

A Poststructuralist Perspective on R2P as a Response to Kofi Annan's Question

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SOFIA BIANCHINI, MAY 29 2015

A Poststructuralist Reconsideration of the Responsibility to Protect as a Response to Kofi Annan's Question

'If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity?' (Annan, 2000)

The fall of the Berlin Wall marked the end of the Cold War bipolar system and of its intrinsic political and military concerns. The consequent shift in security priorities resulted in the ideological redefinition of most Western foreign policies, through the general adoption of the perpetuation and protection of universal human rights as one of their main objectives. This change sparked new dilemmas, especially regarding humanitarian intervention: its legality, legitimacy and humanity have since then been debated, together with the concept of sovereignty. The lively discussion about humanitarian intervention reached its climax in 2000, with the question posed by Kofi Annan to push for a reform of the mechanisms and organs that had failed to deal correctly with countries like Kosovo and Rwanda. As the most substantial response to Annan's question, I analyse the International Commission on Intervention and State Sovereignty (ICISS)'s Report – *The Responsibility to Protect* (2001) – taking a poststructuralist point of view. I aim to unveil the weaknesses embedded in its discourse, to demonstrate the difficulty of adopting a universal and moral framework of action for humanitarian interventions. I consider the main, and most debated themes of the report: sovereignty, intervention and humanitarianism. Sovereignty and intervention will be proven to not be absolute concepts: intervention simultaneously strengthens the sovereignty of the intervener, and violates that of the country receiving international support. The notion of humanity will be deconstructed too, demonstrating how the *domestic*, the *us*, ranks higher than the *foreign*, the *them*.

In the aftermath of NATO's bombing of Yugoslavia, and after years of debate over the appropriateness of humanitarian intervention, the Canadian Government decided to set a commission responsible to find an answer to Kofi Annan's question, which synthesized the dilemmas of a decade (ICISS, 2001). The main goal was to avoid the repetition of a Srebrenica or a Rwanda. Its main principles were rooted in the relation between state sovereignty and human sovereignty, and the responsibility that one has over the other, while the means of action suggested by the report mainly focused on prevention and seemed to rely strongly on the morality of the Permanent Five (P5) (p. XI-XIII). The criteria for intervention overall aimed to have 'practical and concrete political impact, rather than simply provide additional stimulation to scholars and other commentators' (p. 73). The report indeed received several positive critiques, and was seen as a 'most important development' (Bellamy, 2009) on the way of taking action against genocides and crimes against humanity committed in other states.

Despite the positive reviews immediately following the publication of the report, I take a more critical perspective. The optimism emanated by the ICISS Report is dismantled, using an approach based on post-structuralism, which takes as its object of analysis the function of representation and speech (Malmvig, 2001, p. 251). Michael Foucault's (1972) thoughts, outlined in the interview *Truth and Power*, are taken as the basic work that has influenced further poststructuralist critiques on the topic of humanitarian intervention. The French philosopher, declaring himself anti-

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structuralist, states his full refusal of analyses framed in terms of dialectical structure, which would avoid looking at the violent reality of history, impossible to be couched in mere relations of meaning (p. 114). Thus, he sees history as formed by power relations, rather than by dialectic frameworks, and therefore he identifies ideology and truth as subjective products of certain societies (p. 118-124). Language has to be analysed not only as a meaning-producing process but also as a way to generate particular subjects and objects through which power relations are realised (Graham, 2005). I then take a poststructuralist approach to present critiques of the *Responsibility to Protect* (2001), not as a self-sufficient theory aiming to provide a new theoretical framework of action, alternative to the one stipulated by the ICISS. Instead, I focus on the way some terms were employed by the Committee, and used to set the limits of and establish a specific *régime of truth*.

The critique will take into account the works of various International Relations scholars, who have adopted, to different extents, post-structuralist approaches. Malmvig's (2001) and Weber's (1995) analyses of sovereignty's dilemma, Edkins' (2003) reflection on the significance of humanitarianism in humanitarian intervention and Douzinas' (2000) examination of states' morality, among other points of view, will be supporting the following analysis. The next section will comprehend, for each theme, the presentation of ICISS's arguments and their consequent dismantling using a post-structuralist approach.

First, when evaluating Kofi Annan's question, one of the key concepts striking the reader's attention is that of sovereignty, and the unacceptability of its assaulting. Sovereignty is undoubtedly one of the most relevant concepts to the theme of humanitarian intervention, since the two terms seem to depend on each other. In the ICISS report (2001, pp. 11-12), the theme of sovereignty is explained in detail in the first pages: one of its main principles is the Westphalian notion of sovereignty, and the consequent norm of non-intervention. However, the report continues to affirm the responsibility that being a sovereign state involves, especially as part of the United Nations. In fact, following a liberal line of thought, states under a worldwide union, tied by international norms and sharing universal human rights, do not need to go to war with each other, and the issue of how to employ force in a legitimate way simply turns into a strategic and tactical matter, 'subordinate to the task of creating a global *foedus pacificum*'—a 'league of peace' (Rengger, 2002, p. 357). Therefore the responsibility of sovereignty is not only concerned with actions committed or omitted by political authorities on their own national soil, but also on the external protection of the human rights of other members of the international community in order to perpetuate a global order (ICISS, p. 13). This, where a state's responsibility turns from internal into external, is where the shaky boundary between sovereignty and intervention has been drawn and where the perplexity of the poststructuralist thinker begins.

The origins of post-structuralism's critiques against the traditional liberal way of defining sovereignty can be explained in Foucauldian terms. In fact, Foucault's (1977) idea of truth does not concern the absolute, but is the product of the constraints, discourses and economy of every society. Ideology has to be looked at with circumspection too, since it has a secondary position, always relative to an already existing infrastructure (p. 118). Therefore, the traditional view of sovereignty taken by the ICISS and by most liberal theorists can not be considered as a universal idea. Cynthia Weber (1995, ch. 2) explains why. First, she states her refusal of grand theories aiming to classify the meaning of intervention and sovereignty; then she explains it by showing that the relationship between the two terms varies depending on the geographical area and historical period taken into account. These factors shape the *interpretive community* legitimizing an intervention in a certain time and space. For example, the *interpretive community* of the Iraq War, at its early stage, were the American citizens (Newport, 2003), while in the ongoing Syrian War, the UN's P5 seem to be the ones in charge of judging the legitimacy of an intervention (Hayoun, 2013). The meaning given to the relation between intervention and sovereignty are dependent on a specific observer. Kofi Annan considered the first to be 'an unacceptable assault' on the second. However, viewing this relation with a zero-sum logic paralyses the already complex debate, by constraining the two concepts and avoiding the almost evident paradox inherent in the dilemma (Malmvig, 2001).

There is another way of looking at the two concepts in a more integral way: as a matter of fact, practices of intervention can be seen as violating and, at the same time, paradoxically, reaffirming sovereignty (Malmvig). To every violation of sovereignty corresponds a triumph. And, as stated before, in every area and time exist different legitimations of intervention (Weber, 1995). Thus, the well-rooted fixation on intervention as an *either-or*, as an absolute choice against the principle of sovereignty, looks only at one dimension of the problem, turning it into *false*

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dilemma (Malmvig). The case of Rwanda demonstrates the risk of a paralysed debate. The indecision brought by the synthesised intervention–sovereignty dilemma overlooked the fact that the crisis itself was strongly due to external involvement, such as the colonial rule, the pressure for democratization and the IMF and World Bank's Structural Adjustment Programs (Hehir, 2010, p. 220). The approach that has to be taken to address Annan's question should not be simplified and solely trying to set criteria about whether the transgression of sovereignty does or does not occur. The choices of action should not be definite but endless, and should be the product of the combination of both state sovereignty and intervention, supportive of human sovereignty.

And here is where the other vital term of the debate comes into play: humanitarianism. In his question Kofi Annan brings up the concept of 'humanity' and describes it as 'common'. Humanity is indeed what stands at the root of international law, the United Nations and the ICISS report. Kant himself posed the ideological bases to create a global community sharing the same framework of values, universally valid because they were rationally acceptable (Hill, 2009). 'Promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion' (United Nations, 1945) is one of the missions stated in the first article of the UN Charter and it almost sounds like a paraphrase of Kant's pursuit of *perpetual peace*. As a consequence of the UN's basic pillars, comes the liberal idea that order without a certain degree of justice will lead to disaster; this assumption gives legitimacy to intervention, if defending our common and just framework of human rights (Hoffman, 2003, p. 23).

However, as for the terms 'sovereignty' and 'intervention', it is arguable that 'humanity' has been affected by the changes of time and place and is therefore an ideology incorporated and shaped in accordance to our contemporary world (Edkins, 2003). The increasing embodiment of humanitarianism in politics can be easily noticed looking at a history timeline: from colonialism, to developmentalism, to the post-Cold War era, to the post-9/11 world, the idea of humanity has changed (Edkins). What has recently been integrated in the discourse on humanitarian intervention is a sort of humanity that cannot be neutral because it is being codified and implemented by the state, according to specific times and contexts (Edkins, p. 254). Additionally, the state itself corrupts the concept of humanity by being sovereign and it consequently creates dichotomies such as us and them, domestic and foreign, here and there, framing solutions primarily supportive of the *us*, the *domestic*, the *here* (Walker, 1993). The paradox intrinsic in the idea of humanitarian intervention is that it is commonly associated to sovereignty, and therefore it creates a hierarchy within humanity where the domestic is ranked higher than the foreign. NATO's air campaign against the Federal Republic of Yugoslavia provides a good example for this point: the altitude of NATO's aircraft at the time of the bombing is a good metaphor of the hierarchy of humanity at the time of the intervention. In fact, the aircraft were restricted to fly above 15,000 feet, to minimize the risks for their soldiers but, by doing so, they maximized risks for the civilians (Amnesty International, 2000).

As a consequence, it seems that a distinction between *us* and *them* needs to be made before there is even a relationship between the two. The main issue with this distinction is not only that it reaffirms the concept of sovereignty and violates the idea of humanity as a whole, but also that it creates a simplified binary. Jacques Derrida (1995, p. 68) fully refuses the *us* vs. *them* dichotomy, when admitting that he 'cannot respond to the call, the request, the obligation, or even the love of another, without sacrificing the other other, the other others'. For him, the concepts of decision and responsibility are paradoxical and aporetic, when one cannot accomplish his obligations to every other other. That is why a *humanitarian* intervention cannot take place. NATO's intervention in Yugoslavia is an example that proves Derrida's point. Even though the Operation Allied Force is seen as a successful intervention, for its outcomes, several 'collateral damages' happened, proving that the lives of hundreds of civilians were sacrificed for the sake of the survivors (Amnesty International, 2000).

Both the hierarchical aspect of humanitarian intervention and the Derridean view on the responsibility we have towards others prove the impossibility of adopting pure humanity as both an end and a means of intervention. It seems that humanity has been a high principle, used to achieve low ends with equally low means. History has proven that leaders have often used high principle to justify their actions: Homer's *Iliad*, Thucydides' Peloponnesian War, the crusades and Shakespeare's plays are examples of this tendency (Douzinas, 2000, p. 129). Rieff (2002) draws some conclusion on the matter stating that humanitarianism has become a dialectal tool of the militarized state. For example, the Iraq War, started by humanitarian principles, has turned into a 'monstrous social experiment', where

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foreign troops are pushing a once prosperous country back into the dark ages and where sanctions are killing thousands of Iraqis (Douzinas, p. 132). Moreover, what has been done in the name of humanity is equally as relevant as what has not been done. For instance, the international community failed to respond to the second greatest genocide of the past century, proving that humanity is the highest principle dialectically, but not practically (Douzinas). In fact, the safeguard of human rights seems to rely on the innate morality of its member states. The ICISS Report counts on the fact that the P5 will not 'obstruct the passage of resolutions authorizing military intervention for human protection purposes for which there is otherwise majority support' (p. XIII). However, how could we trust the morality of a country that has already slaughtered its own protesters (China), or that has signed the fewest human rights treaties (USA) (Douzinas, p. 131)? The paradox intrinsic in the term humanitarian intervention is blatant not only when analysing the meaning of sovereignty, but the one of humanitarianism as well.

In conclusion, the question posed by Kofi Annan cannot be addressed only in the liberal terms the ICISS Report employed. A dialectical framework can actually paralyse the debate. As described above, considering the sovereignty-intervention problem with a zero-sum logic risks oversimplifying the discussion, and viewing sovereignty as an absolute concept, overlooking the fact that meanings are shaped by time, geographical space and the interpretation of a community. The question about humanitarian intervention should no longer be an *either-or*, but should include as many facets as the ever-changing relation between time, space and community implies. The term humanity has to be revisited too, as it is a victim of various paradoxes: the *us vs. them* dichotomy, that concerning the impossibility of helping every other other, and that produced by rhetoric, which has often not matched practice. The ICISS does not have to be disregarded as a way to address Annan's question, but it is has to be regarded as *one* way, of many, to consider the debate.

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