

HUMANITARIAN INTERVENTION: IS IT AN EMERGING RESPONSIBILITY?

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ABSTRACT

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The concept of the responsibility to protect not only the peoples of one's own state but also those people of another sovereign state should that state fail to protect its people has emerged into the national and international debate. Many states, multinational organizations and the UN have adopted this concept to varying degrees. The U.S. has increasingly incorporated this concept into its political rhetoric. Military guidance, the QDR, along with statements from political leaders continue to stress the expectation that the U.S. will face the need to protect citizens of other states from humanitarian suffering from natural or manmade atrocities. The lessons learned from previous humanitarian crises, such as Somalia, Rwanda, Kosovo, Darfur, and Burma have shaped the U.S.'s approach toward intervention. Trends and threats facing the nations of today have the potential to lead to destabilization of governments and threaten national, regional and global security. The U.S. should adopt a flexible and tailored strategy which assesses the justification for humanitarian intervention.

HUMANITARIAN INTERVENTION: IS IT AN EMERGING RESPONSIBILITY?

I believe that force can be justified on humanitarian grounds, as it was in the Balkans, or in other places that have been scarred by war. Inaction tears at our conscience and can lead to more costly intervention later. That is why all responsible nations must embrace the role that militaries with a clear mandate can play to keep the peace.

—Barack Obama¹

A microbiologist creates a fatal virus which kills women as an act of revenge after a terrorist attack kills his family. Initially transmitted by contact with paper money, it is released on an island and spreads to the nearby shores of Scotland and the United Kingdom. It is released in Libya, where the terrorists were trained, and spreads to neighboring countries. As the international community gains increasing awareness of the lethality of the virus, countries affected are isolated, and infected areas are quarantined or destroyed. Military forces are employed to enforce quarantines. Women are hidden away to prevent exposure to the virus. The scientific world desperately seeks a cure. Affected countries collapse into anarchy. Violent uprisings occur across the globe. International trade slows to a crawl. Governments struggle to cope with the crisis, turning to isolationism.

In Frank Herbert's 1982 *The White Plague*², summarized above, the molecular gene manipulation was a work of science fiction. In the 21st century, a retroviral vector is inserted into a normal copy of the deficient gamma-c receptor gene of cells from patients with severe combined immunodeficiency disease-X1. According to the literature, the two affected patients treated with these manipulated genes are showing normal immune function tests.³ Genetic engineering of crops, medications utilizing recombinant DNA technology and gene therapy is the reality of today.

The subplot of Hebert's story is perhaps more important than the glamorous biochemical technology it predicts. The potential for ill-use of advanced biochemical technology is understood. Use of chemical, biological and radiological weapons of mass destruction (WMD) is not new. Contamination of salad bars with *Salmonella typhimurium* by the Rajneeshee cult, spread of the *Bacillus anthracis* (anthrax) spores from the roof of the Aum Shinrikyo cult headquarters near Tokyo in the 1990s, and the distribution of anthrax spores in the United States postal system infecting 22 people and resulting in 5 deaths in 2001 are common knowledge.⁴ While these incidents did not lead to the destabilization of governments, the potential subsequent effects of a natural or manmade catastrophic health event, such as the use of weapons of mass destruction (WMD), on the security and stability of societies is exemplified in Hebert's story.

A variety of natural or manmade events have the potential to put significant strain on any nation resulting in that nation being unable to provide for its citizens. Typhoons and earthquakes can overwhelm a nation's ability to respond to the needs of its citizens. Internal conflict or climate change may result in displaced populations exceeding the capacity of governments to provide for them. Natural disasters and population shifts provide breeding grounds for epidemics which not only affect displaced populations, but threaten regional neighbors.

Most states have the capacity to respond to crises, prevent further suffering and maintain security for their citizens. States which do not have the capacity are generally willing to accept outside assistance aimed at humanitarian aid (HA) as well as security assistance from multiple international, state and non-governmental organizations (NGOs). There are those states, however, which resist any outside interference in their

internal affairs. The origin of this rejection is varied. States may resist any foreign influence which could undermine the control of their citizens. In some situations, the state is a covert or overt supporter of the atrocities occurring and may fear outside intervention extending beyond merely HA. State support of atrocities can range from elective denial of adequate humanitarian support for its own citizens, such as food and medicine, to outright programmed elimination of segments of the population, or genocide.

International organizations such as the United Nations (UN), individual states, and NGOs are active in providing HA and providing security to states across the globe. The UN has had 41 peacekeeping missions since 1989.⁵ In today's interconnected world, instability in any state due to any reason has the potential to affect the stability and security of its neighbors. In specific situations, instability of a state can lead to a global threat, specifically with respect to weapons of mass destruction. Natural and manmade crises, which overwhelm a state's ability to respond, have the potential to be a threat to regional and national security, in addition to inflicting significant human suffering.

Historically, humanitarian intervention (HI) and security assistance has almost exclusively been provided only with the approval of the receiving state and with respect to the classical concept of sovereignty. The concept of sovereignty, however, is evolving. Segments of the international community are increasingly supporting the concept that sovereignty comes with the responsibility to protect citizens in that state and that it is the responsibility of states and international organizations to intervene when a state fails to protect its citizens. Francis Deng, working as the Representative of

the UN Secretary-general on Internally Displaced Persons, is credited with coining this concept as the responsibility to protect (R2P) in 1991.⁶

An example of this international evolution in thought is the passage of Article 4(h) of the African Union (AU) charter at the AU Summit in July 2000 which incorporates the concept of R2P. This article states that it is the “right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity.”⁷ This article comes after Article 4(f) which prohibits the use of force or threat to use force among Member States of the Union, and Article 4(g) acknowledging the agreement of non-interference in internal affairs by any Member State.⁸ This dichotomy of state sovereignty versus a growing opinion that it is the responsibility of states to intervene in humanitarian crisis is forcing states and international organizations to evaluate two key questions. First, when is it necessary to provide HA and security assistance in the face of claims of national sovereignty? And, second, who should make this determination?

The 2010 Quadrennial Defense Review identifies the prevention of human suffering due to mass atrocities or large-scale natural disasters abroad as one of the significant future challenges the United States will face. Since the end of World War II the U.S. and the international community have had increasing commitments to humanitarian aid. The concept of the responsibility to protect not only the peoples of one's own state but also those people of another sovereign state should that state fail to protect its people has emerged into the national and international debate. This paper will address the need for a strategic approach to humanitarian intervention. It will outline several case studies, evaluate the law, discuss the evolving concept of the

responsibility to protect and provide a way ahead for future humanitarian intervention when states refuse or are unable to provide basic humanitarian support to their populace.

Humanitarian intervention is not new: a look back

The concept of HI is not new. HI needs to be distinguished from HA which does not always require a military component associated with it. In order to understand the current world views on HI, it is important to understand the history that frames current debates. HI has been traditionally seen as a response to mass atrocities such as genocide, but also as a response to human suffering such as famine and disease usually resulting from conflict. Until recently, there have been few instances of consideration of HI in the aftermath of a natural disaster or epidemic outbreak.

HI has evolved over time. Prior to the treaty of Westphalia major atrocities against humans are well documented, and often celebrated and embellished by the victorious. Non-combatants were not exempt from being the victims of conflict. "When the Romans sacked Carthage at the end of the third Punic War in 146 B.C., they went from house to house, killing or enslaving all 50,000 inhabitants before burning down the entire city."⁹ Tribes and city-states often had some internal rules about the treatment of their own citizens, but these did not apply to the enemy or enemy civilians.

The Peace of Westphalia in 1648 established the modern concept of a sovereign state. It held the fundamental premise that states would not intervene in each other's internal affairs.¹⁰ There are only a few examples of HI over the subsequent three hundred years. In 1827, England, France, and Russia intervened militarily in Greece to stop massacres by Turkey. The French intervened in Syria in 1860 when over 11,000 Maronite Christians were killed and some 100,000 were made homeless in a month.

Various European powers came to the defense of Christians in Crete (1866-1868), the Balkans (1875-1878), and in Macedonia (1903-1908). These European interventions were claimed to be justified as prevention of further atrocities towards Christians living in the Ottoman Empire. It has been argued that there were other strategic interests involved.¹¹

Voices of concern over the treatment of citizens by states began to be heard in the nineteenth century. In 1864, Henri Dunant, the Swiss banker who founded the Red Cross, was instrumental in including in the First Geneva Convention language which prescribed certain protections to citizens of states during time of war.¹² After World War II, when Hitler's Holocaust came to light, the concept of "crimes against humanity" and genocide were incorporated into the international vocabulary. The Universal Declaration of Human Rights was adopted by the UN in 1948 followed by several subsequent human rights treaties. As the world moved into a Cold War, accusations of human rights violations were common. HI, however, continued to be overshadowed by the shield of sovereignty.

During the subsequent decades, concerns about human rights gained momentum. "An evolution in thinking" began to occur as the concept of sovereignty was reexamined.¹³ In the 1970s, systematic monitoring of human rights violations began. In his 1977 address to the UN, President Jimmy Carter stated that "no member of the United Nations can claim that mistreatment of its citizens is solely its own business."¹⁴ It wasn't until 1991, however, that the UN Security Council authorized the use of force against Iraq in Resolution 688 to protect the Kurdish minority from further atrocities.

On November 9, 1989 the Berlin Wall came down, marking the end of the Cold War. Since then, there has been an increased awareness of humanitarian needs around the world. This increased awareness is in part due to increased accessibility into regions by media, NGOs and governmental organizations. More significantly, however, is the fact that since 1989 there has been a significant rise in the number of weak or failing states.

While there is no universally agreed upon definition of a failing state, these states are essentially unable or unwilling to provide for the basic needs of their citizens to include food, shelter, basic healthcare and most importantly, security. The World Bank defines “fragile” countries as those which have weak or poor government and deepening poverty that increases the risk of armed conflict and epidemic disease as well as providing a breeding ground for radical groups who use terror as a means to reach their goals.¹⁵ It reported an increase in the number of “fragile” countries from 17 in 2003 to 26 in 2006. As of 2009, The Fund For Peace ranked states on twelve different indicators and found over 40 states considered critical or in danger.¹⁶ The significance of the threat that failing states pose is reflected in a 2005 National Security Presidential Directive (NSPD) 44 which states that the U.S. should “anticipate state failure, avoid it whenever possible, and respond quickly and effectively when necessary and appropriate to promote peace, security, development, democratic practices, market economies, and the rule of law.”¹⁷

Although there are several examples of natural and manmade disasters as well as human suffering as a result of internal conflict since the end of the Cold War, there are five which have set the stage for the evolution in thought about HI. The decisions

made in each event were profoundly affected by previous events. All five of the examples given continue to be a focus of humanitarian concern. Each has had a profound effect on the world debate over the concept of R2P.

The first example is Somalia. Events in Mogadishu demonstrated the cost in blood and treasure that HI can entail. Next is Rwanda which continues to be a torch for proponents of intervention who argue that the failure to “take effective action against the massacres is a disgraceful blemish on the international community as a whole.”¹⁸ Third is Kosovo. The multinational action taken by NATO after the failure of the UN to take decisive action brought into question the credibility of the UN and raised the question of who should determine when intervention is justified. Fourth, Darfur exemplifies the dichotomy of sovereignty and the R2P concept. The challenges in Darfur continue to demonstrate the obstacles and opportunities the African Union (AU) and other multinational and international organizations face in converting policy into action. Finally, Burma’s rejection of international aid after Cyclone Nargis in 2008 expanded the concept of HI. International frustration with Burma’s refusal to allow any international aid raised the issue of international justification for use of force in HI in the aftermath of a natural disaster in the event that a country could not or would not provide or accept HA for its own citizens.

Somalia - Good Intentions Ending Badly- the Mogadishu Effect. In 1991 General Mohamed Siad Barre was overthrown by several armed Somali groups. The subsequent struggle for power threatened ongoing HA intended for civilians suffering from drought and famine. A small UN peacekeeping force was sent to protect HA workers in 1992. Understaffed, it was unsuccessful. It is estimated that 500,000 people

died from disease, starvation and violence due to the internal conflict. There was concern that some 1.5 million more Somalis were likely to die. President George H.W. Bush authorized Operation Restore Hope on November 9, 1992. The U.S. military was sent in to provide security to NGOs. On December 3, 1992, the UN Security Council passed resolution 794 which committed UN forces to an armed humanitarian operation and set a new precedent. Invoking Chapter VII of the UN Charter, the UN stated that the “magnitude of human tragedy in Somalia constitutes a threat to international peace and security.”¹⁹

Operation Restore Hope and the U.S. led United Task Force (UNITAF) has been described as a success, enabling NGOs to safely provide humanitarian relief. A December 1992 *Time* article, however, described the confusion over the chain of command and misconceptions by the Somalis of American intentions. The Bush Administration had stated that Operation Restore Hope was to protect pipelines for humanitarian aid only. The Somalis had great expectations and wanted the Americans to help “fix their...broken government and lawless society.” The article was almost a prophecy, closing with the warning that “if the U.S. fails to satisfy at least some of those hopes, there will be bitter recriminations from both sides for a long time to come.”²⁰

UNITAF operations were transferred to the UN in May 1993. During the United Nations Operation in Somalia (UNOSOM) II, UN forces went on the offensive against the warlords in Somalia, in particular General Mohamed Aidid. On October 3, 1993 U.S. Task Force Ranger raided the Olympic Hotel in Mogadishu in search for Aidid.²¹ Two Blackhawk helicopters were shot down and three were damaged. The resulting battle between U.S. troops and Somali factions resulted in 18 Rangers being killed. The

media reported the incident, showing video of dead American soldiers being dragged through the streets of Mogadishu. In March 1994, the U.S. pulled its troops out of Somalia. By March of 1995, all U.S. and UN personnel left Somalia.

The events in Somalia have had a lasting effect on the U.S.'s and the world's view of HI. The "Mogadishu effect", as it has been called, has resulted in increased skepticism of HI.²² In March, 1994, President Clinton issued Presidential Decision Directive 25 which opposed any intervention and restricted the United States from "dispatching its forces anywhere except for reasons of the gravest national interest."²³ This directive was released one week before Rwanda plunged into genocide.

Ruwanda. The "Mogadishu effect" is credited with the reluctance of the international community, and more specifically the U.S., to intervene in Rwanda in 1994. Reports from Rwanda indicated massive ethnic-based violence was occurring shortly after Rwandan president Juvenal Habyarimana's plane was shot down on April 6. The general of the small UN peacekeeping mission in Rwanda, Romeo Dallaire, requested more troops. In response, the UN Security Council, rather than increasing its support, began drawing down troops and Belgium withdrew its peacekeeping contingent entirely. In less than four months it is estimated that 800,000 Tutsis were slaughtered.²⁴ To the contrary, it has been argued that "prompt intervention in 1994 would have prevented genocide."²⁵ It has also been argued that intervention might have initially impeded the killings, but would have ultimately prolonged the killing and resulted in even more deaths.²⁶

Whichever view is correct, the failure of the international community to take action to intervene is a pivotal event in the current R2P debate. In March 1998,

President Clinton apologized for the failure of the international community to respond to the crisis in Rwanda.²⁷ A year later the U.S. and its NATO allies demonstrated a new determination in reversing the “Mogadishu effect” when they intervened with force against the Former Republic of Yugoslavia to prevent further massacres by Serbia against Kosovo Albanians.²⁸ In spite of Mogadishu, Rwanda continues to provide the foundation for the argument for HI. In negotiations to intervene in Darfur in 2006, Liberia’s President called upon the UN to exercise Chapter VII authority in Darfur because “the world must not allow a second Rwanda to happen.”²⁹

Kosovo – Legitimacy Clashes with Legality. The breakup of Yugoslavia after the collapse of the Soviet Union posed a challenge to international views on sovereignty. In 1975, the Helsinki Final Act³⁰, signed by Yugoslavia, the United States and several other European countries, acknowledged that “frontiers can be changed” by peaceful means and by agreement. It also proscribes any support for the violent overthrow of any of the participating states. In 1991, U.S. Secretary of State James Baker noted that the United States “supported democratization, protection of human rights, territorial integrity and preservation of the unity of Yugoslavia.”³¹ A few days later, on June 25, 1991, Slovenia and Croatia declared their independence. The transition was not peaceful, nor was it based upon agreement. Since then, more than 100,000 deaths have occurred along with the internal displacement of three million persons.³²

The UN recognized Slovenia and Croatia, but refused to recognize Serbia and Montenegro’s claim to the remaining Yugoslavia. Violence escalated. The UN investigated reports of human rights abuses and war crimes. Bosnian Serbs creating ethnically pure Serb communities used intimidation and killing of Bosnian Muslims and

Croats – a process that became known as “ethnic cleansing.”³³ The UN responded to these atrocities with diplomatic and economic sanctions and, after pressure from Europe and the U.S, sent in a small UN Protection Force (UNPROFOR).

Serbian president Slobodan Milosevic continued to increase the pressure on ethnic Albanian separatists. European and U.S. pressure on the UN to intervene made no headway against Chinese and Russian resistance to the use of force. In March 1999, 45 Kosovo Albanians in Racak were massacred. Previously, Serbian General Mladic took 8,000 men and boys from Srebrenica to the forest and shot them in cold blood in 1995. These events and a breakdown in peace negotiations galvanized NATO. Remembering Rwanda and reversing the “Mogadishu effect”, the U.S. and its NATO allies initiated a bombing campaign against the Former Republic of Yugoslavia. 78 days of bombing and a threat of ground troop insertion finally brought about a settlement.³⁴

The action taken by NATO to intervene with force without UN Security Council approval has been applauded as well as criticized. The legality of NATO’s intervention is in question. The UN Charter requires that intervention be authorized by the Security Council. The intervention in Kosovo bypassed the authority of the Security Council and was not considered legal under international law. The majority of the international community, however, viewed NATO’s actions as justifiable.³⁵ President Obama cited Kosovo as an example of a necessary intervention and others have cited it as a “just war.”³⁶ The impact of NATO’s success and the international acceptance of what was allegedly an illegal act under international law exemplify one of the challenges of R2P. If it is generally agreed upon that HI is required to protect innocent civilians and the UN

Security Council is unable to come to an agreement, does a state or multinational organization have the authority to intervene? Furthermore, which states or multinational organizations have that authority? The African Union would put these questions to the test in its response to the crisis in Darfur.

Darfur – Sovereignty Trumps R2P. The first independent country in sub-Saharan Africa, Sudan has been in intermittent conflict internally or with its neighbors since it gained its independence from Britain and Egypt in 1956. Religious disagreements between the mostly Muslim/Arab north and the Christian and animists in the south have been the major factor of unrest and the cause of an ongoing civil war interrupted by occasional peace agreements. The current crisis in Darfur began in 2003. Rebel groups, the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), accused the government of Sudan of discriminating against Muslim Black African ethnic groups in Darfur in favor of Afro-Arabs. The SLA and JEM carried out attacks against government forces who had historically given support to Afro-Arab militias to suppress Black Africans.³⁷ The Sudan government in Khartoum has been accused of failing to protect civilians and actually promoting the atrocities against civilians while promoting the destruction of the African civilian base of support for Darfur's rebel groups.³⁸ While many view the situation as genocide, the UN does not.³⁹

In 2000, 53 African states including Sudan signed the Constitutive Act of the African Union (AU Act). The AU was slow, however, in responding to the crisis in Darfur, and did not invoke the right to intervene described in Article 4(h). In 2004, the AU sent observers and security troops into the Darfur region only after Sudan agreed under the threat of sanctions. It was not until 2007, however, that the U.N. Security

Council passed Resolution 1769 authorizing deployment of a peacekeeping force to Darfur which was authorized to use force to protect its personnel and humanitarian workers. China insisted that Sudan consent to the presence of any peacekeeping force. Ghana along with many other sub-Saharan African governments objected to asking for Khartoum's consent, arguing that members of the AU had an obligation to intervene under Article 4(h).⁴⁰ It took almost a year to persuade Khartoum to agree to a hybrid UN/UA force (UNAMID). Khartoum insisted it would be mostly African troops under African operational command. The UNAMID continues to be hampered by restrictions imposed by Khartoum, such as prohibition of night flights and insistence on communications network control.⁴¹

USAID reports that since 2003, the conflict and the resulting famine and disease killed more than 2 million people. Five hundred thousand Sudanese have sought refuge in neighboring countries and there are 4 million internally displaced people within Sudan.⁴² Humanitarian aid workers and UNAMID peacekeepers continue to be victims of violence and kidnappings.⁴³ With 4.2 million people in danger, Darfur is "the world's largest and most endangered humanitarian operation"⁴⁴ and is viewed by many as a test case of the international community's resolve to intervene in humanitarian crises.⁴⁵

Burma –R2P beyond internal conflict. When Cyclone Nargis hit the Irrawaddy Delta region of Burma over 29,000 lives were initially lost. Forty-two thousand people were missing and as many as 1.5 million displaced.⁴⁶ The number of affected increased after a slow response by Burma and resistance to accept international aid. It took weeks of international and regional pressure, specifically by the Association of Southeast Asian Nations (ASEAN) and the UN, for the Burmese government to allow

Western aid.⁴⁷ Even then, there were continued obstacles to HA workers being allowed into the country or gaining access to the affected regions for several weeks.

Burma has had numerous documented human rights violations and condemnation by the international community. A statement made by an unidentified woman in Chaing Mai, Thailand that “Living next to Burma as a neighbor is like living next door to a man who is beating his wife. The walls are very thin. And what can we do?”⁴⁸ illustrates the frustration felt by many in the international community about Burma’s response to international pressure regarding human rights.

Cyclone Nargis brought Burma into the R2P debate. Did the international community have the responsibility to intervene to provide HA after a disaster? France expressed support for the Security Council to demand and impose access into the region based on the R2P concept to prevent the deliberate mass suffering and death that would occur without intervention which could be defined as crimes against humanity.⁴⁹ China, along with Russia and others disagreed, holding the position that “No one should interfere with the internal affairs of a sovereign State in the name of humanitarian assistance.”⁵⁰ The events in Burma surrounding Cyclone Nargis and the international debates it fueled moved the concept of HI beyond responding only to genocide or providing for civilian victims of internal conflict and opened the door for R2P to apply to natural disasters.

Sovereignty vs. the Right to Protect

Our current understanding of sovereignty dates back to the treaty of Westphalia in 1648. The treaty set the stage for the basic tenants of sovereignty. States were to be considered legally equal to each other. Most importantly, states were not to

intervene in the internal affairs of other states. Over the last 400 years, this concept of sovereignty has influenced every diplomatic, economic, and military decision.

Sir William V. Harcourt, who argued in Parliament against British intervention in the American Civil War, defined intervention as “a high and summary procedure that can sometimes snatch a remedy beyond the reach of law. As in the case of revolution, its essence is its illegality and its justification is its success.”⁵¹ International law and opinion has undergone an evolution in thought regarding humanitarian issues since then.

After World War II, the atrocities of the Holocaust raised new questions about state sovereignty. In addition to the 1948 UN Convention for the Prevention and Punishment of the Crime of Genocide, the Charter of the Nuremberg Tribunal in 1945 recognized in international law the concept of “crimes against humanity.”⁵² These were followed by several follow on conventions and treaties regarding human rights. There was no shift, however, in the concept of non-intervention in a state’s internal affairs. Article 2(7) of the UN Charter reaffirmed the concept of sovereignty, stating “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,”⁵³ With rare exception, the UN has not voted to forcibly intervene for humanitarian reasons. The intervention in Kosovo and the fear of another Rwanda have moved the international community to view HI differently. Recent UN decisions and multinational agreements, such as the AU Charter, have resulted in the concept of the R2P making its way into international law. It has been argued that the international community has accepted a collective responsibility to protect populations from crimes against humanity and that the

AU right of intervention stated in Article 4(h) has codified “an emerging general principle of law.”⁵⁴

The Responsibility to Protect (R2P). The right of intervention has been debated over several years. The cofounder of Doctors without Borders, Dr. Bernard Kouchner, used the expression “the right to intervene” when arguing for access to areas to provide medical care.⁵⁵ Francis Deng re-framed the right to intervene as the responsibility to protect (R2P) in 1991.⁵⁶ In 1999 speech to the Chicago Economic Club, Prime Minister Tony Blair defended the intervention by NATO in Kosovo and outlined when it is the responsibility of the international community to intervene.⁵⁷ In 2004 the UN Secretary-General’s High-level Panel on Threats, Challenges and Change acknowledged the concept of R2P. The 2005 World Summit Outcome document formally endorsed the concept of R2P, stating that if states are unwilling or unable to protect their own populations, it is the responsibility of the international community to take collective action.⁵⁸ The UN General Assembly endorsed R2P but refused to endorse military intervention unless it was authorized by the Security Council as a last resort.”⁵⁹ The Genocide Prevention Task Force agreed with the concept of R2P in 2008 stating that “the challenge for the world community is not only to state this principle, but to implement it.”⁶⁰ While many in the international community do not believe that sovereignty is a shield, there are those who continue to do so. As was noted in 2007, “China has used tanks to kill people on Tiananmen Square. It is Myanmar’s sovereign right to kill their own people, too.”⁶¹ The debate over the concept of R2P continues. As states struggle with the concept of sovereignty, they continue to struggle with pressure to provide protection to peoples facing manmade or natural disasters while maintaining

their sovereign right to conduct business within their own borders without interference from the international community.

R2P Obstacles and Challenges. A common criticism of R2P is the potential abuse of power as exemplified in Hitler's claim of HI to justify his annexation of the Sudetenland.⁶² There are several other obstacles and challenges to the concept of R2P. No state has the capacity to provide for all the needs of each state to provide for their humanitarian and security needs. Governments need to take into consideration the political will of the people. Additionally, there is the concern of the abuse of groups who would use the concept of the moral obligation of the right to intervene as a justification to continue ongoing acts against a state with the belief that the world would intervene to prevent retaliation from a state against their insurgent activities.

States must have the capacity and capability to exercise R2P. United States humanitarian assistance spending over the past ten years, for example, has increased over 75% with program appropriations in the billions.⁶³ The UNAMID experience in Darfur has demonstrated the difficulty sustaining a force of consequential size. The AU was not able to provide the forces necessary to address the problem in Darfur and a hybrid UN/AU force was necessary.

Maintaining the political will to intervene is also an important challenge. There has generally been a lack of political will to intervene until significant numbers of civilians have been victimized, "...and that political will often disintegrates when intervention forces are confronted with casualties."⁶⁴ In 2000, President George W. Bush stated that "I don't like genocide, but I would not commit our troops."⁶⁵

Another challenge to R2P is unintended consequences. Kuperman argues that there is a “moral hazard” inherent in R2P. It has the potential to worsen or prolong a situation. It emboldens factions to act believing that they will have international protection from state retaliation for their actions.⁶⁶ For example, Bosnian Muslim leaders believed they would have support from the international community in the early 1990s. They took up arms in the face of overwhelming force to secede from Yugoslavia. Tens of thousands of fighters and civilians died before the international community finally intervened.⁶⁷

A significant obstacle to international acceptance of R2P is who has the authority to make the decision to intervene? Various international organizations, such as the AU, the UN, and NATO, have agreements regarding HI. Many look to the UN as the authority. As the case of Kosovo illustrates, however, the UN is often too slow to react or unable to overcome internal disagreements.

There are no internationally accepted criteria for HI. The Blair doctrine provided a basic outline for intervention, posing key questions to answer before deciding to intervene.⁶⁸ The Task Force on Genocide Prevention has examined the various requirements for intervention.⁶⁹ The UN, as noted previously, accepts the concept of R2P, but reviews each case independently rather than having a discrete set of requirements. Henry Kissinger understood how rigid requirements could limit options when he stated that “a doctrine of common intervention can furnish a more useful tool to frustrate action than the doctrine of non-interference.”⁷⁰ Considering the difficulty getting a determination from the UN that genocide has occurred, it may be beneficial to

have a set of loosely agreed on criteria for intervention, such as proposed by the Blair doctrine, in order to assess situations independently.

Future Threats to the United States and National Security

The Capstone Concept for Joint Operations version 3.0 dated 15 January 2009 states that the “United States inevitably will find it necessary to respond to a variety of civil crises by acting to relieve human suffering and restore civil functioning...”⁷¹ The civil crises it describes result from natural or manmade disasters which may occur independently or be in the context of conflict. Several trends have been identified which pose threats to national and regional security. Natural and manmade disasters, pandemics, globalization and economics are a few of those trends.⁷² These trends, along with threats from international crime and WMD will create circumstances that will fuel the sovereignty vs. R2P debate.

The 2010 earthquake in Haiti demonstrated how the destruction of infrastructure, loss of government and security personnel, displacement of millions, and countless injured and dead threatened anarchy in the face of limited resources and required a quick international response. Unlike Burma, Haiti embraced HA. It is not hard to image a disaster the magnitude of the 2010 Haitian earthquake in a country with facilities with WMD. This would pose a significant international security crisis.

Pandemics and the spread of disease continue to be a global threat. It is estimated that 5 percent of the world’s population died in 1918 from pandemic influenza. Adjusted for today’s population, a similar pandemic is estimated to result in up to 350 million dead.⁷³ The effect of a pandemic goes beyond the inability to provide necessary medical care. During the 1918 pandemic, work absentee rates were 20-40% in some areas. Railroad worker absenteeism threatened transportation systems in the U.S.⁷⁴

Many local city governments became non-functional and citizen's committees took over.⁷⁵

Although our ability to respond to and prevent disease has significantly improved since 1918, the 2003 Severe Acute Respiratory Syndrome (SARS) had a fatality rate of almost 10%, "SARS turned out to be one of the most devastating and feared diseases in modern history."⁷⁶ The outbreak briefly shut down trade with China which impacted the computer industry worldwide.⁷⁷ The worldwide economic loss was estimated to be \$150 billion. Regionally, disruption of several Asian economies resulted in a loss of over \$50 billion.

Scientists and experts around the world agree that there is a high probability of a global pandemic.⁷⁸ The recent experience with the novel H1N1 influenza pandemic which originated in Mexico in 2009 demonstrates how fast disease can travel in today's global environment. Although it infected millions and killed over 14,000, it was a mild strain.⁷⁹ The concern is that H1N1 may re-emerge more virulent than before. High end predictions are that some 300,000 Americans might need assisted ventilation.⁸⁰ This exceeds the number of mechanical respirators available. History has demonstrated that U.S. hospitals are ill prepared for a mass-casualty event, "whether it be a pandemic or a conventional attack on our soil"⁸¹ Threats from pandemics, natural, or manmade catastrophes may further threaten our ability to respond.

In 1992, the U.S. Institute of Medicine (IOM) cited the emergence of new diseases and the resurgence of old ones as a threat to the U.S. in light of increasing globalization in 1992.⁸² In early 2000, the National Intelligence Council (NIC) released *The Global Infectious disease threat and its Implications for the United States*. The

report argued that emerging diseases will endanger U.S. citizens and exacerbate instability in countries where the U.S. has significant interests.”⁸³

Weak states and those who do not invest in their health systems provide fertile ground for the re-emergence of diseases. Population migrations due to natural disasters or as a result of conflict, pose threats to regions. The Burmese-Thailand boarder has close to 1 million Burmese migrants and refugees. Significant increases in drug resistant Tuberculosis (TB), re-emergence of preventable diseases, and increased rates of HIV/AIDS brought in by these refugees pose a threat to Thailand.⁸⁴ Similar challenges face other regions, such as Zimbabwe’s neighbors, where drug resistant TB is becoming a leading cause of death.⁸⁵ Predictions from the IOM and NIC reports are becoming reality. In 2007 there were 500,000 cases of multi-drug resistant TB. By 2008, 55 countries had reported cases of extensively drug-resistant (XDR-TB).⁸⁶

Crime continues to be a threat to national security. The opium trade is undermining the government and fueling the war in Afghanistan. Closer to home, drug related violence in Mexico is spilling across the border. Nearly 10,000 people have died due to drug-related violence in Mexico since 2007.⁸⁷ Drug cartels are employing platoon-sized units armed with “night vision goggles, electronic intercept collection, encrypted communications,... sea-going submersibles, helicopters and modern transport aviation, automatic weapons, RPG’s, Anti-Tank 66 mm rockets, mines and booby traps, heavy machine guns, 50 caliber sniper rifles, military hand grenades, and the most modern models of 40mm grenade machine guns.”⁸⁸ The violence has moved beyond inter-cartel rivalry and has turned against the Mexican government. Violence has also spread across the border into Phoenix, AZ where there were 366 drug related

kidnappings in 2008.⁸⁹ Uncontrolled crime and instability of a neighboring country with a long porous border not only threatens the security of citizens, it also poses threats to economic trade. Increases in boarder security result in longer waits for the millions who cross the border along with billions of dollars in consumer goods.⁹⁰ Trade and tourism become economic victims.

In the 2002 National Security Strategy, President Bush posed the warning that “The greatest danger our Nation faces lies at the crossroads of radicalism and technology. Our enemies have openly declared that they are seeking weapons of mass destruction...the only path to peace and security is the path of action.”⁹¹ The greatest threat to national, regional and global security is the threat from WMD. The International Atomic Energy Agency reports that from January 1993 to December 2008, a total of 336 incidents of illegal trafficking and 421 incidents of theft or loss of nuclear or radioactive materials have been reported. Fifteen incidents involved high enriched uranium (HEU) and Plutonium.⁹² In 1998, former Soviet biological weaponeer Ken Alibek, revealed the extent of the development and production of biological weapons by the Soviet Union and the lack of security Russian bioweapons facilities⁹³

Radical groups, such as Al Qaeda, have made clear their desire to obtain and use WMD. Prior to his death in 2008, the Egyptian engineer, Abu Khabab Masri had been reported to be assisting Al Qaeda in its development of WMD, specifically cyanide, chlorine and other contact poisons.⁹⁴ There is reason to believe that Al-Qaeda would use WMD. The organization released a statement warning that al-Masri had “left behind, with God's grace, a generation of faithful students who will make you suffer the worst torture and avenge him and his brothers.”⁹⁵

The threat to stability from WMD can go beyond the initial death and destruction that occurs. In 2001, anthrax spores were mailed to the U.S. Senate and media outlets. Five people died.⁹⁶ Across the country there was an undercurrent of panic. People reported to emergency rooms with concerns of exposure. There was concern over the lack of adequate supplies of antibiotics. Mail service was disrupted and delayed. The crisis passed, but the psychological impact this small incident had should not be overlooked.

Recommendation

The U.S. has increasingly incorporated the concept of R2P into its political rhetoric. The President, military leadership, the QDR, along with statements from political leaders continue to stress the expectation that the U.S. will face the need to protect citizens of other states from humanitarian suffering from natural or manmade atrocities. Many in the international community look to the U.S. to provide HI. U.S. response to humanitarian atrocities will continue to be scrutinized and U.S. credibility will be challenged unless the U.S. has a strategy.

An approach to the use of HI is to allow the UN to be the final approving authority. The UN has adopted the concept of R2P. The use of diplomatic, legal, and economic intervention is to be used initially and military intervention only as a last resort. The UN's own record has shown, however, that this option is not viable. The UN continues to be plagued by the veto option. Additionally, the UN is slow to react to crises. There have been recommendations that the UN Security Council make an exception to the veto rule in the case of response to genocide and mass atrocities. One such recommendation is "unless three permanent members were to agree to veto a given resolution, all five would abstain or support it."⁹⁷ Such a change does not appear

likely in the foreseeable future. The U.S. will need to maintain the option to respond to crises, preferably with its partners and unilaterally if necessary.

Supporters of the concept of R2P argue that it is the responsibility of all sovereign states to protect citizens of another sovereign state should that state fail to protect its citizens from atrocities. R2P involves diplomatic, economic and legal, and military interventions. As natural and manmade humanitarian crises continue to occur, it is apparent that no nation can afford to respond to every crises. U.S. investment in peacekeeping support in Bosnia alone has been over \$15 billion.⁹⁸ The AU's experience in Darfur has demonstrated that even multinational organizations may not have the resources or forces required to respond to every crises. The U.S. does not have the resources or forces to respond to every crisis that occurs, nor should it respond to every crisis. HI, as noted previously, can have second and third degree effects that create more harm than good. U.S. strategy towards R2P must be flexible and tailored. It should focus on early prevention of atrocities and resources should be allocated to support prevention.

The U.S. should adopt a flexible and tailored strategy which assesses each case with a defined set of questions. Tony Blair presented to the Chicago Press Club in 1999 a set of such questions.⁹⁹ These questions are:

1. Are we sure of our case?
2. Have we exhausted all diplomatic options?
3. Are there military operations we can sensibly and prudently undertake?
4. Are we prepared for the long term?
5. Do we have national interests involved?

These questions should be incorporated into the strategic decision making process. Additionally, the U.S. should allocate resources toward the prevention of crises. As previously noted, R2P includes diplomatic, legal and economic means. The U.S. should continue to focus on its Civilian Response Corps (CRC) concept and allocate funds to support this mission. The CRC trains a pool of qualified civilian professionals who are ready to deploy to support overseas reconstruction and stabilization operations as well as support operations in countries that are at risk of crises.¹⁰⁰ Ambassadors should be encouraged to exercise the option of bringing in a CRC team to support efforts to develop state capabilities to respond to and prevent humanitarian crises. Bringing in CRC teams early not only addresses the preventative measures which can be taken, but also provides teams with ongoing training and experience in working with various regional partners. Finally, while the U.S. should pursue support from the UN and multinational partners whenever HI is considered to be in the nation's interest, it must maintain the option to act unilaterally if needed.

Conclusion

Trends and threats facing the nations of today have the potential to lead to destabilization of governments and threaten national, regional and global security. Pressure from problems ranging from climate change and economic crises to pandemic diseases and natural disasters will compound the challenges facing failing states and impair their ability to provide for the basic needs of their citizens.¹⁰¹ In 2008 alone, the World Food Program provided food to 86 million people in 80 countries. UNICEF vaccinates about 40% of the children in the world.¹⁰² Billions of dollars in humanitarian

aid flow into these states and the need continues to increase. This trend will likely continue through the next decade.

Since WWII, the global community has seen an evolution in thought about HA along with changing views on HI in the context of R2P. The U.S. will need to continue to work with international organizations as R2P continues to evolve. While it must continue to be prepared to intervene with partners if there is a direct threat to national security or the security of its friends and allies, there must also be consideration to act independently when there is a threat to national security. Early intervention with diplomatic and economic means should be the first steps in R2P. International agreement is desired in any HI. History has proven that the international community can be slow to respond, or fail to come to an agreement. All too often atrocities occur before the international community can respond. Representative to the UN, Susan Rice succinctly summed up the situation in a 2009 speech to the Senate Foreign Relations Committee stating that “As in the past, there will be occasions in the future when deadlocks cannot be broken and the United States and its partners and allies will nonetheless have to act.”¹⁰³

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