrine of the responsibility to protect should apply to all forms of mass atrocities and not just violent ones. While some countries, especially Britain and France, advocate the doctrine's extension to non-violent mass atrocities (*The Economist* 2008a), it remains highly contentious, and relatively little literature exists on the issue.

This chapter opens its exploration of the extension with a brief discussion on the current moral theories used to justify the responsibility to protect. It then outlines pragmatic arguments for extending the doctrine to halt non-violent mass atrocities as well. Section III proceeds by analyzing the philosophical arguments for the expansion. First, the morally arbitrary nature of nationality and its impact on protection against non-violent mass atrocities is examined. Then, it seeks to understand how Rawls' conception of the reflective equilibrium views the extension. Finally, it analyzes whether any moral differences between violent and non-violent mass atrocities exists and how this impacts the responsibility to protect. Section IV concludes the chapter with a discussion of the objections against expanding the responsibility to protect to cover non-violent mass atrocities.

Note that substantial controversy exists surrounding the conception, foundation, and significance of human rights. This thesis does not enter this controversy and instead simply recognizes that these rights are generally assumed to exist and certainly maintain a place of prominence in international relations. This thesis only considers the human rights inherent in the doctrine of the responsibility to protect and analyzes if protection regarding these rights extends to cases of non-violent mass atrocities.

#### **I. Moral Theories on the Responsibility to Protect**

Proponents of the responsibility to protect justify the doctrine under various moral theories. This is not wholly surprising as ethicists adhering to different moral theories often reach similar

conclusions in most cases.<sup>9</sup> This section briefly examines support for the responsibility to protect under leading moral theories in order to understand if any of these theories can support an extension to non-violent mass atrocities discussed in Section III.

### *Utilitarianism*

Most closely associated with Jeremy Bentham and John Stuart Mill, utilitarianism is a moral theory that argues acts should only be judged based upon their consequences (Sinnott-Armstrong 2006). Classic utilitarianism holds that the right acts are those that maximize the amount of good produced (ibid). Most proponents of the responsibility to protect justify their support based on utilitarianism. They often argue states that cannot or will not prevent or halt mass atrocities within their borders are also states that cannot or will not prevent or halt terrorism, weapons proliferation, and disease epidemics (ICG 2009). Thus, it is in all countries and people's interest to help these states build and maintain functioning governments that respect human rights since it will also prevent aggression against other states. Others extend this line of reasoning further, arguing that sanctioning regimes committing such atrocities will prevent other governments from committing the same acts, thus saving more lives over the long-term.

Interestingly, and as described in previous chapters, utilitarianism is also used to justify opposition to the responsibility to protect. Many claim that situations will simply degenerate if intervention occurs, resulting in greater brutality during the atrocities and more uncooperative regimes generally. They argue the system of sovereign states, the current basis of international relations, will destabilize, and governments may eventually no longer grant access to NGOs to assist vulnerable populations. As a result, more people will suffer as a result of the intervention. Thus, utilitarianism dictates maintaining a norm of non-intervention.

### *Deontology*

Some also use deontology to justify or clarify their moral sentiments regarding the responsibility to protect, although this occurs far less frequently than the use of utilitarianism. Deontology is most closely associated with Immanuel Kant's moral philosophy, and an important component of this philosophy is the intrinsic worth of human life (Johnson 2008). People justifying intervention on deontological grounds generally argue that all lives are equally valuable and thus must be protected and their accompanying rights upheld. As a result, the international community should

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<sup>9</sup> Tom Beauchamp and James Childress (2001: 376) argue this is true of biomedical ethics, and it is likely true in other areas of ethics as well, although an exploration of this subject is outside the scope of this thesis.

intervene when these rights are impinged upon. Doing so protects the inherent worth of the individual.

Like utilitarianism, deontology is also used as a justification against the doctrine of the responsibility to protect. This line of thinking argues any interference by external states into another's domestic affairs violates the dignity and self-determination of government that should be accorded to individuals in the latter state. A closer examination of these claims leads one to believe that the proponents of this position appear to be more concerned about the violation of state rights as opposed to violations of the rights of individuals living in them. State rights are viewed as a logical extension of individual rights so that violation of one entails the violation of the other. As previous chapters have detailed, this is a difficult position to support. There are numerous examples of when states have acted to the detriment of their citizens. While, in an ideal world, state rights would be an extension of the individual right to self-determination, this is not always practiced (see Chapter 3). Thus, any claims that violations of state rights also violate the rights of its citizens should be considered with care.

#### *Social Contract Theory*

Surprisingly, very few people mention social contract theory when discussing the responsibility to protect. Advocates of this moral theory propose that implied agreements exist by which people construct and maintain societies, and it is applicable to the responsibility to protect because the doctrine directly relates to how international society should be structured. Although many prominent supporters of the doctrine, including the International Commission on Intervention and State Sovereignty, vaguely touch upon ideas related to the theory (e.g., the responsibility of the international community to assist vulnerable populations), they generally resort to utilitarianism to justify such actions. Helen Stacy (2003: 2034), writing that the international community now appears to be responsible for the global enforcement of human rights, is one of the few writers to explicitly mention social contract theory, although this is more of an observation about the theory than a justification for it.

This is unfortunate, particularly given that many Rawlsian ideas regarding the structure of society and its interactions appear directly related to the responsibility to protect. Section III of this chapter further explores the nature of these ideas and their application to the responsibility to protect.

## II. Pragmatic Arguments for Extending the Responsibility to Protect

While moral arguments provide the most important reasons for extending the responsibility to protect to include non-violent mass atrocities, pragmatic reasons exist as well. These pragmatic reasons will be explored first in order to allow more care and space to be devoted to developing the philosophical arguments for the extension.

A 1995 study by Laura Neack (184) concludes most states participate in UN peacekeeping operations as a result of their own national interests. Thus, states already demonstrate their willingness to assist in troubled regions when their own self-interests are at stake. This section seeks to show that the reasons for these interests can arise from both violent and non-violent mass atrocities.

A state that does not respect the rights of its own people will likely also not respect the rights of people living in other countries (c.b.b. 1964: 848). This extends beyond brutal acts. For example, in 2002, North Korea admitted to kidnapping Japanese citizens living in Japan during the 1970s and 1980s in order to compel them to become teachers or force them to marry those serving in the North Korean government (Koerner 2003). Furthermore, the chaos in Somalia's failed state now affects international shipping as pirating continues to increase in the Gulf of Aden. This has led to kidnappings and ransoms. In both cases, repression or chaos in one state led to clear violations of the rights of citizens living in other states. Thus, states may find it practical to protect the citizens in one state in order to protect those living in their own.

Also, and as detailed in Chapter 3, globalization has led to a largely interconnected world. As a result, the security of one state in part depends upon the security in other states (ICISS 2001: 5). States in which human rights are systematically violated, whether violently or non-violently, are more likely to become havens for terrorism, drugs, organized crime, and illicit trade. Food shortages and famines, the breakdown of healthcare systems, and civil strife all cause refugees to flee into neighboring countries, and breakdowns of this kind may also lead to a rise in the illicit arms trade and armed group planning activities inside of the countries in which refuge is sought (Helman & Ratner 1992 – 1993: 8). For example, Burma is the world's second largest producer of illicit opium (U.S. Department of State (USDS) 2008) while Zimbabwe is a conduit for the illicit diamond trade (SAPA 2007), both relatively non-violent activities that still lead to harm in other nations. In more violent examples, the Great Lakes region in Africa continues to suffer from instability as a result of refugees forming militias during the 1994 Rwandan genocide (ICISS 2001: 1). Also, chaos in Iraq and Afghanistan are major contributors to destabilization in Paki-

stan. It is thus within each nation's own interests to ensure that human rights are protected from both violent and non-violent infringement.

Lee Feinstein and Anne-Marie Slaughter (2004: 143) warn of the dire consequences that may result from attending only to violent mass atrocities:

...the international community may only discover the danger posed by a closed society with no opposition when it is too late. In such cases, standard diplomatic tools are simply not up to the job. The greatest potential danger to the international community is posed by rulers whose power over their own people and territory is so absolute that no matter how brutal, aggressive, or irrational they become, no force within their own society can stop them. Their rule is absolute precisely because they have terrified, brainwashed, and isolated their populations and have either destroyed internal opposition or subdued it by "closing" their societies, restricting information as much as possible. Such leaders may simply seek to consolidate their power and to be left alone. But if they choose to menace other countries or support terrorist groups, it is far more difficult to find out what they are doing and take effective measures to stop them.

Recent proclamations by North Korea and the global community's reactions to them bear out such claims. Thus, preventing or halting non-violent mass atrocities by repressive regimes today may deter military attacks by those same regimes in the future. This provides a strong pragmatic reason to extend the responsibility to protect to include non-violent mass atrocities.

### **III. Philosophical Arguments for Extending the Responsibility to Protect**

While pragmatic arguments may incentivize states to halt non-violent mass atrocities, the philosophical arguments for doing so are more important. We must seek to understand how to behave in an ideal world and then use our means to do so. In order to do this, we must understand what is morally good in each situation.

This section discusses three philosophical arguments for why the doctrine of the responsibility to protect should be extended to cover non-violent mass atrocities. First, to not do so would make nationality morally significant, an idea long ago discarded. Secondly, social contract theory demands it. Finally, it is not logical to draw a moral distinction between violent and non-violent mass atrocities, and each deserves equal protection. These reasons are detailed below.

*Reason 1: The morally arbitrary nature of nationality*

Nationality is defined as “the status of belonging to a particular nation” (Oxford American Dictionaries 2005). Today, a person’s membership of a sovereign is defined territorially and not based on identity (Philpott 2003). This can be quite problematic for, as Michael Walzer (1977: 57) notes, “boundaries that exist at any moment in time are likely to be arbitrary, poorly drawn, the products of ancient wars.” This means, in addition to our lack of choice in citizenship, the government of a nation will not always reflect and respond to the various groups within it, particularly if those groups hold minority status.

We should neither expect nor desire other nations to look and act as our own, yet to act as if all occurrences within foreign borders are morally acceptable is equally as perilous. The Universal Declaration of Human Rights (1948: Article 3) does just that: it declares that some rights – including the rights to “life, liberty, and security of person” – are universal and must be respected and upheld around the world. These rights are not of a culturally relative nature and are not to be selectively enforced based on gender, color, creed, or nationality. Thus, if we would not tolerate the gross violation of certain human rights (e.g., the rights to life and safety) in our own nation, why should we tolerate or, dare say, “respect” them in others?

It seems that to do so would be to assign some form of significance to nationality. If we would react with horror to these human rights violations within our own borders, we should react the same way when they occur within others. If we would stop these same violations within our own borders, we should halt them in others. These rights are, as stated previously, universal; thus, they must be universally protected. To allow their systematic violation within certain territories but not within others would, in a sense, assign a significance or value to different nationalities (i.e. “It is acceptable for that to happen to you because you live there but not to me because I live here”). This should not be so. Instead, violations of certain rights are not acceptable no matter where they occur, and we must strive to protect anyone experiencing such violations.<sup>10</sup>

Non-philosophically nor -politically trained people seem to understand this. The 1984-1985 famine in Ethiopia yielded US\$1 billion in relief assistance (Meredith 2006: 341). People responded

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<sup>10</sup> Violations of these rights occur through both violent and non-violent means. It is difficult to argue that intentional starving someone to death is substantially different from shooting him(her), and this argument is further explored in Reason 3. For purposes of this reason, we must recognize that rights can be violated both violently and non-violently, and as a result, we are obliged to protect them from whatever form such violations may take.

to the 2004 tsunami that devastated southeast Asia, including Thailand, with US\$11 billion in assistance (Deen 2005). Generally, people, especially those in more fortunate countries, tend to respond to images of massive suffering with donations and gifts-in-kind given to relief efforts to assist victims. These people appear to understand that such severe suffering requires a response no matter where it occurs.

Some may respond that while individuals may be obliged to intervene to protect these rights from violations no matter where they occur, that same obligation does not extend to states. Not so. States are generally considered the only entities that may lawfully engage in the use of force under such circumstances. Thus, because armed intervention may be required to uphold these rights, individuals must act through the state in order to intervene in other nations. This touches upon the topic of political will, which is extensively discussed in Chapter 7.

#### Reason 2: The demands of social contract theory

While most supporters of the doctrine of the responsibility to protect invoke the principles of utilitarianism in their justification, social contract theory appears to be more applicable. The most prominent branch of social contract theory is justice theory, first advanced by John Rawls in his 1971 tome *A Theory of Justice*. In this book, he proposes the methods by which people should structure a single, closed society (Rawls 1971: 8). As part of this, the reflective equilibrium is when general principles and specific judgments are evaluated in order to form a coherent set of beliefs (20). Rawls then devises the concept of the original position, a device that is both hypothetical and ahistorical (120). This device is used to determine what type of just society rational, free, and equal agents would construct, not to what actually or historically has been agreed (ibid). Importantly, the agents in the original position are also behind a “veil of ignorance” so that they do not know their social position, native talents, intelligence, etc. (12). As a result, Rawls argues that they would adopt two principles. The first one, known as the Liberty Principle, ensures the basic rights and freedoms of citizens within the hypothetical society (60 – 61). The second principle contains two parts. The first part is known as the Difference Principle, and it seeks to ensure the just distribution of income and wealth (ibid). The second part of the second principle is known as Fair Equality of Opportunity, and it seeks to arrange social and economic inequalities so that all people living within the society benefit (ibid). Those in the original position will seek to maximize the minimum level of goods (the maximin principle) (157). Thus, taken together, the two principles secure rights for everyone living in the society

while also fairly distributing the advantages of participating in it (61). This, Rawls argues, will ensure maximum justice for those living within that society.

In 1999, Rawls published *A Law of Peoples*, which detailed the principles needed to ensure justice between societies. This book contained many of the same ideas as *A Theory of Justice*, including that of the original position and the importance of equality. He considered the term “peoples” preferable to that of “states” because the latter carries the connotation of sovereignty and the powers therein, which Rawls deems unsuitable when determining ideal international relations (Rawls 1999: v).

The Law of Peoples contains two original positions. The first addresses how representatives of a single society would decide upon its structures, especially given that these representatives do not know their positions within the society (i.e., the “veil of ignorance”) (30). The second position is used to agree upon the principles that should be used when structuring relations between societies (32). In the second position, the veil of ignorance means that the representatives know neither their countries’ natural resources nor economic development (33). Rawls argues that representatives in the second original position will agree to certain principles in international relations, including a duty of non-intervention and honoring human rights (37). Rawls’ recognizes that it is theoretically possible to have societies that are generally just but not democratic, and he urges their acceptance into international society (59). Yet he also argues that people have a duty to assist people living under repressive regimes (i.e., “outlaw states”) (37). In fact, Rawls specifically applies an exception to the duty of non-intervention in cases involving “grave violations of human rights” (ibid).

Fernando Tesón (2003: 120 – 121) argues that people in the reflective equilibrium would consent to intervention for humanitarian purposes, which he limits to violent mass atrocities. He invokes Rawls’ maximin principle, asserting people would be willing to suffer certain negative effects arising from forceful intervention in order to gain its overall benefits (ibid).

It seems that people in the reflective equilibrium would also consent to forceful intervention for non-violent mass atrocities. Representatives in the first original position, people who do not know their standing within a particular society, will likely agree to societies structured similarly to many Western democracies, although the exact form need not be detailed here. Representatives in the second original position would be agreeing on how countries should interact with one an-

other. Rawls specifies that people in this position do not know their country's economic development, natural resources, and other such information (33). Let us assume that "other such information" includes the form of government that their society contains and whether human rights are respected.

Thus, taking the two original positions together, representatives are attempting to agree on just international relations without knowing either who or where they are in the world. After they agree to this global society, a person may learn that (s)he is either a billionaire living in France or a subsistence farmer in Africa. Knowing that either one is possible and that the latter is far more likely, representatives in the two original positions will try to construct international relations in such a way as to maximize the benefits they would gain in the least advantageous position (the maximin principle).

The least advantageous position in the world is grim indeed. Not only is someone in that position desperately poor and highly likely to experience the miseries of malnutrition in both themselves and their children, they will be subjected to the crippling effects of certain diseases long since banished in more developed nations. In the most unfortunate positions, these torments will be compounded by the cruelties of repressive regimes, including the intentional infliction of violent and non-violent mass atrocities.

It seems highly probable that someone in the two original positions, not knowing his lot in life as a result of the veil of ignorance, would readily agree to external intervention to halt non-violent mass atrocities. If someone were to realize that the possibility exists that either (s)he may die or that (s)he may watch his(her) children die a slow and anguishing, yet fully preventable, death as a direct result of his(her) government's refusal to permit aid after a natural catastrophe, it appears highly likely (s)he would agree to external intervention for such purposes in the original position. It is difficult to imagine circumstances in which people suffering under such repressive regimes would not agree to intervention. In fact, echoing Tesón, it appears quite probable that people in these positions would agree to suffer certain negative effects of such intervention, including any supposed violations of sovereignty and self-determination, the latter claim which is especially dubious given that the vast majority of people would never agree to a government that places them in such positions, in order to be protected from the greater suffering and deaths maintaining a norm of non-intervention would bring.

In fact, it is highly improbable that anyone in the reflective equilibrium, knowing that they may be in the least advantageous position after the veil of ignorance is lifted, would not agree to intervention to halt non-violent mass atrocities. It is difficult to imagine on what basis people in the least advantageous position, knowing their vulnerability to such suffering at the hands of oppressive governments, would not request assistance from their more fortunate counterparts. One can hardly imagine that any rational person – which those in the original positions are expected to be – would invoke the principles of traditional sovereignty and pacifism to protect a repressive regime intentionally inflicting the pangs of suffering and death.

It is also likely that people placed in more advantageous positions would agree to intervene to halt non-violent mass atrocities. Because of not knowing in which country they would be placed, it is highly likely that representatives in the original position would agree to a condition that those fortunate enough to be born into wealthier, more developed nations may enjoy their positions as long as they agree to protect those born into nations that may suffer from repressive regimes.

In reality, this condition is not personally very costly to the vast majority of those living in developed nations as the means of intervention are far removed from the average citizen. Most people view their taxes as payments that flow into the black box of government, meaning they do not view them such that \$100.20 goes to the military, \$223.87 for medical care, etc. As a result, they generally tend not to view humanitarian intervention as personally costing them x dollars more. Furthermore, relative to the overall population, few people serve in the armed forces, meaning that people do not view intervention as “if we intervene, I must go there,” instead viewing it as “if we intervene, people that I do not know from my country will go there.” This further decreases what is viewed as the personal cost of intervention. Thus, because those in more fortunate positions will view intervention as requiring little of them personally and financially, it is even more likely that they would agree the privilege of such positions be conditioned upon intervening as necessary to assist those suffering from non-violent mass atrocities.

Thus, the demands of social contract theory, particularly after invoking Rawls’ reflective equilibrium, appear to justify intervening to halt non-violent mass atrocities. Furthermore, not only do they justify intervention, it seems nearly impossible to justify not intervening under such circumstances.

*Reason 3: There is no moral difference between violent and non-violent mass atrocities*

The final philosophical reason for extending the responsibility to protect's mandate to include non-violent mass atrocities is that no moral difference exists between violent and non-violent ones. As Chapter 3 argued, sovereignty does not exist when a government fails to protect the rights of its citizens, and the right to life is violated whether death results from machete or intentional starvation. Chapter 4 discussed how just war theory applies to cases of both violent and non-violent mass atrocities, although it did recognize that the conduct of the intervention will differ based on the type of atrocity occurring. Importantly, both chapters recognized that these concepts can apply as much to intervention to halt non-violent mass atrocities as they can to halt violent ones.

Tesón (2003: 129) writes that those who support a duty of non-intervention purport to promote self-determination and the protection of cultural values but that an examination of history shows not intervening simply protects those in power and renders their victims defenseless and unable to appeal to anyone for external assistance. While Tesón wrote these comments in light of violent mass atrocities, they appear to apply to non-violent ones as well. The case studies provided in Chapter 8 contain excellent examples.

Interestingly, most NGOs argue that the responsibility to protect should only apply to violent mass atrocities; however, precedence of thought for the extension of the doctrine exists. The ICISS report (2001: 71) specifically includes starvation as a harm from which vulnerable populations must be protected, and the High Level Panel report (2004: ¶201) cites "deliberate starvation and exposure to disease" as one of the evils that the responsibility to protect covers. Still, debate remains. Ban Ki-moon (2009: 4), likely responding to claims both that the responsibility to protect is not an emerging norm and demands that it be extended, writes that people should not "reinterpret or renegotiate" the 2005 World Summit Outcome Document, which covers only violent mass atrocities, but instead implement it in a matter consistent with the document. Yet none of these parties explains why violent and non-violent mass atrocities are morally different.

Article 7(k) under the Rome Statue of the International Criminal Court declares "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health" as falling under the definition of crimes against humanity. Intentional starvation, willful exposure to disease, and the deliberate withholding of lifesaving aid after

natural catastrophes are all inhumane. All three cause great suffering and grave physical and mental injury. By this definition, no moral difference appears to exist between violent and non-violent mass atrocities.

In *Just and Unjust Wars*, Michael Walzer (1977: 108) argues states may intervene when vulnerable populations are “threatened with massacre.” Does it truly make a difference if that extermination results from violent or non-violent means? Anne-Marie Slaughter (2005: 619) rightfully declares “from the perspective of human security, death, whether it be from violence or disease, is equally to be feared.”

We do not distinguish between these two forms of death in the personal realm. A parent who kills his(her) child by drowning it and one who intentional withholds food for the purpose of inducing death can both be charged with murder. This example captures an important truth about death resulting from the infliction of mass atrocities. At its heart, violent and non-violent mass atrocities should be considered morally equivalent because they both contain the same three characteristics: (1) they can be viewed as “events,” (2) they have a similar nature, and (3) they are of a certain scale.

The first characteristic involves the idea that the suffering and deaths occur as part of a deliberate event. A famine such as the one that occurred in Ethiopia in 1984 – 1985 is an “event” – an occurrence at a certain point in time – in the same way that the 1994 Rwandan genocide is an event. In both cases, a short phrase (e.g., “1984 – 1985 Ethiopian famine” or “1994 Rwandan genocide”) is used to describe actions that occurred over a specific period of time. These actions are recognized to not be ongoing (e.g., “continued human rights abuses in China”) and have generally accepted, if somewhat imprecise, beginning and ending points. All actions occurring as part of this event are understood to take place within it (e.g., “we will perform  $x$  actions in order to gain  $y$  outcomes”).

The second characteristic of violent and non-violent mass atrocities is that they are of a similar nature. In determining the nature of an atrocity, one must examine the power imbalances, actions, and consequences of that atrocity. First, atrocities tend to be committed when a more favored group (e.g., a larger ethnic group or the privileged elite comprising the government) deliberately inflicts or allows great suffering to be inflicted upon less advantaged groups within the same state. The less advantaged groups generally do not have the means to defend themselves

and would have a difficult time halting the atrocities without outside intervention. The more favored group's actions are performed with the express intention of inflicting harm on the less favored ones. Finally, death in those vulnerable groups is generally the consequence of the more favored group's actions. In such cases, it does not matter whether the death was violent or non-violent but only that it was rendered by a more privileged group's intentional actions.

This appears to accord with more liberal interpretations of international legal definitions. For example, genocide is usually viewed as something entailing violence; however, Article 6(c) of the Rome Statute in part defines genocide as "deliberately inflicting on the group [of a different ethnicity] conditions of life calculated to bring about its physical destruction in whole or in part." Thus, large-scale intentional exposure to a fatal disease would accord with this definition in that it is deliberately inflicted on a less advantaged group in order to bring about the latter's death. It is not obvious why such atrocities must only be limited to violent means.

Finally, the scale of death and people affected by violent and non-violent mass atrocities is similar. This is apparent in using the word "mass" in each term. While giving an exact definition of "mass" is difficult (1,000? 10,000?), like Justice Potter Stewart's (1964) definition of pornography, people generally "know it when [they] see it." Mass atrocities can in part be determined by the media's coverage of and people's response to them. In both violent and non-violent mass atrocities, the suffering is significant and widespread with large swaths (by no means defined as the majority) of the population affected by it.

Given that much of the literature surrounding the responsibility to protect advocates limiting it to violent atrocities, it appears that the scale of those suffering from non-violent mass atrocities should be larger than suffering induced by violent ones to warrant external intervention. This should not be so. Given that significant suffering is involved in both types of atrocities, we should not hold how widespread it is – possibly defined in terms of actual or expected deaths – to differ between violent and non-violent ones. When the numbers of deaths reaches a certain level, society is at the same loss whether it is from violent or non-violent means. There is no *prima facie* reason for distinguishing between the two.

While this thesis has generally discussed non-violent mass atrocities in terms of deliberate starvation or intentional exposure to disease, the willful withholding of aid to victims of natural disasters should also be included. Like starvation and disease, deliberately withholding aid is an

event. Furthermore, it is done by a more privileged group (usually the military or government) to a vulnerable (often poorer) population. Also, the amount of people affected is large, and widespread suffering results. It is thus no different from other violent and non-violent mass atrocities.

That said, it is difficult to argue that the responsibility to protect should be extended much further than these particular non-violent mass atrocities. Some, including Slaughter (2005), propose the responsibility to protect be extended to include forceful intervention to treat diseases such as HIV/AIDS while others advocate its extension to include climate change. Such occurrences, however sad, are morally different from the ones discussed above. The spread of HIV/AIDS and global warming are not single events but ongoing issues. Also, while they may disproportionately affect the uneducated, poor, and vulnerable, it is not purposefully inflicted by more privileged groups with the goal of eradicating more vulnerable ones. Hence, such occurrences cannot be considered non-violent mass atrocities. Moreover, practically speaking, it would be far too costly and require too much manpower to attempt to forcefully intervene in all of the countries requiring assistance to combat such diseases, and it is completely unclear how forceful intervention for climate change would occur, especially given the world's largest polluters, including the United States and China, are also among the most powerful militarily and hold permanent seats on the UN Security Council. As a result, a distinction must be made between non-violent mass atrocities such as intentional starvation, willful exposure to disease, and deliberately withholding aid from more unfortunate occurrences such the HIV/AIDS epidemic and global warming.

#### **IV. Criticisms of Extending the Doctrine to Include Non-Violent Mass Atrocities**

The United Nations explicitly adopted the principles of the doctrine of the responsibility to protect in the 2005 World Summit Outcome Document. As a result, this thesis assumes that a responsibility to protect vulnerable populations from violent mass atrocities exists and only examines the arguments for its expansion to include non-violent mass atrocities. Thus, the criticisms contained in this section include criticisms against the doctrine's expansion, not against the doctrine itself. There are four primary criticisms of expansion, and each will be examined in turn: (1) there is no moral obligation to expand the doctrine, (2) expanding the doctrine will weaken support for it, (3) expansion of the doctrine would not respect culturally-relative values, and (4) it cannot be known in advance if the doctrine should be expanded.

*Criticism 1: No obligation to expand the doctrine exists*

Some critics, particularly Russia and China, argue that the doctrine of the responsibility to protect should only be invoked when a threat to the peace or security in a region exists (WFM-IGP 2009c). Article 2(7) of the UN Charter explicitly states that external states cannot intervene for any other purpose, and thus, when that type of threat does not exist, intervention is not warranted. As a result, there is neither a mandate nor an obligation to halt non-violent mass atrocities.

This is doubtful. As discussed earlier in this chapter, our legal framework, particularly our international legal framework, often trails our understanding of our moral obligations. Thus, legal permissibility should never constrain what we deem morally permissible (although this does not mean we should always act on these sentiments). Furthermore, while a present threat to peace and security in a region may not exist, it is highly probable that a future one will. As discussed in Chapter 3, governments that commit or permit mass atrocities have a greater propensity for terrorism, weapons proliferation, and other activities that threaten external states. For example, the international community generally refused to address the horrors of the Lord's Resistance Army in Uganda in part due to a perceived lack of threat to regional security, yet consequences of that war have resulted in fighting in Democratic Republic of Congo (The Associated Press 2009).

Furthermore, the responsibility to protect is not predicated upon maintaining peace and security but upon protecting vulnerable populations from the perpetuations of certain atrocities by their governments. This is an important difference. One focuses only on the self-interests of one state while the other focuses on the rights of individuals. As argued in Chapter 5, the latter is more important. Thus, invoking such reasons as justifications to not expand the doctrine shows a lack of the understanding of the moral obligations upon which the doctrine is based.

Others argue that there is no obligation to expand the doctrine because external intervention to defend citizens of another state is optional and not obligatory (Bellamy 2004: 140). As shown earlier in this chapter, not defending vulnerable populations solely because of their citizenship risks rendering nationality to be something other than morally arbitrary. If we are truly committed to respect for human rights, we cannot selectively enforce such rights based on where people are located.

*Criticism 2: Expanding the doctrine will weaken support for it*

Those who seek to extend the types of atrocities that the responsibility to protect covers are still in the minority, and powerful people and groups argue strongly against its expansion. United Nations Secretary-General Ban Ki-moon claims that any extension of the doctrine would “undermine the 2005 consensus and stretch the concept beyond recognition or operational utility” (UNDPI 2008b). Ramesh Thakur (2008) echoes this, stating expansion of the doctrine will weaken support for the responsibility to protect in addressing violent atrocities. The Global Centre for the Responsibility to Protect (2009a) argues that the doctrine was not intended to address all violations of human rights and limits to it must be maintained so that it can be effectively implemented.

It is not obvious, as many critics claim, that extending the responsibility to protect would weaken support for the doctrine. Many of those who disagree with expanding the doctrine to include non-violent mass atrocities tend to support its coverage of violent mass atrocities in name only. As discussed in Chapter 6, some of the countries that signed the 2005 World Summit Outcome Document did so only to not suffer the diplomatic consequences of refusal. Thus, having not supported the doctrine in the first place, it is to be expected that they would oppose any extension of it. As a result, extending coverage of the doctrine to include non-violent mass atrocities would not weaken it further.

This thesis agrees that the doctrine of the responsibility to protect was not intended to address all violations of human rights and that the diplomatic community may have better tools to confront certain forms of it. It also agrees that transforming the doctrine into an umbrella used to address all human rights abuses will render it so vague and ill-defined as to no longer make it effective. However, its expansion to non-violent mass atrocities detailed here does not do this. As discussed in Section III of this chapter, these types of atrocities have the same characteristics as violent ones and thus should be included. The same cannot be said of other unfortunate occurrences such as HIV/AIDS, climate change, and nuclear proliferation. By maintaining clear standards of what constitutes a non-violent mass atrocities, the doctrine will continue to be focused and specific, both qualities that are necessary for its effective implementation.

Critics of extending the responsibility to protect set the boundary without ever justifying why it should be limited to violent mass atrocities. This chapter has sought to show that violent and non-violent mass atrocities are similar enough that the doctrine of the responsibility to protect

must cover both. Should critics disagree, they must demonstrate why a moral difference exists between the two.

*Criticism 3: Respect for Rights is Culturally Relative*

Some critics of expanding the responsibility to protect to cover non-violent mass atrocities claim those who support the extension have a conception of humanitarianism that simply reinforces Western political and economic dominance and are willing to use violence to sustain such conceptions (Wheeler 1996: 40). Respect for human rights is culturally relative, and we must be conscious of that (Boyle 1994: 32).

In examining these criticisms, one simply must ask: are we supposed to take them seriously? It appears to be a radical form of relativism that cannot be accepted. Extreme forms of pain and suffering, especially those rendered by starvation and disease, are not relative or experienced differently by different people. While a state's political elite may well accept that it is only natural to withhold food or expose large swaths of its population to disease, it is highly unlikely that these vulnerable populations agree that they should suffer from such intentional horrors.

Furthermore, we do not accept such claims to relativism regarding the perpetuation of violent mass atrocities. No serious academic or diplomat claims that genocide and ethnic cleansing are acceptable in some cultures and therefore must be respected by all. Why should non-violent mass atrocities be treated differently? Again, as detailed in Section III of this chapter, non-violent mass atrocities bear many of the same characteristics as violent ones and, as a result, should be viewed in the same manner. This manner extends to the way we seek to halt such occurrences.

Chapter 3 stated morally arbitrary differences between cultures should be respected, and this statement is again affirmed. However, committing or permitting non-violent mass atrocities to occur within one's borders is not a morally arbitrary difference. Hubert and Weiss (2001) assert that "different societies can establish different priorities of values and standards of happiness, but these differences do not render their understandings of an underlying moral code inherently, and forever, incompatible." Thus, while certain differences between people and states should be respected, we should not ignore others by claiming them to be equally valid. Instead, we must first respect and uphold the basic moral underpinnings of all of humanity. This includes protecting vulnerable populations from the horrors of all forms of mass atrocities.

*Criticism 4: The criteria for expanding the responsibility to protect cannot be known in advance*

Jane Stromseth (2003) argues that we should not, in advance, codify the criteria for intervening for humanitarian purposes. Instead, intervention should occur on a case-by-case basis, thereby gradually allowing norms to emerge. This criticism is understandable. Specifically outlining the circumstances necessary to warrant intervention will risk making those standards too narrow and inflexible to address the range of ingenuity inherent in human evil. If the process for undertaking intervention is too formal, a regime can time atrocities such that they begin and end before intervention occurs. If intervention to halt mass non-violent mass atrocities is to be effective, it must be relatively swift.

Yet this is also precisely why criteria for intervention are necessary. While strict standards can be detrimental, ones that are too informal can be equally as harmful. As Kofi Annan (2005b) acknowledges, international consensus is exceptionally difficult to achieve, particularly in cases of humanitarian intervention. As a result, endless debate may ensue regarding cases in which intervention may be required, and this may result in large numbers of people dying while the decision to intervene languishes in debate. Thus, understanding the broad requirements of what constitutes the circumstances necessary to require intervention – here argued as including intentional starvation, deliberate exposure to disease, and willfully withholding aid – will provide the starting point and philosophical frameworks necessary to make such decisions. Instead of beginning with the formulation of strict criteria for intervention, we must at least first emphasize the importance of acting when confronted with gross human rights violations, even when acting is not perceived to be within the intervening states' self-interests. Once we understand and agree upon the general circumstances that warrant intervention, criteria for the form of intervention will develop as a result. As Thakur (2008) argues, “hand-wringing in the aftermath of a natural or human catastrophe is proof of earlier, not post-disaster, intellectual laziness and political cowardice.”

## **V. Conclusion**

This chapter sought to show that the doctrine of the responsibility to protect should be extended to include non-violent mass atrocities. In doing so, it first provided an overview of how different people apply various moral theories to demonstrate support for or against the responsibility to protect, noting that some theories, particularly utilitarianism, are being used for both. The chapter then offered pragmatic arguments for extending the responsibility to protect, including protecting citizens globally and slowing illicit arms trade and other illegal activities in countries neighboring the offending regime.

After that, three philosophical arguments for extending the responsibility to protect to include non-violent mass atrocities were provided. First, nationality is morally arbitrary, and as a result, states should seek to halt such atrocities globally and not just within their own borders. Secondly, social contract theory demands it. People in the reflective equilibrium would seek and agree to global protection against such atrocities, thereby warranting intervention to halt them. Finally, the similar characteristics of violent and non-violent mass atrocities, including their nature, scale, and status as “deliberate events,” mean that there are no moral differences between the two.

Finally, this chapter addressed criticisms against the expansion of the responsibility to protect. It addressed arguments that no obligation to expand the doctrine exists, expansion will weaken support for the doctrine, cultural values should be respected, and criteria for expansion should not be codified in advance. The chapter then found that these criticisms were either not valid or not strong enough to warrant not expanding the responsibility to protect to cover non-violent mass atrocities.

# **The Feasibility of Extending the Responsibility to Protect**

## **Chapter 6**

The previous three chapters were prescriptive and philosophical in nature, seeking to establish whether the doctrine of the responsibility to protect could and should be extended under sovereignty, just war theory, and social contract theory to cover non-violent mass atrocities. While this thesis asserts that a strong case for extending the responsibility to protect exists, it is important to understand if extending this responsibility is feasible under current political and social conditions.

In order to understand this feasibility, this chapter first examines current applications of the responsibility to protect and then analyzes any consistent opposition to it by members of the United Nations. Next, it considers political will surrounding the doctrine and any operational barriers to implementing it. Finally, it seeks to understand how these conditions will impact the feasibility of extending the doctrine.

### **I. Current Applications of the Responsibility to Protect**

In order to understand if the responsibility to protect will feasibly be extended to protect vulnerable populations against non-violent mass atrocities, we must first understand how it is being implemented in the context of violent ones. Because the United Nations unanimously adopted the responsibility to protect against violent mass atrocities in the 2005 World Summit Outcome Document, the UN's response to violent mass atrocities since then will provide a good comparison for the more divisive implementation against non-violent ones.

The 2005 World Summit Outcome Document requires action against violent mass atrocities to first be approved by the UN Security Council. Regrettably, faced with these types of atrocities, the Council has never acted in time to prevent high body counts and an erosion to dire circumstances for vulnerable populations (Thakur 2008). Ban Ki-moon (2009: 26) recognizes that the United Nations is in a "particularly vicious cycle of hesitation and finger-pointing" even in the face of obvious tragedies such as Darfur and the Democratic Republic of Congo (DRC).

In truth, it is highly doubtful that action by the UN Security Council will ever be timely despite the language in the World Summit Outcome Document. Any resolutions debated by the Council

face numerous hurdles and delays – including the sheer number of diplomatic processes involved – that will likely always render action untimely. Disagreement among UN members on the responsibility to protect and a lack of political will, both of which are explored in later sections of this chapter, will also generally cause further delay. Two current examples, Darfur and the DRC, demonstrate the lack of implementation of the responsibility to protect and are explored here.

Since 2003, Sudan's government-sponsored militias have killed more than 400,000 people in the Darfur region as a result of ongoing ethnic cleansing (WFM-IGP 2009b). 4.2 million Darfurians have been affected by the campaign, creating 240,000 refugees in Chad and the Central African Republic (*ibid*). In response, the UN Security Council passed Resolution 1769 (2007) authorizing a UN-AU force to enter Darfur. However, it did not invoke the responsibility to protect in passing the resolution, which is largely considered a setback for the doctrine.

Despite Resolution 1769, several other Security Council measures, and the deployment of an (inadequate) peacekeeping force, the crisis continues relatively unabated. In response to a March 2009 warrant for his arrest for war crimes by the International Criminal Court, Sudan's President Omar al-Bashir expelled 13 NGOs working in Darfur, further deepening the crisis (*ibid*). While politicians and diplomats continue to call for an end to it, more decisive measures have yet to be taken.

The Democratic Republic of Congo provides another example of a failure to properly implement the responsibility to protect. An International Committee of the Red Cross study stated 45,000 people per month are dying in the DRC as a result of war, disease, and malnutrition caused by ongoing civil wars (as cited in Bavier 2008). While the UN Security Council authorized a 17,000 member-strong peacekeeping mission to protect civilians, critics say that it has failed to protect the Congolese despite being the largest and most expensive in the world (The Associated Press 2009). The Council authorized an additional 3,000 troops in November 2008, but only Bangladesh responded with a mere 900 (*ibid*). As a result, deaths in the region continue unabated.

In both of these examples, the circumstances surrounding the atrocities meet the criteria to invoke the responsibility to protect. They involve significant potential and actual harm to large numbers of civilians as a direct result of governments' unwillingness or inability to protect them.

Furthermore, the UN Security Council took a rare step of agreement and, in both cases, passed resolutions authorizing force to protect these vulnerable populations. Yet in each case, large numbers of civilians continue to be harmed because of a lack of effective implementation. If the world is unable to protect civilian populations in the face of violent mass atrocities, a step it has formally agreed to undertake, can it actually protect vulnerable populations facing non-violent ones?

It is a question whose answer remains unclear. An initial response would be no. Violent horrors usually provoke greater responses than non-violent ones. Thus, if the world reacts so pitifully in the face of violent atrocities, it seems that they would be even less effective when confronted with non-violent ones. Yet there is hope. A peacekeeping mission, especially in regions laden with decades of tribal warfare, is a long and arduous commitment generally involving years' worth of time and resources. However, as detailed in Chapter 4, a mission to halt non-violent mass atrocities is of much shorter commitment and duration, meaning countries may be more likely to volunteer, and this issue is further explored in Section III of this chapter. Still, as the next section details, other obstacles remain.

## **II. Prevention of Implementation by Member States**

In line with the two examples above, recent reports indicate that the doctrine of the responsibility to protect has encountered significant difficulties in being implemented since 2007. There is an ever-widening gap between the wording adopted in the 2005 World Summit Outcome Document and the actions of UN member states. In fact, beneath the appearance of agreement, there seems to be a “strong, organized group” of countries that are highly skeptical of the doctrine of the responsibility to protect (WFM-IGP 2008: 100). In other words, some members of the United Nations agreed to the responsibility to protect as a formal diplomatic gesture without ever intending to uphold it. Before its collapse, the Soviet Union was the foremost proponent of absolute sovereignty (c.b.b. 1964: 847), a position that Russia continues to take today. Thus, Russia is, at best, lukewarm to the responsibility to protect since it fears that it will become a target due to its activities in Chechnya (MacFarlane, Thielking, & Weiss 2004: 982). China completely rejects the doctrine and made this clear during the ICISS roundtable consultation in Beijing in June 2001 (ibid). Other East Asian countries are cautious (ibid). Only Western nations, Latin America, and nations in Africa have shown genuine acceptance of the doctrine (ibid). As a result, it is difficult to muster strong support to implement the responsibility to protect.

Furthermore, the UN Security Council's increased use of veto power during the 1990s has caused a lack of confidence in its ability to intervene when necessary (Ekeus 2001: 519). In order to pass a resolution, Article 27 of the UN Charter requires nine of the Security Council's 15 members, including all five permanent members, to vote affirmatively on all non-procedural matters. Despite the ICISS' pleas that, when their vital state interests are not involved, the five permanent members of the Security Council agree not to veto responsibility to protect resolutions that otherwise enjoy majority support, China and Russia have done and will likely continue to do so regularly.

This has caused significant rifts in the United Nations. Some, including Secretary-General Ban Ki-moon, do not think that preventative steps should require unanimity in the Security Council (UNDPI 2008a). Under this view, approval from the Council is necessary only to authorize the use of force. Preventative actions, including diplomatic pressure and the possible use of sanctions, should not need unanimous approval from the five permanent members.

Others call for steps that are more extreme. Pointing to the numerous examples of the Security Council failing to act in a timely manner (e.g., Rwanda, Kosovo, Darfur), these critics call for a new body to be created. This new organization would consist of democratic nations that respect human rights, thus not allowing notable human rights violators such as China and Russia to permit others to perpetuate the same violations. Because it would only consist of societies largely considered fair and just, the organization could react in a more timely and appropriate manner to halt mass atrocities and protect vulnerable populations. As a result, these populations are more likely to be protected.

As long as the Security Council continues to be the sole determiner of the lawful use of force, we allow gross human rights violators such as Russia and China to dictate moral policy. This should not be so. Regimes that violate the rights of their own citizens will certainly not protect the rights of those residing in other countries. As detailed in Chapter 8, these countries often extend economic and military aid to other repressive regimes, meaning that they are disincentivized to intervene in the latter given that it will harm companies (usually state-owned) in their own countries. Furthermore, not protecting these weaker, dependent countries will also lessen their sphere of influence, something countries generally wish to increase. Thus, it is nearly impossible to implement the doctrine of the responsibility to protect as long as such countries hold veto power over the use of force.

Furthermore, if these countries disagree with the doctrine of the responsibility to protect for violent mass atrocities, then they will likely more strongly oppose its extension to cover non-violent ones. Thus, this creates yet another barrier in extending the responsibility to protect.

### **III. Political Will**

Political will and staying power are crucial to any mission charged with the responsibility to protect (Crocker 2001: 246), yet it remains one of the greatest barriers to implementing the doctrine (WFM-IGP 2008: 11). This section first examines the seeming lack of political will in expanding the responsibility to protect to include non-violent mass atrocities yet follows by exploring how that may be changing.

Michael Byers and Simon Chesterman (2003: 202) argue it is highly improbable the United Nations will ever agree on criteria for intervening without Security Council authorization, yet they do not perceive nations acting outside of the Security Council to implement the responsibility to protect as being the primary obstacle to its success. They correctly assert that most countries are not eagerly searching for opportunities to intervene under the doctrine (*ibid*). Instead, the primary difficulty is the “absence of the will to act at all” (*ibid*). In fact, a 1995 study concludes states rarely act outside of their own self-interests (Neack 1995: 194). Instead, countries will generally only participate in UN peacekeeping operations if they perceive it to be beneficial to themselves (*ibid*).

Jack Goldsmith and Stephen Krasner (2003: 58) view this as a result of the desires of developed countries’ electorates. They argue these electorates have been reluctant to spend the human and financial resources necessary for humanitarian interests when their own self-interests are not involved (*ibid*). As they write:

Germany and Japan have been extremely reluctant to engage in overseas deployment of their military forces for any purpose, humanitarian or otherwise. No major European state has made a sustained commitment to humanitarian intervention. Indeed, no combination of European countries has the military capability to conduct a serious military intervention of any kind outside of Europe, and none appears willing to make the budgetary commitments that would make such interventions possible. European forces do have the ability to participate in peacekeeping operations, but even here the tolerance is limited. Belgium, for instance, which had several hundred troops deployed in

Rwanda at the beginning of the 1994 crisis, withdrew them after ten of its soldiers were killed by Hutu militia.

The extreme caution with which American presidents have engaged in humanitarian interventions suggests that they believe that they are walking on very thin ice when they cannot convincingly tie their activities to material interests that the voting public can understand. To be sure, the Clinton administration undertook humanitarian interventions in Somalia, Haiti, Bosnia, and Kosovo. But the last two were overtly tied to the viability of NATO and American security, and even here the United States relied on high-altitude air attacks that minimized the chances for American casualties. In Somalia, Clinton extricated the United States after eighteen soldiers were killed. He did not act in Rwanda where an estimated eight hundred thousand people died – a decision that caused him no discernible political problem. (Goldsmith & Krasner 2003: 58)

Others also discuss the 1992 intervention in Somalia as a particularly good example of the fragility of public support (Spring 1994: 2), especially since the parties involved in the conflict requested United Nations' assistance (Boyle 1994: 30). Images of dead American soldiers being dragged and jeered through the streets of Mogadishu caused electoral support for the mission to plummet, which contributed to the withdrawal of U.S. forces shortly thereafter. The tolerance for the financial costs of intervention appears to be far higher than tolerance for the human costs involved.

In fact, the pessimism of humanitarian intervention is well documented. In 2003, France sent forces to the DRC to protect civilian populations from violence stemming from the civil war. However, a French military briefing paper expressed cynicism regarding the success of the operation, explaining that the operation was very high risk politically in part because France had no self-interests there (Astill 2003). It thus recognized the fragility of political will and lack of appetite for risk among the general public when their vital interests are not threatened.

If this weakness of will is true of violent mass atrocities, with their accompanying blood curdling images of barbaric death and destruction beamed around the world, surely it is even truer of non-violent mass atrocities? As discussed in the last chapter, many people view non-violent mass atrocities as less morally troublesome than violent ones (although, as also discussed in the previous chapter, this perception is incorrect). As a result, it is highly likely that less electoral support

exists for non-violent mass atrocities. Less electoral support translates into less political will, which in turn greatly decreases the likelihood for intervention to halt non-violent mass atrocities.

Yet this lack of electoral support is in large part dictated by the media. While the global media can increase public support for intervention, it can also quickly galvanize calls for retreat (Wheeler 1996: 34). Images and reports of casualties suffered by intervening troops and perceived national humiliation can rapidly decrease popular support and mobilize calls withdrawal. Articles focusing only on the impact to national self-interests, including troop fatality rates, mission costs, and any discord in international cooperation can lead to a misunderstanding of the purpose of the mission.

Politicians do not help. They often play upon popular misconceptions in bids to increase domestic political power and influence. Most people lack an even cursory knowledge of international relations and obligations that often leads to significant misunderstandings of the reasons and purposes of intervention. Uninformed, they call on their governments to take action that may produce positive short-term gains but engender detrimental moral and political consequences over a longer period. Rarely do politicians seek to educate the public on the moral case for intervention and any pragmatic reasons that make such intervention necessary. Instead, they exploit popular yet uninformed public sympathies to the disadvantage of all. Again, if this is the case with violent mass atrocities, surely there is a greater propensity towards it for non-violent ones?

Not necessarily. While Clinton withdrew from Somalia in October 1993 and declined to intervene in Rwanda in 1994, he chose to deploy thousands of troops to Bosnia and Kosovo (albeit primarily via air campaigns) in the late 1990s, thus reflecting changes in his electorate's thinking (Krasner 2001: 334). This shift in thinking appears to be the result of several trends.

First, more non-state actors, including the UN High Commissioner for Human Rights, the UN High Commissioner for Refugees, and numerous non-governmental organizations handle matters of global importance and are able to bring attention to mass atrocities (ICISS 2001: 3 – 4). Many of these organizations have well-developed strategies for publicizing these atrocities in order to gain support and funds to respond to them. As a result, knowledge and information about atrocities occurring around the world are gaining more press and media attention than ever before.

A second trend is globalization, which, as discussed in Chapter 3, is already impacting traditional conceptions of sovereignty. Large swaths of the electorate already feel its reach, whether because they are concerned about manufacturing capacity moving overseas, recalls on products made in China, or greater numbers of immigrants moving into their towns and cities. At least on an intuitive level, they understand that the world is increasingly interconnected even if they lack formal education and knowledge of international relations. There is a sense of “what happens there may eventually impact what occurs here.” As a result, there is a greater understanding that intervention abroad may be necessary.

Furthermore, also as with sovereignty, the increasing prominence of human rights continues to impact the paradigms of many people. Krasner (2001: 334) argues as human rights issues become more important to developed countries’ electorates, the political costs for not intervening will continue to increase. This occurred on a large scale with calls for divestment in apartheid South Africa and outrage as a result of the lack of intervention in the 1994 Rwandan genocide. Rich world electorates see human rights as universal and increasingly sense that they must be universally upheld. As this thinking continues to spread, support for the responsibility to protect and its extension to non-violent mass atrocities will also increase.

This strong trend in human rights is also converging with increased education and understanding of the moral differences between people. No longer are atrocities seen as acceptable for certain parts of the population because they are, for example, Asian, black, or poor. As understanding increases that these differences are arbitrary variations between persons and do not represent any deeper underlying truths (as it already has due in large part to public education systems), the justification that such atrocities are somehow more acceptable because the victims are not seen as possessing the same level of inherent value will continue to fade. Instead, such atrocities will be seen as demanding a response no matter who the victims are or where they occur.

Another popular trend is the increasing prominence of philanthropy and volunteer work. The relative political, economic, and social stability of developed nations has allowed both the politicians and electorates of those nations to their attention turn outward. As a result, there is more time and attention, as well as political will, available to halting human rights abuses globally. While some academics and pundits mistake this for Western imperialism – and any tendencies toward that should be monitored with concern and caution – it is far too alarmist. As argued in

the previous chapter, a desire to halt violent and non-violent mass atrocities is not a bid to impose Western values but instead only serves to uphold values common to all.

Thus, although some contend that because younger generations have not lived through World War II and the Cold War they will turn inward and become more isolationist (Kupchan 2001: 44), the polar opposite appears to be occurring. This is reflected in popular culture. The seventh season of the popular American television drama *24* featured a major plotline involving American intervention to halt mass atrocities in the fictional African nation of Sangala, and *A Long Way Gone: Memoirs of a Boy Soldier*, an autobiography by former Sierra Leone child soldier Ishmael Beah, became a New York Times bestseller (The New York Times 2008). This in part reflects trends of increasing international interests. Foreign travel is easier, less expensive, and more common, and this has increased interests in the affairs of other countries. Thus, the media reports on these affairs. However, in doing so, the media also serves to increase interest in these affairs. As international news becomes a part of everyday media consumption, people will become more aware of what happens in other parts of the world. If this includes mass atrocities, it is likely that calls for intervention in the face of such crimes will increase.

Increased and sustained levels of electoral support for intervention to halt mass atrocities have the added benefit of increasing the probability of an intervention's success. Because of the economic, social, and human costs involved, governments must have their citizens' support when intervening to halt mass atrocities. Since strong domestic support is needed for war and leaders who lose are generally voted out of office, democratic nations win 75 – 80 percent of the wars in which they engage (Levy 2003: 15). As a result, the standards to engage in war are high and democratic leaders are incentivized to win (ibid). This leads to far greater rates of mission success. Like most self-sustaining cycles, if the possibility of mission success is higher, it is then more likely that intervention will gain greater support from the public.

Also, political will to intervene in non-violent mass atrocities is likely greater than intervention for violent ones because it is less costly. Unlike violent mass atrocities, intervention to halt non-violent ones is, as detailed elsewhere in this thesis, of far shorter duration. This shorter duration greatly decreases the monetary costs and human risks involved. Furthermore, the decision to intervene does not automatically entail a decision or need for fighting, which further reduces the commitment involved. As a result, political will for non-violent mass atrocities is likely greater than for violent ones.

#### IV. Operational Barriers

Even if strong international and domestic support for intervention to halt non-violent mass atrocities exists, it may not be feasible. The responsibility to protect, Ramesh Thakur (2008) argues, “remains operationally elusive.”

There are several types of operational barriers in implementing the responsibility to protect for non-violent mass atrocities. The first is difficulty in coordinating various groups and agencies. In the past, the UN has experienced trouble coordinating missions with different troops, and although reforms have been discussed, greater coordination has not yet occurred. Instead, peacekeeping operations continue to suffer from territoriality and politics. Regional organizations encounter some of these same issues. While some, such as NATO, have the framework necessary to effectively conduct military operations, these tend to be exceptions. Many regional organizations simply do not possess the appropriate mechanisms to orchestrate interventions under the responsibility to protect (WFM-IGP 2008: 12). Furthermore, creating the necessary policies and procedures to do so will take time due to the negotiations involved. Yet even once they are in place, it is not certain they will always be used. Political will and consensus, even in regional organizations, will continue to be barriers to conducting such operations.

Finance is another operational barrier. On rare occasions when the UN Security Council chooses to authorize action, operational financing remains voluntary (Mohamed 2005: 825). Financing these operations is especially difficult as the distribution of costs is not easy to correlate with the distribution of benefits. For example, wealthier nations are more likely to have the resources to intervene for humanitarian causes, yet the offending state’s neighbors are most likely to receive the benefits of the intervention in the form of reduced refugee flows and illegal activities. On a practical level, this structure greatly decreases the incentives for more capable nations to intervene and thus requires even greater amounts of political will.

The demands of responding to terrorism threats have also depleted the financial, human, and political resources necessary to intervene under the responsibility to protect (MacFarlane, Thielking, & Weiss 2004: 977). In March 2009, *The Economist* reported that NATO is currently experiencing significant strain due to fighting wars in which it has significant interests (e.g., terrorism). For example, its involvement in Afghanistan is in part responsible for its refusal to send troops to the DRC (ibid). It simply does not have the resources necessary to devote to humanitarian interventions. The US and Britain are in similar circumstances. The electorate is

increasingly concerned with the costs of the war on terrorism, and steps to at least maintain troop levels are ever more difficult. Thus, if nations and organizations are barely able to respond to increasing threats to their own self-interests, it is significantly unlikely that they would respond to threats in which they have none. If this is true of violent mass atrocities, it would be even more true of non-violent ones.

Furthermore, the emphasis in fighting terrorism has led certain countries to significantly compromise their advocacy of human rights. In many cases, some powers have foregone emphasizing human rights in order to gain greater cooperation on counter-terrorism measures (MacFarlane, Thielking, & Weiss 2004: 985). For example, the United States turned a blind eye to Uzbekistan's human rights abuses in order to gain access to an airbase, and the consequences of the toleration of former President Pervez Musharraf's Pakistan are often discussed (*ibid*). Because democracies are willing to tolerate human rights abuses to gain greater cooperation on issues involving their own self-interests, questions regarding their commitment to the responsibility to protect are inevitably raised (*ibid*).

Even if resources were not strained in fighting terrorism, it would be nearly impossible to respond to all humanitarian crises due the sheer number that occur (ICISS 2001: 6). In August 2000, the Report of the Panel on United Nations Peace Operations, more commonly known as the Brahimi Report, was released. Undertaken at the behest of then-Secretary-General Kofi Annan, the study examined the United Nations' peace and security activities, including the effectiveness of its peacekeeping operations. It casts doubt on the institution's ability to respond to the expected number of upcoming intervention requests from its members (United Nations General Assembly Security Council 2000: 1). While the report made numerous suggestions for changes in order to more effectively respond to such requests, the events of 11 September 2001 and subsequent focus on counter-terrorism effectively jettisoned much of the agenda for reform.

## **V. The Feasibility of Extending the Responsibility to Protect**

Given the strong political and operational barriers that impede implementing the doctrine of the responsibility to protect vulnerable populations against violent mass atrocities, it is unlikely that, even should consensus regarding the doctrine be reached, it would be properly implemented to protect such populations from non-violent mass atrocities. However, this should not deter us in trying to extend and implement it. In discussing rights, John Deigh (1993: 85) argues "a morally justified right does not just disappear, or cease to direct behavior, when it is systematically vio-

lated.” The same truth extends to our obligations, which are often correlated to rights. Although it currently may not be feasible to implement the doctrine of the responsibility to protect in such a way that it consistently protects vulnerable populations from non-violent mass atrocities, we should nevertheless continue to attempt to do so.

Changes in international relations often move at a glacial pace, and in these terms, the doctrine of the responsibility to protect is still relatively new, having only been formally formulated in 2001 and adopted by the United Nations in 2005. As a result, many of the proper procedures and methods for implementing the doctrine still must be decided. As stated before, we usually must argue strongly for prescriptive measures before the appropriate descriptive ones to handle those responsibilities exist, and the doctrine of the responsibility to protect is no different. Thus, by arguing that philosophical and moral consistency requires us to extend the responsibility to protect to include non-violent mass atrocities, this thesis has already taken the first step towards the eventual implementation of measures to act upon it.

Furthermore, as discussed in the latter part of the section on political will, we saw that this barrier, likely the largest obstacle in feasibly extending the responsibility to protect to include non-violent mass atrocities, is already changing. The public outpouring of response to the disasters in Ethiopia, Thailand, and Burma (all of which are discussed in Chapter 8) showed that the general public already possesses a strong desire to assist those in need. If politicians, NGOs, and academics will cooperate to educate the public on why the responsibility to protect is important, electoral demand and support for intervention will rise, subsequently causing an increase in political will in confronting such atrocities.

Moreover, support for the doctrine of the responsibility to protect and its extension to include non-violent mass atrocities will grow as our experience under the doctrine increases. Armed intervention in the Balkans, Liberia, Sierra Leone, and Kosovo has, on balance, produced better outcomes than not intervening (*The Economist* 2008b). On the other hand, and as already mentioned, a lack of intervention in Somalia and Rwanda have had far-reaching consequences. As the world continues to see that intervention under the responsibility to protect produces better outcomes (when done for the right reasons) than not intervening, we will become more comfortable with the doctrine and be more likely to use it in the future.

As also discussed earlier, it is more likely that, after a period of initial hesitancy, intervention under the doctrine of the responsibility to protect to halt non-violent mass atrocities will become more common than intervention to halt violent mass atrocities. Because the intervention's purpose is focused on alleviating victims' suffering after a particular event, intervention to halt non-violent mass atrocities will likely be of far shorter duration than intervention to halt violent ones given that the latter would also need to involve peace negotiations or arms reduction. Thus, because of the shorter duration, financial and human demands on countries' already strained military and financial resources will be less burdensome than interventions to halt violent mass atrocities. Since these important demands are much lower, the commitment is not as great, meaning countries will become more likely to intervene.

In order for intervention to halt non-violent mass atrocities under the responsibility to protect to be both feasible and effective, several ideas will need to be clarified. First, there will need to be a greater understanding of what intervention means on each specific mission. For example, if a government refuses to allow aid after a natural catastrophe, will intervention consist purely of delivering food aid, or will medical aid be delivered as well? If the latter is included, will only supplies be delivered, or will doctors also arrive to treat the injured? Not only must the intervening states agree on what the intervention will include, they must discuss it with any NGOs currently operating in the offending state as well. It is possible that long-term relief will include the short-term withdraw of these NGOs, especially if fighting occurs, so they should also be consulted (ICISS 2001: 61).

The feasibility of extending the responsibility to protect to include protecting vulnerable populations from non-violent mass atrocities will also increase if the purpose and scope of these missions stays small and focused. The disastrous consequences resulting from intervening in Somalia were partially a result of expanding the mission scope from solely delivering food aid to actually trying to impose a rule of law (Wheeler 1996: 34). Because regimes committing or permitting mass atrocities within their borders likely have issues far beyond the atrocities currently occurring, intervening states are highly susceptible to mission creep. However, this type of creep endangers the mission's success and must be resisted. It is far too easy to become entangled in another country's affairs, and consistently doing so will strain time and resources that could be more efficiently deployed to other areas.

In summary, many barriers, including lack of international support, political will, and operational effectiveness, to extending the doctrine of the responsibility to protect to include non-violent mass atrocities exist and will impede its inclusion and implementation in the near future. However, these are neither surprising nor so insurmountable as to render its extension forever infeasible. Instead, by undertaking a strategy of educating the general public on the importance of the extension, understanding the success of past interventions, and specifying the terms of future interventions, it is highly likely that intervention under the responsibility to protect to halt non-violent mass atrocities will be feasible in the future.

## **VI. Conclusion**

While previous chapters discussed the underlying moral and philosophical reasons for extending the responsibility to protect to include non-violent mass atrocities, this chapter examined the feasibility of doing so. It first analyzed how the doctrine is being applied to violent atrocities and came to the grim conclusion that the success of the application of the doctrine is far less than what was hoped. This led to a search for the causes of it.

First, although the doctrine of the responsibility to protect was unanimously adopted by the United Nations in 2005, there appears to be strong opposition to it within the institution. Only Western democracies, Latin America, and Africa strongly support it, and this has led a rift in the United Nations. Countries known for their human rights violations, including Russia and China, have vested interests in not upholding the responsibility to protect, and this significantly hinders its implementation.

Secondly, political will also materially impedes extending the responsibility to protect to include non-violent mass atrocities. Without the support of their electorates, nations with the capability to intervene are highly unlikely to do so. However, certain trends, including the proliferation of non-state actors in international relations, globalization, the prominence of human rights, education on what constitutes morally arbitrary differences between people, and a rise in philanthropy and volunteer work may lead to an electorate that strongly supports intervention to halt non-violent mass atrocities.

Still, even if political will increases, operational barriers remain. There is a lack of coordination across troops that impedes missions' effectiveness. Efficiently and fairly distributing the costs of these operations is also difficult. Furthermore, many countries' resources are strained by counter-

terrorism measures, and their commitment to universal human rights has been compromised by concessions necessary to achieve certain counter-terrorism objectives. Finally, the sheer number of crises demanding intervention under the current responsibility to protect, much less its extension to include non-violent mass atrocities, precludes perfect implementation.

All of these obstacles render implementation to include non-violent mass atrocities under the responsibility to protect unlikely in the near future. However, certain measures, including educating the general public, understanding past success, and focusing the missions, can be taken that would greatly increase the possibility of future success. The next chapter examines the long-term effects of the extension.

# The Long-Term Effects of Extending the Responsibility to Protect

## Chapter 7

As with the previous one, this chapter does not contain any moral or philosophical arguments for extending the responsibility to protect to include non-violent mass atrocities. Instead, it recognizes that such an extension may have long-term effects and seeks to understand what those benefits or consequences may be.

This chapter analyzes the different areas that intervention to halt non-violent mass atrocities under the responsibility to protect would affect. It first considers the diplomatic effects, specifically as they relate to prevention, reaction, and reconstruction, of such an intervention. It then examines the economic effects that such an intervention may cause. Next, it evaluates how external intervention would alter the nature of relations between the offending regime and its citizens. Finally, the last section seeks to understand if the effects of such an intervention provide a strong case for maintaining the norm of non-intervention.

### I. Diplomatic Effects

As discussed in Chapter 2, the doctrine of the responsibility to protect contains three parts: (1) the responsibility to prevent, (2) the responsibility to react, and (3) the responsibility to rebuild. This section examines how extending the responsibility to protect to include non-violent mass atrocities would affect diplomatic relations in each of these areas.

#### *Diplomatic Effects of Prevention*

The most positive effects of extending the responsibility to protect to include non-violent mass atrocities would likely result from efforts made under the responsibility to prevent such atrocities. Paragraph 139 of the 2005 World Summit Outcome Document stresses prevention of mass atrocities by assisting states in building the capacity to protect their populations from genocide, war crimes, ethnic cleansing, and crimes against humanity. Ban Ki-moon (2009: 19) asserts governments of poor countries are more likely to commit mass atrocities because their citizens are too poor to have the means to resist. He argues increasing development assistance to the world's poorest would allow them to strengthen their social and political positions, thus enabling them to resist repressive regimes (ibid).

If this is true, then expanding the responsibility to prevent to cover non-violent mass atrocities would include taking many measures commensurate with current aid programs. Assistance to the poor would need to enable them to become more self-reliant. Such types of support would include agricultural assistance to raise crop yields, increased access to education and technology, and microfinance programs to encourage entrepreneurship.

Unless the regime is exceptionally repressive (e.g., North Korea and Burma), it would likely welcome such assistance. Allowing external help in assisting these vulnerable populations would significantly reduce the burdens on governments to care for such populations and may provide future benefits in the form of increased taxes and political participation. The ensuing stability would increase a country's ranking on the Human Development Index and encourage foreign investment. In other words, a clever regime would understand that benefiting the poorest in its country would eventually benefit the regime itself.

Exceptionally repressive regimes would perceive such assistance far differently. Allowing external actors to gain extensive access to the country, especially in the education sector, may significantly threaten a repressive regime's control over its people given that these regimes often use extensive propaganda to maintain control of their populations. Many regimes hold NGOs responsible for arousing discontent in the general population and encouraging protests against the government. Thus, they blame external help for creating the capacity for political resistance. As a result, they are unlikely to allow such access.

Even more open regimes would be wary of assistance they consider too intrusive. Aid in building certain legal frameworks for land rights and training for police forces may be viewed as a threat to the government itself. It is also possible that a regime once open to foreign assistance extended with the goal of preventing mass atrocities would become increasingly closed the more involved external actors became. Thus, should those rendering assistance not tread carefully, a once modestly open regime may become an increasingly closed one.

Many of the diplomatic effects of extending the responsibility to protect to include non-violent mass atrocities align with well-established diplomatic objectives. For example, the promotion of democracy throughout the world is a long recognized goal in international relations, and the 2005 World Summit Outcome Document (¶135) reaffirms member states' commitment to democracy. As a result, many countries' diplomatic objectives already include encouraging

democracy globally. This goal also benefits preventative strategies under the responsibility to protect. It is well known that democracies rarely engage in war with one another (Levy 2001: 13), and because of public accountability, they are significantly less likely to commit mass atrocities. Thus, preventative strategies against the commitment of non-violent mass atrocities do not require significant effort above current practices in international relations.

Still, even with such prevention efforts, more forceful intervention will occasionally be required. Prevention efforts are likely more effective against catastrophes such as intentional famines than against the intentional withholding of aid after natural disasters. As a result, the next subsection examines the diplomatic effects of intervention to halt non-violent mass atrocities.

#### *Diplomatic Effects of Intervention*

As discussed in Chapter 4, forcefully intervening into another country's affairs, while occasionally not only morally justified but actually morally required, is a serious undertaking. It is intervening under the responsibility to react that will likely produce the most negative diplomatic outcomes.

As discussed in Chapter 3, some regimes consider sovereignty an absolute right of states and consider any violation of this supposed sovereignty a complete affront to their statehood. Thus, violating this sovereignty could engender various negative effects. First, it could cause the regime to become more reclusive and removed from international relations. A regime that deems the international community as too involved in its domestic affairs will tend to withdraw and isolate itself from it. By isolating itself and restricting the flow of information both in and out of the regime, both aid and trade will significantly decrease, thus causing the living standards of people in that country to fall further. The regime, weary of external intervention and meddling, may also severely restrict NGO access and assistance, which would then render its population even worse off given that this may be the only way the people can meet their material needs. Thus, an intervention intended to protect vulnerable populations could actually be to their detriment.

Conversely, a forceful intervention could also cause a repressive regime to become more aggressive against its own people. Because intervention to halt non-violent mass atrocities would be for a relatively short duration, the population is vulnerable to governments crackdowns before the root causes of the atrocities are addressed (i.e., the government has not changed). Thus, the offending government could more brutally repress its people after external forces leave, possibly

through violent mass atrocities. As a result, vulnerable populations that the intervention was supposed to protect could be left in a more precarious state than before the intervention was undertaken.

The regime could also decide to become more aggressive internationally. Because it may view intervention as an affront to its rule, the regime may choose to retaliate against those who intervened. It may choose to become a haven for terrorists or organized crime rings or a conduit for drugs and illicit arms trade. It could cooperate with other repressive states to share nuclear technology to threaten the populations of the states that intervened. As a result, an intervention could eventually cause harm to multiple populations in several different states.

While these possible long-term effects should be considered with the utmost care, they do not represent inevitable doomsday scenarios. As stated repeatedly, forceful intervention is a serious undertaking, and external states should not do so lightly. Generally, some sort of power imbalance will exist for external intervention.<sup>11</sup> As a result, countries subjected to external intervention occurs will likely already be too weak or isolated to retaliate at any meaningful level. Alternatively, they may already be engaged in various illicit activities, with intervention unlikely to cause such activities to increase significantly.

Furthermore, the world should not shy away from interventions because of possible negative outcomes. On the whole, intervention has produced positive outcomes (*The Economist* 2008b), and it has shown offending regimes that they will eventually be held accountable for their actions, which acts as an important future deterrent against mass atrocities.

The repressive regime's reactions to an intervention may in part depend upon what nation or organizations choose to intervene. As discussed in Chapter 4, intervention by the regional organization encompassing the offending country may be far more successful than intervention by states less related to it. These countries may have deeper relationships with the regime and a better understanding of the best way to intervene. They may also be in the best position to induce

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<sup>11</sup> A sad but uncompromising truth of international relations is that all countries are not treated as equals despite any declarations in the UN Charter. It is well-known that the five permanent members of the UN Security Council are, ironically, highly unlikely to be held accountable for any violations of the Charter. For example, it is extremely improbable that a state or group of states will forcefully intervene in China to halt serious human rights abuses occurring there. The reason is purely pragmatic: China has the economic and military capability to deliver devastating consequences to any countries attempting to do so.

the regime's cooperation via economic or diplomatic incentives. As a result, intervention by regional organizations should be strongly encouraged before ad hoc alliances less connected with the offending countries undertake any action.

### *Diplomatic Effects of Rebuilding*

As stated earlier in this thesis, the responsibility to rebuild is not as applicable to interventions to halt non-violent mass atrocities since the delivery of relief is very specific and mission focused. However, the manner in which forces are withdrawn and how the completion of the mission is handled may significantly affect long-term international relations.

First, withdrawing forces after the initial goal of the mission is accomplished (i.e., relief for the most vulnerable populations has occurred) sends the strong and important message that the intervention did not occur as a disguise for imperialism or to oust the regime. Furthermore, the withdrawal of forces should take place in an orderly and defined manner so as to prevent an aftermath of chaos and riots against the government. Also, contingency plans should be in place to reintervene should the offending regime begin a brutal crackdown after the mission is completed.

The majority of the responsibility to rebuild, like the responsibility to protect, after intervention for non-violent mass atrocities will occur in line with already established diplomatic strategies. Practices such as economically empowering the poor and partnering with the regime to build more democratic civil and political institutions are the best way to rebuild a country after any form of intervention. This will ensure long-term stability and lessen the need for future interventions.

## **II. Economic Effects**

Intervening under the responsibility to protect to halt non-violent mass atrocities may produce substantially negative economic effects. These effects include the development of a black market, destruction of economic goods, outflow of refugees, and disruption of trade. Each will be considered in turn.

As discussed in the previous section, desperately poor populations are among the most susceptible to mass atrocities. As a result of such dire circumstances and desperation, the possibility that they will exploit food or medicine for economic gain exists, meaning that a black market may

develop.<sup>12</sup> Should this occur, vulnerable populations may be forced to sell belongings or perform unwelcome tasks, including prostitution and forced labor, in order to access lifesaving relief. Thus, they may become worse off than before the intervention. In the long-term, black markets are more vulnerable to infiltration by organized crime rings or other dubious enterprises that may further negatively impact local populations. Thus, aid must be distributed in such a way as to minimize the development of black markets. This will include strict control of distribution channels and constant monitoring of the aid needed per capita so as not to supply too many goods.

Intervention to halt non-violent mass atrocities may also cause the destruction of economic goods, thereby rendering vulnerable populations worse off than before. Economic goods are defined as those goods or services that people value and can sell for a non-negative price in the marketplace (Moffatt 2009). For vulnerable populations, that may include farming or personal land, cattle, or simple machinery. Should the intervention produce fighting between the intervening forces and those loyal to the regime, inadvertent or deliberate destruction of such goods may occur. Thus, when intervening forces eventually withdraw, the population will not be able to return to its means to livelihood, thus encountering greater difficulties than before intervention occurred.

Fighting may also increase the flood of refugees to surrounding areas. Not only will this strain the resources of neighboring countries, it is not effective. One of the goals of intervention to halt non-violent mass atrocities is to uphold people's rights. Part of these rights entail allowing people to remain in their homes and not forcing their displacement. Displacing vulnerable populations may lead to a loss of livelihood and, again, render them worse off than before the intervention.

Finally, intervention to halt non-violent mass atrocities may significantly disrupt any trade that enabled the vulnerable populations to maintain their livelihoods. It is difficult, if not impossible, to allow business to continue to be conducted once forceful intervention commences. These operations contain a significant element of unknown risk that may make traders less likely to continue operations until normality resumes. Once forces withdrawal, it may still take weeks or

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<sup>12</sup> In truth, the search for opportunities to exploit opportunities for economic gain is found across all socio-economic classes and is, of course, the foundation of capitalism. Still, the development of a black market in light of non-violent mass atrocities presents particularly troubling issues.

months until trade resumes to pre-intervention levels, which again impacts vulnerable populations and may render them worse-off than before the intervention.

Still, like the diplomatic effects of intervention, much of this is unlikely to happen. The possibility of the development of a black market and destruction of economic goods should fighting occur are serious risks and should be accounted for accordingly, but the remaining concerns are not as likely. The atrocities will already have produced a flood of refugees, and their numbers are not likely to increase significantly as a result of any military engagement. Furthermore, most of these populations do not produce enough economic goods to entail a significant amount of trade. It is thus highly unlikely that intervention would render such populations worse off than before.

### **III. Effects on Relations between the State and its Citizens**

Some of the most significant long-term effects arising from intervention to halt non-violent mass atrocities under the responsibility to protect may be in the form of changing relations between the offending state and its citizens. If the traditional notion of sovereignty holds that the government is the highest authority within a state (Hinsley 1986: 1), conspicuous external intervention into a state's affairs, including intervention to halt non-violent mass atrocities, will demonstrate to that state's citizens that the government's authority can be overridden. This may produce a number of different outcomes.

First, it may destabilize the state. If unrest already exists within the country due to the government's oppressive practices, people may view the intervention as proof that the government no longer possesses complete control. As a result, they may use the opportunity to attempt to oust the regime. Any hostilities between rival factions, particularly those of an ethnic or tribal nature, may erupt, and it is possible that the atrocities will become violent. Such hostilities may also spread into surrounding regions (e.g., Vietnam's involvement in Cambodia and Rwanda's militia groups in the DRC). Thus, in trying to protect vulnerable populations, more citizens may eventually be placed at risk.

Intervention to halt non-violent mass atrocities may also embolden opposition groups. Governments committing mass atrocities generally have strict control over their citizen's access to media. External intervention may provide opposition groups with opportunities to express their grievances to their fellow citizens and the larger world. This, in turn, may mobilize protests and

calls for reform. The government may brutally crack down on these protests and remove all political opposition, thereby rendering the citizens worse off than before the intervention.

As discussed in the section on diplomatic effects, the oppressive regime will likely feel threatened and insulted by any external intervention to halt non-violent mass atrocities. It will understand that its people may no longer perceive it to be the absolute political authority in the state and thus conduct a brutal crackdown to refute any such thoughts. It may perceive its own citizens as a threat to its authority – it is because of them, after all, that traditional conceptions of sovereignty were violated – and thus seek to isolate them more. Thus, intervention could worsen the relations between a state and its citizens.

It is, however, unlikely that most of this will occur. The government is able to commit non-violent mass atrocities against its people in part because such populations are so economically, politically, and socially weak. As a result, it is doubtful that any opposition to the repressive regime is organized enough to seriously threaten its continued rule. Any truly democratic reforms will likely only occur with substantial external diplomatic pressure, meaning that intervention alone is not a strong enough catalyst to spark reform internally. While it is possible that the regime will become even more oppressive after intervening forces withdraw, that alone is not reason enough to not intervene. When certain levels of suffering exist and the responsible government refuses to undertake actions to alleviate it, intervention must always be considered an option of last resort.

#### **IV. These Effects on our Decision to Intervene**

Understanding the long-term consequences of intervention to halt non-violent mass atrocities should be a critical factor in making the decision of whether to intervene. Intervention carries significant risks, and if these are not carefully considered and at least partially mitigated, it is possible that intervention to halt non-violent mass atrocities will leave parties worse off than before. Thus, careful consideration of an intervention's long-term effects is critical to its success.

It is important to note that intervention to halt any form of mass atrocity should not be considered a solution to our long-term approach to managing harmful regimes. As shown in this chapter, the long-term effects are too severe for such interventions to be considered ends in themselves. Instead, intervention must be viewed as one of the most serious actions that may be necessary to protect vulnerable populations from harm by their own governments, and we must

seek to understand how such an intervention will impact the long-term relations of the offending regime with both its people and the international community.

The possibility of the consequences discussed in previous sections can be greatly reduced through careful planning and just conduct during the intervention. Great care should be taken to lessen the probability of the three most likely risks: (1) the development of a black market, (2) devastation resulting from an outbreak of war, and (3) a brutal crackdown after intervening forces withdraw.

Conducting the intervention to halt non-violent mass atrocities in a just and fair manner can reduce the probability of all three of these from occurring. Tight control over the distribution of aid will significantly reduce the ability of a black market to develop. Furthermore (and quite ironically), minimizing external intrusion through a specific mission focus will, as discussed in the previous chapter, increase the likelihood of mission success and reduce offense to the repressive regime. Doing so will minimize the probability of war and greater repression after withdraw. The more honorable the conduct during war, the more likely the external countries will be able to maintain and extend diplomatic relations with the offending regime and, eventually, allow its people to achieve democratic goals.

It is important to understand that the risks of negative long-term consequences do not inevitably outweigh the benefits, and intervention will occasionally be warranted. Although long-term peace between nations is an ideal that many would like to achieve, we cannot ignore the deaths of thousands in order to obtain that goal. Instead, we must understand how that goal is impacted by our decision to protect vulnerable populations from harmful regimes. Given the typical profile of the types of countries that engage in such atrocities, it is highly unlikely that our long-term goals will greatly suffer from the effects of intervention. Instead, intervention may lead to the establishment of countries with greater domestic and international accountability, which will do far more for long-term peace than the short-term gains given by tolerating regimes that brutally repress their citizens.

## **V. Conclusion**

This chapter examined the possible long-term diplomatic, economic, and relational effects of intervention to halt non-violent mass atrocities given that any long-term negative effects of intervention may erase its short-term gains.

In discussing an intervention's possible diplomatic effects, this chapter divided the possible consequences into categories according to whether they arose from the responsibility to prevent, react, or rebuild. Diplomatic efforts and effects under the responsibility to prevent non-violent mass atrocities would likely mirror many of those already in place, including development assistance to the poor and the promotion of democracy. Long-term diplomatic effects under the responsibility to intervene – meaning forceful intervention – are likely the most negative. Armed intervention may result in the offending regime becoming either more isolated or more aggressive, the latter possibly negatively affecting the citizens of the intervening countries. These consequences may be tempered based on who intervenes and the manner in which the intervention is conducted. Nonetheless, such consequences of an intervention are not severe enough to warrant never intervening to halt non-violent mass atrocities. Finally, the responsibility to rebuild after intervention to halt non-violent mass atrocities may also entail negative outcomes, although these, too, can be lessened by completing the mission in such a way as to maintain stability and lessen the insult to the offending regime. Long-term actions under the responsibility to rebuild are in line with those under the responsibility to prevent, including economically assisting the poor and establishing stable political and civil institutions.

Intervention to halt non-violent mass atrocities may also engender negative economic effects. Most serious are the development of a black market for aid goods or, should fighting ensue, the destruction of economic goods, both of which may further impoverish people. Less likely but still possible are an increase in the number of refugees and the disruption of trade. Still, like the diplomatic consequences, none of these possible effects are likely nor severe enough to warrant intervention.

Finally, intervening under the responsibility to protect to halt non-violent mass atrocities may profoundly alter relations between the offending regime and its people. Most seriously, it could destabilize the country and, eventually, the region. A small chance exists that intervention could act as the impetus necessary to call for democratic reforms. However, it is also possible that any intervention will serve to make the offending regime more repressive and isolationist. Again, none of these possible outcomes are likely enough to warrant never intervening to halt non-violent mass atrocities.

As a result, although the possible diplomatic, economic, and relational effects should be carefully considered when making a decision to intercede, it is unlikely that these effects can never be mitigated in such a way as to warrant never intervening.

# The Extension of the Responsibility to Protect: Three Case Studies

## Chapter 8

The previous five chapters examined issues such as sovereignty, just war theory, the philosophical and moral consistency in extending the responsibility to protect, and the feasibility and long-term consequences of doing so. This chapter seeks to apply those arguments to three specific cases: the 1984 – 1985 Ethiopian famine, the 2008 cyclone in Burma, and the current situation in Zimbabwe. All three cases contain certain aspects consistent with necessitating intervention under the responsibility to protect against non-violent mass atrocities, yet intervention may not always be warranted. The purpose of this chapter is to examine if each case meets the criteria necessary to justify intervention.

Each case study will be conducted in the same manner. It will begin with a summary of the facts involved and then seek to understand if prevention of the crisis was possible. Next, it will consider if intervention is morally justified. To do so, the facts of the case will be analyzed against the new conception of sovereignty presented in Chapter 3 and the criteria for just war detailed in Chapter 4. The chapter then will examine if the type of horrors occurring in each case meet Chapter 5's definition of non-violent mass atrocities that should be covered under the responsibility to protect. A discussion of whether intervention is feasible and any long-term effects it may have will follow. Finally, each case will consider any objections to its reasoning and conclusions.

### **I. Ethiopia: The 1984 – 1985 Famine**

While the 1984 – 1985 Ethiopian famine occurred before the responsibility to protect existed, the horrors of this famine and Ethiopian government's refusal to assist its people sparked global outrage and inspired the formulation of the "duty to intervene," which, as discussed in Chapter 2, laid the foundations for the responsibility to protect. As a result, although it occurred 25 years ago, it is an excellent case by which to test the extension of the responsibility to protect to cover non-violent mass atrocities.

#### *Set of Facts*

Famines are common in Ethiopia, occurring about once per decade, and each one generally leads to tens of thousands of deaths (Meredith 2006: 332). As a result of exponential population

growth, over-cultivation, deforestation, soil erosion, and land degradation, the factors leading to the 1984 – 1985 famines were particularly severe (ibid).

The government's agricultural policies worsened the situation. They set artificially low prices for crop yields, which impoverished and hungered the peasantry at the expense of the army and urban dwellers (ibid). Yet even as yields dropped precipitously, the government enforced its yield quotas on the farmers, which forced farmers to buy grain on the open market and sell it at a loss to the government (332 – 333).

Colonel Mengistu Haile Mariam, the head of the Ethiopian government, routinely used food as a weapon of war, and his policy in handling rebel activity became the most important contributor to the famine (334). In battling rebel groups in the country, Mengistu's army used scorched-earth tactics, resulting in destroyed grain stores, farmland, crops, pastures, and livestock and the displacement of 80,000 farmers (ibid).

In 1984, the rains failed completely. Dawit Wolde Giorgis, the head of the Relief and Rehabilitation Commission (RRC) and a member of Mengistu's inner circle, pleaded with the colonel for increased funding to relieve the impending famine, but he was rebuffed, with Mengistu retorting that famine was nature's way of keeping the population in check (335). Relief shelters were completely overwhelmed. Designed to treat 10,000 people, 100,000 sought assistance. In March 1984, the RRC estimated that 16,000 people were dying per week, and the number at risk totaled five million (336 – 337).

The West was not inclined to help. They distrusted Mengistu's communist dictatorship and his continual anti-Western proclamations. Aid agencies were weary of extending aid given that Mengistu appeared to only use it to fight rebel activity (337). In the build-up to the 1984 – 1985 famine, Mengistu preoccupied himself with preparations to celebrate the country's ten years of independence from colonial rule (331). Although Mengistu had been warned about the impending famine, he ignored it, not wanting anything to detract from the planned celebrations (331 – 332). As the famine worsened, Mengistu obstructed relief efforts, thereby knowingly worsening his people's suffering (332).

Mengistu did not want the West to know about the famine and strongly discouraged efforts to aimed at famine relief. Instead, he spent US\$150 million on the four-day tenth anniversary celebrations for independence (338 – 340).

At the end of September, humanitarian organizations finally began to spread news of the size and scale of the famine. Fearing damage to his reputation, Mengistu eventually gave marginal attention to the issue, allowing donor representatives and journalists into famine areas. These journalists, horrified by what they saw, quickly spread word to the Western world, which in turn responded with more than US\$1 billion in relief assistance (340 – 341).

Much of this aid, however, never reached the victims. Instead, Mengistu forced the displacement of hundreds of thousands of civilians in order to clamp down on rebel activity. He also refused to allow aid to reach three million victims, with his foreign minister explicitly saying that food was a weapon in the government's war against the rebels (341 – 343). As a result, the famine resulted in over a one million deaths (343).

#### *The Possibility of Prevention*

External prevention of the famine would have been exceptionally difficult. Mengistu's dictatorship alienated Western nations, and donors found that much of their aid efforts were wasted. Foreign access to the country, particularly to areas hard hit by famine and rebel activity, was largely restricted. As a result, it would have been difficult for the international community to understand the true extent of the catastrophe.

However, despite trends such as high population growth and over-cultivation, prevention of the famine by Mengistu's government was possible. Instead, their decisions directly exacerbated the devastation. For example, as shown by the \$1B in relief donated after the famine was publicized, aid was available to the victims and could largely have prevented most of the deaths. Yet the government obstructed relief efforts. Thus, the death toll climbed to seven figures because of the Ethiopian government's policies and practices.

#### *Intervention*

In order for the international community to intervene to halt such atrocities, certain criteria must be met, including the new standards for sovereignty discussed in Chapter 3, just war principles detailed in Chapter 4, and extension under the responsibility to protect explained in Chapter 5.

This subsection seeks to understand if the circumstances surrounding the Ethiopian famine meet those criteria.

### Sovereignty

Mengistu's government was a dictatorship, and it largely did not reflect the will of its citizens. Not only did he brutally repress his people, he directed donor funds intended to aid the poor to instead fund his government's fight against rebels in various parts of the country. Although his control of the military enabled him to rule the country, many people inside and outside of it viewed his government as illegitimate, one of the primary considerations in granting the new conception of sovereignty promoted in Chapter 3.

He also did not govern within the best interests of his people. Mengistu obstructed relief efforts, thereby knowingly worsening the situation. He diverted donor funds to personal projects, further increasing the famine's toll. No serious thinker would agree that these actions were within the best interests of Ethiopia's citizens or a natural means to population control. Mengistu's government clearly did not act within the best interests of its people and therefore should not be accorded the benefits of sovereignty. As a result, Mengistu had no right to territorial integrity and the norm of non-intervention.

### Just War Criteria

Although the lack of sovereignty means Mengistu may not invoke it to stave off invasion, it does not necessarily mean that external intervention is morally permissible. Would intervention to halt the Ethiopian government's intentional starvation of its people meet the standards set by just war theory? The principles of just war and its application to the Ethiopian famine are as follows:

- *Just cause:* Intentionally starving millions of citizens is an act that "shock[s] the moral conscience of mankind" (Walzer 1977: 107). It clearly violates the right to life, which can be defended under both the Universal Declaration of Human Rights and the doctrine of the responsibility to protect. Resisting this type of aggression is a justifiable reason under the just cause principle.
- *Last resort:* Even before the famine, the Ethiopian government consistently diverted aid intended to assist vulnerable populations to military causes, thus showing that it could not be trusted to distribute assistance in accordance with donor wishes. Furthermore, the

government obstructed relief efforts, further demonstrating that it could not be trusted to help its suffering citizens. External intervention would likely be the only way to ensure that the aid reached its intended recipients.

- *Legitimate authority:* As always, the United Nations would be the most legitimate authority to intervene to halt such atrocities, especially given that regional organizations, particularly those in Africa, had not yet developed any conception of the responsibility to protect by 1985. Still, given the severity and scale of the famine, any country or group of countries meeting all of the just war criteria would be within their right to intervene to stop the atrocity and assist the starving population.
- *Right intention:* As discussed in Chapter 2, the two major Cold War powers fought many proxy wars in Africa, and Ethiopia's Cold War dictatorship could certainly be considered one such battleground. As a result, it is highly likely that intervening nations from Western democracies would also have selfish motives for intervening. Still, enough suffering exists to ensure that intervention has mostly proper motives in alleviating it.
- *Reasonable chance of success:* The Ethiopian government's army is not powerful enough to mount a serious challenge to larger, more sophisticated powers, and it is likely that intervention would be successful. Furthermore, Mengistu's concern with his international reputation would likely cause him to refrain from attacking intervening forces, and he may even superficially try to assist them. If the intervention were conducted in such a way as to allow Mengistu to minimize his prospects of humiliation, it would likely be very successful.
- *Proportional means:* Given that the purpose of the intervention would only be to alleviate suffering caused by the famine and can likely be conducted in a largely peaceful manner, the means would be proportional to the cause. Furthermore, because intervention has the potential to save up to one million lives, the costs are highly likely to outweigh the benefits.

#### Justification under the Extension of the Responsibility to Protect

Intervening to halt the Ethiopian government's intentional starvation of its own people is justified under all three arguments for extending the responsibility to protect to cover non-violent

mass atrocities. First, people living in more prosperous countries would never allow such suffering within their own borders. To justify intentional starvation on the basis that it is occurring in another nation that is “far away” amounts to arguing that nationality is morally significant. No one should be allowed to die such an agonizing death based on where they are born, and the global community should intervene to ensure this does not occur.

Furthermore, representatives in the reflective equilibrium would likely agree that intervention should occur to halt such suffering. If representatives in the two original positions knew they faced the possibility of starvation as a result of a repressive regime, they would willingly agree to intervention, and behind the veil of ignorance, it seems likely that people, knowing they may live in wealthier nations, would agree to halt such suffering in return for living under more privileged circumstances.

Finally, it seems difficult to justify maintaining a norm of non-intervention although the atrocities are not violent. Intentional starvation produces a prodigious amount of suffering in both adults and children, and for those fortunate enough to survive, the effects of such severe malnutrition (which, in children, lowers IQs and magnifies the effects of other diseases (UNESCO Bangkok n.d.)) may last a lifetime. The scale of the tragedy is far larger than the majority of violent mass atrocities – the Rwandan genocide killed 200,000 less – and appears to warrant intervention.

### Moral Justification

Thus, while it was likely not possible for the international community to prevent the famine, it is surely morally justified for the community to intervene to halt it. Sovereignty does not exist, and the criteria for using armed force are met. Furthermore, the responsibility to protect should cover such atrocities. As a result, intervention is morally justified.

### Feasibility of Intervention

Although intervening to halt the Ethiopian government’s intentional starvation of its people is morally justified, is it feasible? Several factors will influence this response, including alliances, power imbalances, and political will.

In 1977, Soviet and Cuban forces mounted a massive intervention to save Mengistu’s army from defeat in Eritea (Meredith 2006: 247). The countries’ professed communist ideals and strong

anti-western rhetoric formed a strong alliance, and Ethiopia consequently aligned itself with the Soviet Union during the Cold War. As a result, it would be nearly impossible for the UN Security Council, on which Russia holds a permanent veto, to pass a resolution condemning Mengistu's actions and perpetuation of the famine, much less authorizing armed intervention there.

Still, Western Europe and the United States were a formidable threat. The Soviets rescued Ethiopia from Somalia in 1977, not a major Western power. The USSR would be far less likely to mount an attack on Western troops specifically intervening to provide aid. Although Ethiopia was an important ally, it was not as strategic a partner as other states in Africa. Without outside intervention, it is unlikely that intervening states would encounter significant resistance from Ethiopian forces. Yet the risk exists that self-interests rampant in Africa during the Cold War could lead to the major Cold War powers to use the Ethiopian famine as a pretense for yet another proxy war.

As a result of Cold War alliances and interests, it is not obvious if enough political will existed to motivate external intervention to distribute aid during the 1984 – 1985 famine. Such types of intervention certainly would not have been popular among the general public, and politicians would have to weigh these concerns with the aforementioned complications arising from the Cold War. The combination of the two likely leaves political will for such an intervention sorely lacking. As a result, it is highly unlikely that external states would have undertaken an armed intervention to distribute aid to victims of the famine.

#### Long-term Effects

It is unfortunate that the political will to intervene in Ethiopia during the 1984 – 1985 famine did not exist since the negative long-term effects likely would have been relatively minimal. Ethiopia's relations with the West and NGOs were already in such a disastrous state that external intervention would have had little further negative impact. Furthermore, while the USSR may have been alarmed and distrustful of any humanitarian intervention, they would likely not have directly attacked as a result, particularly if it were conducted in such a way as to clearly show its sole purpose was to distribute aid to the famine victims and not act as a guise for furthering Cold War goals. Intervention in Ethiopia would simply have become another of the many proxy wars fought in Africa.

Most importantly, it is highly unlikely that intervention could have worsened the famine victims' situation. One million deaths resulting from the government's decision to purposefully withhold aid is difficult to exceed. Instead, even if the intervention were only modestly successful, it is highly likely that the death toll would have been significantly reduced. Furthermore, such an intervention would have set an important precedent in addressing future atrocities and may have prevented certain ones from occurring given that other repressive regimes would understand that their countries could also be the targets of such types of intervention.

### *Criticisms of Intervention*

Should external states have decided to undertake an intervention to protect the eventual victims of the Ethiopian famine, several objections would have been raised, including the appearance of colonialism, further antagonizing an already intense Cold War standoff, and driving the Ethiopian government deeper into the arms of communism.

Colonialism was a particularly sensitive subject in the mid-1980s since most African countries had only gained independence after World War II. The world was still very protective of these nations, and they looked with weary eyes for anything that possibly represented a return to such an unwelcome form of rule. As a result, the majority of nations (most not democratic or only marginally so) would have decried any form of armed intervention in Ethiopia undertaken by Western powers. It may also have resulted in worsening Western relations with other African nations.

Furthermore, as mentioned above, Western intervention Ethiopia, even if only to distribute aid to the famine victims, would have greatly antagonized already tense Cold War relations. While it could, in part, be viewed as a proxy war, the threat of attacks on intervening troops by USSR-backed fighters remained very real. Because Western troops would be present, intervention in Ethiopia could act as the impetus that sparked armed fighting during the Cold War.

Finally, forcefully intervening in Ethiopia could deteriorate Ethiopia's relations with the West to the point that eventual democratic reforms would have been nearly impossible. It could serve to entrench Mengistu's regime and cause it to refuse all overtures from the West. The USSR may also have resolved to provide more support for its allies around the world. By entrenching such repressive regimes, intervening countries could harm the long-term prospects of the global adoption of democracy.

Yet with all three criticisms, it is difficult to justify inaction. One million lives are a significant price to pay for only the possibility of such outcomes. If, as suggested before, the intervention were conducted in an honorable manner that only served to relieve the suffering of the famine's victims, cries of colonialism would have largely subsided. Furthermore, such actions would lessen the likelihood of attacks on intervening troops. Finally, it is highly unlikely that relations between the two major Cold War powers and their allies could materially degenerate further. Instead, the alleviation of so many victims' suffering and the important precedent that such an intervention would set would greatly outweigh these objections.

### *Conclusion*

The 1984 – 1985 Ethiopian famine provides a clear case of when intervention to halt non-violent mass atrocities should occur under the responsibility to protect. Although it was not politically feasible, that is to be considered simply unfortunate and not representative of larger issues. The long-term benefits of such an intervention would have made such actions well worth the undertaking.

## **II. Burma: The Aftermath of Cyclone Nargis in 2008**

On 26 December 2004, a devastating tsunami struck Thailand, killing 5,395 people, causing an additional 2,817 to go missing, and affecting 58,550 (United Nations Thailand 2008b). It caused US\$353.4 million in damage and became the worst natural disaster in the history of Thailand (ibid).

The Thai government responded immediately, setting up relief and donation centers within 24 hours in order to manage the incoming supplies and requests for assistance (United Nations Thailand 2008a). While the government possessed adequate financial reserves to manage the disaster, it readily accepted international expertise and equipment to augment its own efforts (ibid). The international community widely regards the Thai government's rapid and effective response to the catastrophe as successful.

The Burmese victims of Cyclone Nargis were not as fortunate. After the cyclone struck with devastating force on 3 May 2008, the ruling military junta blocked aid and relief efforts, thereby worsening the situation. Many in the international community were appalled by the government's actions, and some called for forceful intervention under the doctrine of the responsibility

to protect in order to deliver relief to the cyclone's victims. This section examines whether those calls should have been heeded and the consequences of such intervention.

### Set of Facts

Referred to as "Burma" by most Western democracies but "Mynamar" by the government and its allies, among others, this state is one of the most closed and repressed countries in the world (Holliday 2005: 613). This subsection provides a brief history of the country and a description of its international relations at the time of the crisis before presenting a summary of the facts surrounding the catastrophe.

### History of Rule

Burma was freed from colonial rule after World War II, becoming a democratic, independent country in 1948 (Holliday 2005: 604). However, a military coup occurred in 1962, and that same military junta is now in its fifth decade of power (ibid). In 1989, the junta changed the country's name from Burma to Myanmar; however, many governments, including the United States, Great Britain, Australia, and Canada still use Burma as they do not recognize the junta's right to rule and the implied right to change the country's name. Opposition groups within Burma, including ethnic minority groups, support this position. However, other governments, including Germany, France, China, Russia, Japan, and members of ASEAN, recognize the name change.

Although democratic elections were held in 1990 and the opposition National League for Democracy captured an overwhelming majority of the vote, the military junta refused to abdicate power and instead increased its repression (USDS 2008).

### Facts about Burma at the Time of the Crisis

Many advocated intervention in Burma under the responsibility to protect long before Cyclone Nargis struck. Forced labor, systematic rape of ethnic minority women, recruitment of child soldiers, and the abuse of prisoners constitute only some of the government's human rights abuses (WFM-IGP 2008: 9). In 2008 alone, Burmese military actions displaced more than 40,000 people, and political prisoners totaled 2,150 (Human Rights Watch 2009: 223 & 227). More than one million Burmese have fled to neighboring countries (USDS 2008).

Burma is the world's second largest producer of illicit opium, comprising approximately 12% of the world's total (ibid). Despite its abundance of natural resources, it is one of the poorest coun-

tries in Asia (Lintner 2007). Profits from such sales serve to enrich and entrench the regime, many of whose members travel to Singapore, among other places, for shopping sprees and medical care (ibid). The country's inflation rate tops 40% (USDS 2008), and it ranks 132 out of 177 countries on the Human Development Index (United Nations Development Programme 2007).

Although it has a population of only 50 million people, Burma's military force boasts 500,000 men (Holliday 2005: 604 & 606). China serves as Burma's arms supplier, lender, and most important trading partner, although commercial and military ties with India are growing (USDS 2008). Since 1988, Burma has purchased over US\$1.4 billion in arms from China (Lintner 2007). Thailand and Russia constitute other active trade and investment partners (Human Rights Watch 2009: 229). As a result, these countries have both military and economic interests in allowing the ruling military junta to remain in power.

China, India, Japan, and ASEAN generally favor using a carrot-and-stick approach with the Burmese regime (Holliday 2005: 608), although this approach has primarily consisted of constructing hotels and factories without any discussion regarding political reform (Acharya 2007). The United States and its major allies, on the other hand, favor sanctions, including an arms embargo, travel bans on high-ranking government officials, and asset freezes combined with political pressure on companies either investing or considering investing in Burma (Holliday 2005: 613). While opposition leaders and ethnic minorities support these sanctions, they have been largely ineffectual due to Chinese, Indian, and Russian support (613 & 615).

In August 2007, Burmese monks began protesting following a gasoline and diesel price increase of 500%, and other Burmese citizens soon followed by protesting for a change in government (WFM-IGP 2009a). In September 2007, the junta responded with a brutal crackdown, severely torturing and killing some of the protestors (ibid). Over 1,000 people were detained (USDS 2008).

### Cyclone Nargis

On 3 May 2008, Cyclone Nargis struck Burma with devastating force. Although the international community responding with an outpouring of support, the military junta blocked both aid and aid workers from entering the country (WFM-IGP 2009a). At the time, experts estimated that

the death toll could exceed 100,000, with an additional two million people displaced and in need of aid (Thakur 2008).

Unfortunately, a manmade crisis worsened the natural one (GCR2P 2008). Although French assistance could reach Burma within half an hour (*The Economist* 2008a), the government refused to allow aid to be delivered to the victims. The United Nations called the government's obstruction "unprecedented" (Stevenson 2008). On 8 May 2008, the Burmese government finally announced that the country would accept relief supplies but would not allow additional aid workers to enter (BBC 2008). On 19 May, the government declared that medical personnel and assessment teams from ASEAN members would be allowed to enter the country (CNN 2008a), and on the 23 May, the junta finally agreed to allow all aid workers regardless of nationality to enter (CNN 2008b). Much of this aid was then repackaged by the military to make it appear to be from the Burmese government (The Associated Press 2008), and the remainder was stolen by the military (CBC News 2008a). Amnesty International later reported that the Burmese military was trading this food aid for labor (CBC News 2008b).

In the end, nearly 138,000 people were dead or missing, and an additional 2.4 million were affected (USDS 2008). Nearly two million people waited weeks for supplies, and after two months, 700,000 people had still not received aid due to government obstruction (Human Rights Watch 2009: 223). Adding to the people's misery, the Burmese government confiscated land, imposed forced labor, and forced evictions of people displaced by the cyclone (224).

### *The Possibility of Prevention*

It is, of course, impossible to prevent a cyclone,<sup>13</sup> yet the international community could have done much to prevent the extent of the devastation. Significant trade and investment as well as diplomatic support from China, India, and Russia, among others, has allowed Burma's junta to continue ruling without accountability for over 50 years. Had these countries not so openly supported the regime and instead pressed for better governing practices, it is likely that the government would have responded to the disaster more quickly and with greater assistance. Instead, the international community allowed the regime to rule with impunity, which set a precedent for its actions after the cyclone.

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<sup>13</sup> Environmental advocates may strongly disagree with this statement, citing global warming as a cause of storms and that a reduction of greenhouse emissions would lead to a reduction in storms. While this may be true, it misunderstands the purpose of this statement. Whereas drought conditions can be monitored and food delivered before a famine begins, the international community cannot prepare for a storm to the same degree.

In keeping with this, the junta could have done much more to prevent the extent of the devastation. By allowing aid in immediately after the disaster, lives could have been saved and the extent of the devastation partially mitigated. The regime's actions had direct negative impacts on the Burmese victims and significantly worsened their situation.

### Intervention

Although prevention was possible, it did not occur, and Cyclone Nargis left significant devastation in its wake. This section seeks to understand if that devastation and the causes surrounding it are severe enough to warrant intervention under the responsibility to protect.

### Sovereignty

Burma's ruling junta took power via a military coup in 1962 and ignored the results of democratic elections in 1990. It brutally cracked down on protests for government reform in 2007. Clearly, the ruling elite are not there by the will of Burmese citizens.

Furthermore, the government does not act within the best interests of its citizens. Recruiting child soldiers, systematically raping women, and torturing political prisoners are obviously well outside the realm of proper governance as is the purposeful impoverishment of one's people for the purpose of one's own enrichment. Under the new conception of sovereignty discussed in Chapter 3, sovereignty clearly should not be granted to the Burmese government, and the right to territorial integrity does not exist.

### Just War Criteria

Yet is armed intervention the right answer? To understand if intervention to assist Cyclone Nargis' victims is permissible under just war theory, an application of those principles is as follows:

- *Just cause:* The military junta's refusal to allow cyclone victims to receive assistance certainly provides just cause for intervention under the responsibility to protect. Such actions constitute a gross violation of human rights. External states may legitimately intervene to protect these rights given that the victims are unable to do so on their own. As a result, intervention to distribute assistance meets the criteria under the just cause principle.

- *Last resort:* As stated in Chapter 4, it is not possible to attempt all possible forms of non-coercive action due to the time constraints placed by the crisis. When the military junta still refused to help the victims on the third day after the storm, it would have been justified to begin armed intervention to deliver the aid.

Ian Holliday (2005: 615) argues the criteria for last resort would be met simply given that the junta has never negotiated in good faith. The power imbalances between the Burmese government and its citizens are so significant that the junta can crush even widespread and significant discontent (617). It also pays little to concern to international opinion regarding its brutality (Acharya 2007). Thus, it is highly unlikely that either domestic protests or international calls to assist cyclone victims would have been fully and effectively heeded (as shown by the 700,000 victims who did not receive aid due to government obstruction). External intervention would have been the most effective course of action to deliver aid to the victims.

- *Legitimate authority:* Because of China's strong economic and diplomatic support for Burma, it would have vetoed any UN Security Council efforts to authorize force. As a result, the United Nations, the most legitimate authority to intervene, would not have been able to do so.

Consisting of Brunei, Cambodia, Indonesia, Laos, Malaysia, Burma, the Philippines, Singapore, Thailand, and Vietnam, ASEAN would have been the next most legitimate body to intervene; however, it is also highly unlikely to do so. Asian nations have generally shown little enthusiasm for the doctrine of the responsibility to protect (Acharya 2007), which is unsurprising given that many have well-documented human rights violations and have largely undemocratic governments. As a result, it would likely be an ad hoc coalition of Western democracies that would intervene to deliver aid. As discussed in Chapter 4, this type of temporary alliance, while not ideal, does have the authority to intervene as long as its sole purpose in doing so is to uphold the rights of the victims.

- *Right intention:* Burma is not generally considered a strategic or important country, so it is unlikely that countries intervening to distribute aid to the cyclone victims would have

significant ulterior motives. Instead, the desire to distribute aid to prevent death and alleviate suffering provides sufficient means to meet the principle of right intention.

- *Reasonable chance of success:* It is highly probable that intervention after the Burmese cyclone would have been successful. Supplies were already in the area and could easily have been delivered to the storm-affected areas. Furthermore, although the country has a large military force, it would be significantly outmatched by advanced western ones and thus highly unlikely to attack. Finally, intervention to distribute aid would likely be of a relatively short duration, which would further lessen the probability of attack.
- *Proportional means:* Delivering food and medical aid to the cyclone victims would be significantly below the proportional means threshold given that there would be no direct attacks on the military junta. Furthermore, saving tens of thousands of lives outweighs the costs of intervention.

#### Justification under the Extension of the Responsibility to Protect

Given that thousands and possibly tens of thousands of lives are at stake, intentionally withholding aid that would save these victims constitutes a non-violent mass atrocity and warrants protection under the extension of the responsibility to protect.

First, countries that respect human rights, while possibly not rich enough to provide for themselves, would never refuse aid to victims of natural disasters. To allow such victims to suffer because they were unfortunate enough to be born into a country with a more repressive government does mean that nationality would be something other than morally arbitrary. Such intentional suffering is abhorrent wherever it occurs, and as a result, means to protect vulnerable populations from it should be included under the responsibility to protect.

Furthermore, people in the reflective equilibrium would likely agree to such conditions. Knowing that the potential exists to be born into a country with a brutal regime, representatives in the reflective equilibrium would seek some kind of protection when such catastrophes occur. People born into wealthier nations would likely agree to help those suffering from such catastrophes in return for being able to enjoy more privileged positions. Thus, intervention to distribute aid to the cyclone's victims would likely be agreed to in the reflective equilibrium.

Finally, it appears that intentionally withholding aid, knowing people will suffer and possibly die as a result, is not morally different from inflicting a violent mass atrocity. Both cases involve large-scale suffering and death in vulnerable, relatively defenseless populations by the purposeful actions of the ruling regime. It appears difficult to attempt to distinguish between the two when the consequences of such actions are largely the same.

#### Moral Justification

Intervening to distribute the aid to the Burmese victims of Cyclone Nargis is morally justified. The ruling military junta does not govern in such a way as to be granted the privilege of sovereignty, and armed intervention to relieve the victim's suffering meets the principles of just war theory. Finally, intentionally withholding aid to the storm's victims is not morally different from committing violent mass atrocities and thus should be covered under the responsibility to protect.

#### Feasibility of Intervention

Logistically speaking, it is quite feasible to intervene to distribute aid to victims of Cyclone Nargis. Many nations, including France and the United States, already had supplies in the vicinity. Ships near Burma could easily load supplies and medical personnel onto boats in order to access cyclone-affected communities (GCR2P 2008). As stated previously, it is highly unlikely that military and aid personnel from powerful countries would be attacked, and intervention would be of a relatively short duration. Thus, there are not many practical hindrances to intervention.

However, significant diplomatic obstacles exist. Burma's ruling military junta is strongly supported by China, India, and Russia, all of which have vested interests in maintaining friendly relations with the country. These countries are also formidable regional and global powers, and intervening with Burma could significantly jeopardize relations and partnerships with them. As a result, it is highly unlikely that any country, particularly those outside the region, would forcefully intervene to protect Burmese cyclone victims.

#### Long-term Effects

The long-term effects of intervening to distribute aid to Burmese victims would largely depend upon Russia, China, and India. Burma is already such a closed and repressive regime with such significant power over its people that intervening to protect cyclone victims would likely not sig-

nificantly alter the status quo in how external states relate to the country. However, Russia, China, and India's reactions to the intervention could alter it significantly.

Should these three countries choose to withdraw their economic and political support for the junta, it is possible that the regime may crumble and significant democratic reforms implemented. However, this is highly unlikely to occur due to the amount of trade between them and number of refugees any instability would initially produce.

It is more probable that these three countries would retaliate against those that chose to intervene. There is little chance that this would take a military form and would more likely be through economic or diplomatic means. For example, China may choose to raise tariffs on intervening countries' products or refuse to sign certain environmental treaties as a result of the intervention.

Still, it is not obvious that this would happen. India and China would likely have significant economic ties to the intervening countries, and Burma is not strategically important enough to warrant retaliation unlike, for example, Taiwan, Georgia, or the Kashmir region. Much of these countries' reactions would likely be based on how the intervention was conducted and its duration. If the intervention significantly benefited the cyclone's victims and was conducted in such a way as to minimize humiliation to the Burmese government, economic or political retaliation from Burma's major allies would likely be minimal.

### *Criticisms of Intervention*

Intervening to distribute aid to the cyclone's victims would be fiercely criticized for a variety of reasons. Some would argue that such an intervention would be impractical while others would be concerned the military would refuse access to all NGOs. Other critics would argue that intervening would make eventual democratic reform more difficult. The fiercest objection would be that it is not covered under the responsibility to protect.

Initial discussions for intervention suggested airdrops in order to distribute the necessary aid to the victims. This would be a relatively simple mission and lessen the possibility of any counterattacks from the Burmese military. However, critics quickly objected, arguing that airdropping aid, particularly medical supplies, without accompanying ground relief could be useless or even counterproductive (Evans 2008). The Burmese military could simply take possession of the aid, or

black markets could develop. Furthermore, delivering medical supplies without accompanying expertise could be dangerous.

This objection is completely valid and should be heeded; however, it does not mean that intervention should not be undertaken. Instead, it shows that intervention must include ground personnel if it is to be effective enough to achieve its goals.

Intervening to distribute aid to the cyclone's victims could also result in the junta's decision to close its country to all NGOs, thereby worsening the position of many of its people. While it is certainly possible that this could happen, it is unlikely to materially worsen the situation. At a pitiful US\$2.80 per person, aid spending in Burma is presently among the lowest in the world (*The Economist* 2009b). The junta already refuses access to many foreign aid workers, and any future threats to extend this exclusion have more rhetorical than practical power given the already low aid spending per capita. As a result, this should not be considered a reason to not intervene.

A greater objective is that intervention could hinder future democratic reforms in Burma. The regime is scheduled to hold elections in 2010, but intervention may cause it to become more isolated and less concerned with such reforms. As a result, no actions should be undertaken to provoke it.

This is a difficult objection to consider seriously. The junta has ruled for over 50 years and, given its support from India and China, among others, is unlikely to abdicate power in the near future. Its 2008 constitutional referendum was largely considered a sham (*The Economist* 2009b), and there is no indication that the 2010 elections would truly usher in democratic change. As a result, this should also not be considered a legitimate reason to not intervene.

Finally, and most importantly, some consider withholding aid an illegitimate reason to intervene under the doctrine of the responsibility to protect. This is an objection that must be carefully examined. However, as argued in Chapter 5 and again in this case study, there is not a moral difference between violent and non-violent mass atrocities, and withholding aid to cyclone victims can be categorized as the latter. As a result, intervening to protect vulnerable populations from such types of intentional suffering actually constitutes a logical extension of the responsibility to protect.

### Conclusion

The circumstances surrounding the Burmese government's refusal to allow Cyclone Nargis' victims to receive aid warrant intervention under the responsibility to protect. While the number of victims was not as high as those in the Ethiopian famine, the scale and nature of the Burmese government's actions are so similar to violent mass atrocities as to be morally indistinguishable from them. Unfortunately, intervention would not have been politically feasible, although conducting an efficient and effective intervention would have minimized any negative long-term effects.

### **III. Zimbabwe: The Ongoing Political and Humanitarian Crisis**

Because of exceptional political oppression and poor management of land and resources, Zimbabwe, a once prosperous nation, now consistently experiences food and medicine shortages. The violence and prevailing hunger have produced a flood of refugees, and some within the international community have called for intervention under the doctrine of the responsibility to protect. This case seeks to understand if the responsibility to protect applies to Zimbabwe given its present situation.

### Set of Facts

In order to understand if intervention is warranted under the responsibility to protect, this section provides information on the circumstances surrounding the suffering of Zimbabwe's people.

### History of Rule

After years of colonial and white-majority rule, Zimbabwe was formally granted independence in 1980 (USDS 2009). Robert Mugabe, currently president of the country, has maintained power since that time, primarily through rigged elections and the use of force (ibid). A 1983 – 1984 government crackdown on political opponents resulted in 20,000 civilian deaths (ibid). Since then, Mugabe's government has often resorted to food aid and violence to maintain power. In 2005, ZANU-PF, Zimbabwe's ruling party, used food distributions to influence people's votes (ibid), and despite a 2008 election in which voters clearly expressed a desire to see Mugabe and his ZANU-PF party removed from power, the country remains under his rule.

### Current Situation

As a result of its large reserves of metallurgical-grade chromite, coal, platinum, asbestos, copper, nickel, gold, and iron ore as well as land well suited for agriculture, Zimbabwe should be a prosperous country (ibid). In fact, it was once nicknamed the breadbasket of Africa. However, the country has experienced food shortfalls every year since 2001, primarily as a result of poor management (ibid). Sadly, one third of Zimbabweans depend on World Food Programme provisions in order to avoid starvation (Blair & Clarke 2005), and the United Nations estimates that half of the population will need food aid during 2009 (Human Rights Watch 2009: 144).

Mugabe and ZANU-PF are considered responsible for killing many of the government's opponents and beating and displacing thousands of people, including women and children (Khaleej Times Online 2008). In 2005, in retaliation for supporting the Movement for Democratic Change, a political opposition party, the government razed shanty towns in Harare, the capital, resulting in the loss of home or livelihood for 700,000 Zimbabweans and negatively affecting an additional 2.4 million (USDS 2009). Displacements continued into 2008, albeit on a lesser scale (ibid).

Although adult literacy remains high at 90.5% (a 2004 estimate) (USDS 2009), unemployment is over 85%, and poverty exceeded 90% in 2006 (ICG 2006). Average annual income is now less than half of its 1980 levels (*The Economist* 2007), and life expectancy has plummeted from 64 years in 1990 to 53 years in 2005 (Global Virtual University n.d.). In July 2008, the country experienced hyperinflation of 200 million percent per year, although economists now believe it to be in the quadrillions of percent (USDS 2009). The country ranks 151 on the Human Development Index (United Nations Development Programme 2007). As a result, Zimbabwe has experienced massive emigration and produced a flood of refugees into neighboring countries.

### Political Climate

Currently, Zimbabwe's political climate is rife with arbitrary arrests, lack of the right to protest, and violence against political opponents and their supporters (UNDPI 2008a). Following the March 2008 presidential elections, ZANU-PF was responsible for the deaths of at least 163 opposition supporters, and an additional 5,000 were beaten or tortured (Human Rights Watch 2009: 141). The violence caused tens of thousands to flee their homes (ibid).

In June 2008, the Zimbabwean government banned all domestic and international NGO operations (144). On 11 July 2008, the UN Security Council rejected a resolution to impose sanctions, including an arms embargo, travel ban on high officials within ZANU-PF, and asset freezes, when Russia and China vetoed the measure (UNDPI 2008a). Although the government rescinded the NGO ban in September, it continues to tightly monitor all NGO activity (Human Rights Watch 2009: 144).

### *The Possibility of Prevention*

As with the other two cases studies, it is quite obvious that the Zimbabwean government could have prevented the suffering in Zimbabwe. Their political repression, corruption, and land and fiscal mismanagement are directly responsible for Zimbabweans' distress. While the nation once had the civil and political structures as well as the natural resources to ensure its prosperity, these have been drained by ZANU-PF and, given continued misrule, will likely not be reinstated in the near future.

The international community could also have worked harder to prevent such widespread suffering. African rulers have been loathe to sanction their fellow former fighter against colonial rule, and the Southern African Development Community's (SADC) words and deeds toward Zimbabwe have been particularly accommodating. Russia and China openly support the regime. While many other nations have verbally opposed the Zimbabwean government and even imposed sanctions, their actions have been largely ineffectual in achieving concessions from the government.

### *Intervention*

As with the previous two cases, this section applies the concepts discussed earlier in this thesis to the specific facts of the case. In order to understand if intervention is warranted, we must first examine whether such intervention would meet the principles of sovereignty, just war, and extension under the responsibility to protect.

### *Sovereignty*

The conception of sovereignty as defined in Chapter 3 clearly does not exist in this case. Mugabe has ruled through a combination of coercion and force for most of the last ten years, and when Zimbabweans indubitably expressed a desire to end his rule through the March 2008 elections, he simply ignored the unfavorable results and brutally cracked down on political opposition.

Furthermore, Mugabe undoubtedly does not act within the best interests of his people. As noted in the previous section, income, life expectancy, and economic wealth have dropped precipitously under his rule. Food shortages are now expected, and the country's hardships have resulted in massive emigration. Given that the purpose of government is to protect its people, Mugabe has plainly failed in that respect and should not be awarded the privileges of sovereignty.

### Just War Criteria

Although sovereignty does not exist, would intervention in Zimbabwe still meet the principles of just war? This subsection analyzes each of the principles in order to understand if they apply to the case.

- *Just cause:* Zimbabwean citizens' rights have been systematically violated under Mugabe's rule, and he remains in power despite their clear opposition to it, which violates the right to self-determination. His policies have caused a massive deprivation in the ability to earn a living, and persistent food shortages threaten the right to life. Furthermore, his consistent use of brutal tactics to repel political opposition has deprived Zimbabweans of most political rights. Also, his use of food aid as a political tool justifies why food supplies must be guarded with armed personnel.
- *Last resort:* The international community has exhausted all peaceful measures to ease the crisis in Zimbabwe. It has attempted using diplomatic pressure, aid incentives, and economic sanctions to extract some concessions from the regime, but all have failed. Like Burma, the Zimbabwean government has not negotiated in good faith and appears determined to hold onto power at all costs. As a result, it appears that force is the only means by which to implement measures that would improve living standards for Zimbabwe's people.
- *Legitimate authority:* As always, the UN is the most legitimate authority to use force; however, that is unlikely to happen given China and Russia's support for the regime. Furthermore, the next best organization to intervene, the African Union, is strained and preoccupied with trying to begin or maintain peacekeeping operations as a result of violent mass atrocities in Sudan and the DRC, among other places.

The Southern African Development Community also possesses the moral authority to intervene. Its charter (2003, Article 3(2)) specifically states that all members must uphold human rights, and SADC has the political legitimacy to enter Zimbabwe. Moreover, Archbishop Desmond Tutu has recommended intervention (Thakur 2008). Still, SADC is highly unlikely to do so. South Africa, the continent's most powerful country, has been exceptionally reluctant to criticize Mugabe, although this may change under new president Jacob Zuma. Still, it is highly unlikely that the organization would use force, particularly without the backing of the UN Security Council.

Thus, those most likely to enter the country would be Western democracies, and this would be deeply unpopular. While Zimbabwe is a tyrannical country, it does not represent nearly the global or regional threat of Iran, North Korea, or Venezuela. It would be difficult for an ad hoc coalition of countries to present a case for armed intervention in Zimbabwe before responding to more threatening regimes.

- *Right intention:* However, should these countries choose to intervene, it is highly likely that the principle of right intention would be met. While Zimbabwe has attractive natural resources, it is unlikely that countries would incur the substantial political and financial costs of intervention in order to gain access to them. Intervention would only be worth the political costs if a desire to protect Zimbabweans were the primary goal.
- *Reasonable chance of success:* It is highly likely that intervention in Zimbabwe would be successful. Many of its soldiers are discontent due to lack of pay and would likely provide little resistance (Thakur 2008). Furthermore, should intervention result in Mugabe's removal from power, a strong political opposition already exists that may be able to restore the country to democracy. Chaos is unlikely to ensue.
- *Proportional means:* Because Mugabe's consistently brutal repression of political opposition has affected millions of people, armed intervention would be proportional to the cause. The benefits of such an intervention, including the number of lives improved and saved, vastly outweigh the costs.

### Justification under the Extension of the Responsibility to Protect

It is relatively simple to formulate an argument that we should intervene due to the morally arbitrary nature of nationality. It is also highly likely that representatives in the reflective equilibrium would agree to such intervention. It is, however, highly unlikely intervention is covered under an extension of the responsibility to protect.

Extending the doctrine of the responsibility to protect to include non-violent mass atrocities is in part predicated upon the similarities between those atrocities and more violent ones. However, it does not appear that Mugabe and ZANU-PF's actions can be characterized as non-violent mass atrocities. First, they are not part of a deliberate event. Much of the political violence is ongoing, although it periodically increases during elections. Furthermore, the food shortages are part of ongoing economic and land mismanagement, not deliberate one-time decisions. This thesis envisions intervening to halt non-violent mass atrocities under the responsibility to protect as relatively short-term given that the atrocities would be part of a deliberate event (e.g., withholding aid after a famine) that could then be remedied by an intervention to stop the suffering resulting from that event (e.g., delivering food to the victims). Intervention in Zimbabwe, however, would be to remedy a disastrous situation unfolding for 30 years and would thus be a long-term commitment involving removing the regime from power (which is also not envisioned by this extension) and rebuilding the society.

Also, the nature of the atrocities is far different. The Zimbabwean government does not specifically target certain ethnic groups or less-favored peoples; instead, all political opposition supporters are distrusted. Also, all people in Zimbabwe, except the ruling elite, suffer from Mugabe's policies equally. Thus, the ethnic and tribal violence often found in mass atrocities is simply not present here.

Finally, the scale is vastly different. Although this thesis has purposefully refrained from numerically defining "mass," the few thousand purposefully killed in Zimbabwe over the years, while grossly immoral and unfortunate, does not constitute a "mass" of people. As a result, Mugabe's actions do not constitute non-violent mass atrocities and hence cannot be covered under an extension of the responsibility to protect.

### Moral Justification

Thus, while armed intervention in Zimbabwe may meet the necessary principles of sovereignty and just war theory, it does not meet the definition of a non-violent atrocity and therefore cannot be covered under an extension of the responsibility to protect. Note, however, that intervention may be justified for different reasons outside the scope of this thesis, such as enforcement of the country's own constitution regarding the outcome of elections.

### Feasibility of Intervention

Even if intervention under the responsibility to protect were justifiable, it is highly infeasible. As discussed under the legitimate authority principle of just war, it is largely improbable that any regional organization or ad hoc alliance will intervene as a result of a lack of political will. This is unfortunate. The international community's ongoing tolerance of Zimbabwe has emboldened the regime in its internal political crackdowns (Human Rights Watch 2009: 144 – 145), and the situation will likely continue to deteriorate. However, as stated in this case study's just war discussion, intervention would likely be successful given the low probability of internal resistance and no alliances in the international community that consider Zimbabwe important enough to come to its aid.

### Long-term Effects

Again, intervention under an extension of the doctrine of the responsibility to protect is not warranted; however, should one occur, it would likely produce largely beneficial long-term results. First, it would set an important precedent for the consequences of regimes that do not rule in the best interests of their people. It would show that such regimes will not be supported even when they do not present a significant threat to the international community. More importantly, such an intervention would greatly improve the lives of millions of Zimbabweans. By returning the country to the prosperous democracy it was intended to be, their suffering would end and they would once again regain their rights.

### Criticism of the Decision to not Intervene

Some argue that intervention in Zimbabwe is justified under the responsibility to protect. The doctrine of the responsibility to protect is based on the idea that it is the international community's responsibility to protect citizens of a state when that state's government refuses to do so. Mugabe and ZANU-PF are clearly not protecting Zimbabweans from food shortages and dis-

ease and are committing brutal acts of political violence against those opposed to the regime. Thus, they argue, intervention in Zimbabwe is justified under the doctrine.

This misunderstands the doctrine. Although, as detailed in Chapter 2, there are a few formulations of it, the doctrine of the responsibility to protect is meant to protect populations against mass atrocities. While the various formulations agree that citizens should be protected against violent mass atrocities, substantial disagreement exists as to whether non-violent mass atrocities should be included as well. This thesis argues that they should and provides a detailed explanation for that conclusion in Chapter 5. However, the Zimbabwean government's actions constitute neither violent nor non-violent mass atrocities and thus are not covered under the responsibility to protect.

### Conclusion

While the crisis in Zimbabwe is tragic and may warrant intervention, it cannot occur under an extension of the responsibility to protect given that the Zimbabwean government's actions do not meet the definition of non-violent mass atrocities. Furthermore, intervention is politically infeasible and thus, even if warranted, unlikely to occur. However, should intervention ever take place, it would likely enjoy a large degree of success.

## **IV. Conclusion**

This chapter sought to apply the principles and concepts discussed in the previous five chapters to three case studies. The first case study examined the characteristics of the 1984 – 1985 Ethiopian famine in which the government deliberately refused food aid to its citizens and thus caused one million deaths. Mengistu's regime was such that the benefits of sovereignty should not have been extended, and external armed intervention to distribute food aid to the famine's victims would have met the criteria for a just war. More importantly, intervention would have been covered under an extension of the responsibility to protect given that the Ethiopian government's actions constituted a non-violent atrocity. However, because of Cold War tensions, intervention was not feasible, which is unfortunate since it may have produced largely beneficial long-term effects.

The second case study analyzed the Burmese government's refusal to distribute aid relief after millions of its citizens were affected by Cyclone Nargis. Like the Ethiopian case study, sovereignty should not apply and the principles for conducting an intervention under just war theory

are satisfied. The military junta's actions constituted non-violent mass atrocities, and reaction to them is justified under the responsibility to protect. However, intervention was politically infeasible and may not have produced long-term benefits.

The final case study explored the ongoing political crisis in Zimbabwe and concluded that the benefits of sovereignty should not apply. While intervention to protect the Zimbabwean people may have been warranted under just war theory, it is not justifiable under the responsibility to protect. The Zimbabwean government's actions do not constitute non-violent mass atrocities, an important criterion in authorizing intervention under the doctrine. As with the other two cases, it is also politically infeasible. Still, such intervention would likely produce significant long-term benefits and may be justified for reasons outside of the scope of this thesis.

In all three cases, it is important to note that the manner in which the intervention is conducted will largely determine its long-term benefits or consequences. A fair and just intervention conducted in a reasonable manner that seeks to minimize the humiliation of the offending regime will likely have a significantly more positive impact than a disorderly or heavy-handed one. Thus, as just war theory states, it is not only the reasons for declaring war but the manner in which that war is conducted that will largely determine its outcome.

In analyzing these case studies, Nicholas Wheeler's (2000: 303) words should be heeded: "...we can judge a successful humanitarian intervention only in retrospect, just as we cannot know in advance the moral consequences of our failure to act, and this is why state leaders confront such appalling choices in deciding whether to intervene." The decision to intervene under the responsibility to protect is a difficult one, and the wisdom of that decision is often only seen in hindsight.

## Conclusion

### Chapter 9

This thesis sought to show that no moral differences exist between violent and non-violent mass atrocities, and as a result, the latter should be included under the responsibility to protect. In doing so, the thesis addressed issues of sovereignty, the moral permissibility of armed intervention, and the philosophical justification to extend the doctrine.

Chapter 2 provided an overview of the responsibility to protect. It discussed how the origins of the doctrine are found in the increasing emphasis on human rights in the second half of the twentieth century and as a reaction to the rise and form of intrastate conflict after the end of the Cold War. It then detailed the four primary documents addressing the doctrine and described the similarities and differences between them. After that, the chapter analyzed how the doctrine represents a shift in our thinking from the “duty to intervene” to the “responsibility to protect.” Finally, it explained why the responsibility to protect remains controversial.

Because the doctrine remains controversial in part because it violates traditional conceptions of sovereignty, Chapter 3 sought to address that issue. It opened by tracing the history of the concept of sovereignty from its origins in ancient Greece to the Treaty of Westphalia in 1648 and on into the twentieth century. The chapter then detailed four trends that are altering our traditional conceptions of sovereignty, including human rights, globalization, proper governance, and governmental legitimacy. After analyzing its history and current trends, Chapter 3 then sought to construct a new conception of sovereignty more appropriate for the relationships found in the modern world. This new conception of sovereignty would retain certain traditional aspects of it, including respect for people’s right to self-determination of government and culture but also allow for new views such as extending sovereignty as a conditional privilege of good governance and not as an absolute right. Although this would alter international relations, it would largely be beneficial. While some may argue that this conception of sovereignty could destabilize the current system of states, among other things, the chapter found that such objections were not strong enough to override the new conception’s benefits.

Chapter 4 sought to show the moral permissibility of armed force to halt non-violent mass atrocities. It first explained why prevention against such atrocities was not always possible and

armed intervention would occasionally be necessary. It then provided an overview of the three most prominent theories on war: pacifism, realism, and just war theory. After describing the principles of each, the chapter explained under what conditions just war theory would be applied to halt non-violent mass atrocities. Next, it extensively discussed which parties had the moral authority and legitimacy to intervene in such cases. Finally, the chapter evaluated criticisms of its arguments but determined that none were compelling enough to warrant a complete ban on armed intervention.

Chapter 5 then addressed the central premise of this thesis: should the doctrine of the responsibility to protect be extended to include non-violent mass atrocities? In order to answer this, the chapter first provided a brief explanation of how various people invoke different moral theories to justify their support or opposition to the doctrine. It then explained pragmatic reasons for extending it to include non-violent mass atrocities. Next, it produced three philosophical arguments for why the doctrine should be extended. First, it argued that the morally arbitrary nature of nationality compels us to protect citizens living in other nations from such atrocities. Secondly, the moral demands of social contract theory oblige us to extend the doctrine. Finally, the chapter argues the characteristics of violent and non-violent mass atrocities are so similar as to be morally indistinguishable, which means both should be included under the responsibility to protect. As with the previous two chapters, Chapter 5 concludes by addressing criticisms to the arguments that it contains, again judging none compelling enough to justify not extending the doctrine.

Having established why the doctrine should be extended, Chapter 6 evaluates the feasibility of doing so. This chapter provides no philosophical arguments and simply seeks to understand what would practically occur should the doctrine be extended to include non-violent mass atrocities. In order to do so, it first evaluates how the responsibility to protect is being applied to violent mass atrocities and how that will impact its extension to non-violent ones. Next, it examines the opposition to the doctrine within the United Nations and how that may also impede its extension. The chapter then addresses the extension's largest obstacle: political will. While it finds that political will is still not strong enough to warrant implementation of the extension to non-violent mass atrocities, it argues this will is strengthening. Yet it finds that even if enough political will existed, operational barriers to implementing the doctrine to include non-violent mass atrocities remain. Despite these formidable obstacles, the chapter concludes that it is still

important to extend the doctrine of the responsibility to protect since descriptive measures only occur after prescriptive ones.

Chapter 7 considers the long-term effects of the doctrine, categorizing them into diplomatic, economic, and relational effects. It concludes many of the diplomatic effects of extending the doctrine, particularly its emphasis on democracy, are already in place as a result of strategies for achieving other goals. Still, it understands that armed intervention could have significantly negative long-term effects on the offending regime's relations to the international community and may result in such countries becoming either more isolated or aggressive, both of which may generate profoundly negative consequences on the regime's own people and external states. Extending the doctrine may also have significantly negative economic effects, although it argues that many of these can be mitigated by conducting the intervention in a fair and appropriate manner. The chapter was most concerned that intervention to halt non-violent mass atrocities could be detrimental to relations between the victims and the offending government, although it concluded that the benefits of intervention still outweighed these possible consequences.

Finally, Chapter 8 sought to apply the principles and arguments of the previous five chapters to three case studies: (1) the 1984 – 1985 Ethiopian famine, (2) the 2008 cyclone in Burma, and (3) the ongoing political crisis in Zimbabwe. It determined that while the first two cases met the requirements for intervention under the responsibility to protect, intervention was not feasible due to political issues. The chapter also decided that the characteristics of the crisis in Zimbabwe did not warrant intervention under the responsibility to protect, although it may be warranted under other means. In all three cases, however, it concluded a fair and just intervention conducted in a reasonable manner will have a significantly more positive impact than a disorderly or heavy-handed one.

If intervention to halt non-violent mass atrocities is not yet politically feasible, then why should we continue to discuss it? Because, as stated before, prescriptive measures are often needed before descriptive ones are taken. Many political and social norms we now take for granted, including women's suffrage and the abolishment of slavery, were once considered politically infeasible, and controversy and protests raged before they became law. Fortunately, that did not discourage the early pioneers of such discussions, and their persistence in arguing for these ideas has, on the most fundamental of levels, generated tremendous good.

We would like to think the same will happen with the doctrine of the responsibility to protect. Although it is not yet politically and practically feasible, working through the moral and philosophical justifications for extending the doctrine to include non-violent mass atrocities will hopefully lead to its implementation. This could result in saving and enhancing the lives of thousands of people, a worthy goal. If we allow current practicalities to deter us, at what point do we become complicit in the perpetuation of such atrocities?

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