

The English School and Humanitarian Intervention

Written by Tim Dunne

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TIM DUNNE, FEB 17 2016

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Intervention for human protection is a key component of English School thinking about the rights and duties that states hold by virtue of their membership of international society. As a practice, it is as old as international society itself. A defence of intervention on humanitarian grounds can be found in the doctrine and practice of European great powers during the period when European hegemony was consolidated.[i]

Despite the persistence of the practice, humanitarian intervention has almost always been a divisive issue among diplomats, state leaders and world public opinion. It remains institutionally complex and normatively contested in world order today. The fissures in the international community were evident both during and after the NATO-led intervention in Libya in 2011. Supporters of the intervention were quick to argue that it was a 'textbook case',[ii] while others argued that the intervention had risked doing irreparable damage to the responsibility to protect[iii] 'norm' and its prospects for becoming the go-to framework for responding to atrocity crimes.[iv]

Whether Russia and China were right to feel betrayed by the alleged shift in the Libya mandate from the protection of civilians to regime change, what is not in doubt is that the subsequent paralysis inside the Security Council has enabled the Assad regime to commit mass atrocities with virtual impunity. Despite the 'never again' slogan, Syria once again shows the limits of collective action on the part of international society to protect civilians experiencing unconscionable crimes.

The Libya intervention and the Syrian non-intervention show the complexity of the challenge that decision-makers encounter when considering how to respond to actual or potential mass atrocity crimes. One way to characterise the fissures and tensions in the debate is by utilising English School theorising on the intervention question. Not only are the language and concepts still relevant five decades after their elaboration, one could also argue that the category of pluralism is particularly relevant to how we think about state responsibilities in a post-Western world.

In an early contribution to post-Cold War debates about humanitarian intervention, Nicholas J. Wheeler argued that pluralism and solidarism constituted rival normative accounts of how the world hangs together.[v] Pluralists attach primary significance to the rules of coexistence that sovereign states have accepted as a means of maintaining order; they do so in the knowledge that there are widely diverse accounts of how to live 'the good life'. What might be considered just in one community could be considered depraved by another. For this reason, the starting point for a cooperative order is reciprocal recognition of sovereignty, an institutional arrangement where all peoples can build a community they call their own and the territorial borders of the sovereign state largely set the limits of that community. Sovereignty is therefore a defence of a way of life, and admission that 'states have the authority to make and enforce rules within a particular territory, therefore limiting the reach of foreign laws or external authorities'.[vi] Intervention, even for human protection purposes, therefore violates a state's rights because it undermines a people's right to live without interference from outsiders.

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Critics of pluralism charge that this sovereign state model has failed to deliver on its promise. The persistence of inter-state wars throughout the twentieth century suggests that sovereignty norms were not sufficient to deter predatory states. Moreover, the rule of non-intervention that was central to pluralism has enabled statist elites to violently abuse their own citizens with impunity.^[vii] The security of regimes has, in the pluralist order, taken priority over the security of peoples.

Recognising these concerns with the pluralist order, classical English School scholars such as Hedley Bull and R.J. Vincent were drawn to consider a different account of international society in which universal values such as the right not to be arbitrarily killed are more important than the principle of non-intervention. The guiding thought here, and one that is captured by the term solidarism, is that the ties that bind individuals to the great society of humankind are morally prior to the positivist rules and institutions that course through the veins of modern international society.

Bull originally defined solidarism as the collective enforcement of international rules and the guardianship of human rights.^[viii] Solidarism differs from cosmopolitanism in that the latter is agnostic as to the institutional arrangement for delivering universal values. While some cosmopolitans believe a world government is preferable, others following Kant think such a plan for world order risks unravelling into despotism. Solidarism is not a post-statist conception of international society; rather, it is one that is driven by states for the purposes and interests of the peoples they serve.

In a solidarist order, individuals are entitled to basic rights such as the right not to be indiscriminately killed or harmed. If harm is being undertaken on a large scale, and the sovereign state is either the perpetrator of the crime – or is unable to prevent it – then solidarists believe that the members of international society have a duty to intervene to protect peoples at risk.

Although Bull was drawn to the moral possibilities of a solidarist international society, he was also concerned that interventions, even for humanitarian purposes, risked undermining international order. Until there was a greater consensus on the meaning and priority to be accorded to rights claims, attempts to enforce them were premature and would likely do more harm than good. Writing in the mid-1990s, Wheeler and Dunne contrasted Bull's dilemma as one where his 'pluralism of the intellect' was pulling in a different direction to his 'solidarism of the will'.^[ix]

The solidarist case for humanitarian intervention gathered momentum through the 1990s, spurred on by the collective failure to prevent the genocide in Rwanda in 1994 and in Srebrenica in 1995. In both cases, the Security Council dithered, individual great powers looked the other way, and transnational civil society was mute when it ought to have been mobilising and shaming. For many inside the UN order, the problem for humanitarian intervention was not so much the danger that external powers were acting like cosmopolitan vigilantes showing no regard for the rules of the game; instead what was striking about the post-Cold War order was how little external powers were prepared to do in order to defend peoples against the worst crimes. 'Unhumanitarian non-intervention'^[x] was much more apparent than great power 'sheriffs' and their middle power 'deputies' looking for opportunities to enforce the law. In truth, the pluralist rules of the post-1945 order had become far too enabling for governments to commit – or tolerate – egregious and systematic violations of the basic rights of their citizens. This was all too clear to then UN secretary general Kofi Annan – 'No government', he insisted, 'has the right to hide behind national sovereignty in order to violate the human rights or fundamental freedoms of its peoples.'^[xi]

Solidarist assumptions and commitments informed much of the thinking that took place on the intervention question inside the International Committee on Intervention and State Sovereignty (ICISS), the body funded by the Canadian government to review the conditions under which it is acceptable for coercive intervention to take place without host state consent. Much ink has been spilled on the Commission's findings, and how this epistemic community of global diplomats and scholars settled on the articulation of the responsibility to protect or R2P as it has become known.^[xii]

The change in the meaning of sovereignty from being an unconditional entitlement to being something that could be withdrawn if the state failed to meet certain civilised standards of behaviour signalled an important reform. But did the invention of R2P mark a shift from a pluralist conception of international society to a solidarist one that put the security of peoples ahead of the procedural concerns that protected the rights of sovereign governments? First and foremost, the reference for protection in the R2P framework is 'peoples' rather than states – suggesting a re-

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balancing of the largely state-based conception of rights and duties that are set out in the UN Charter. R2P starts with a presumption that prevention is better than cure; accordingly, all governments have to accept an obligation to protect their citizens from genocide, war crimes, ethnic cleansing and crimes against humanity. Yet R2P recognises that we live in an imperfect world where states frequently fail to uphold the moral and legal standards they have agreed to. In cases where a state is 'manifestly failing' to meet its responsibilities, the wider society of states is obliged to take a range of decisive measures to assist or coerce – with force being the instrument of the last resort.

In channelling all decisions involving the use of force solely through the Security Council, advocates of R2P underlined an ongoing preference for multilateralism and for working within the essentially pluralist institutions of the UN system – giving the five Permanent Members of the UN Security Council the power to block any action. Indeed, in a strong concession to pluralism, the great powers would only agree to paragraph 139 in the World Summit Outcome document – setting out the critical passage on the use of force – on the understanding that it merely codified existing responsibilities rather than created new ones.

At the same time, it is true that in implying that the international community had general and special responsibilities to act, R2P went well beyond the International Law Commission's findings on state responsibilities, which reduced international responsibility to nothing more than a bare pluralist injunction that states should cooperate with each other,[xiii] in the interests of the general good. One way to characterise the degree of moral ambition might be to say that there is more to responsibility in international relations than the pluralist suggests, but less than solidarists desire.[xiv]

The UN General Assembly resisted the view that intervention could take place without the consent of the Security Council if that body was unable to agree on a resolution when there was clear evidence of a humanitarian catastrophe happening – or about to happen. Yet the earlier ICISS report left open the possibility that other actors ought to act if the UN Security Council was deadlocked. The precise wording is worth further reflection: 'It is a real question in these circumstances where lies the most harm: in the damage to international order if the Security Council is bypassed or in the damage to that order if human beings are slaughtered while the Security Council stands by.'[xv] What this ICISS statement and other recent work on moral agency force us to do is to consider a broad range of actors who 'each have a duty to contribute [...] and then to participate in an effective response',[xvi] rather than focus solely on the Security Council.

Despite the frequency of diplomatic statements supporting R2P, many fissures and fragments remain – some of which can be traced back to the co-mingling of universal meta-values of humanitarian protection with enforcement machinery that is heavily dependent on consensus. This co-mingling is evident when R2P is said to be a 'norm', a claim that is made frequently in both academic texts and practitioner speech-acts by global diplomats including the UN Secretary General. While it can be empirically shown that the phrase 'responsibility to protect' has increasingly found its way into UN Security Council resolutions, and countless diplomatic statements, we also know that its invocation can lead to radically divergent policy outcomes – timely action (as in the case of Libya) and relative indifference (as in the case of the 'forgotten war' in the Democratic Republic of Congo). Such inconsistencies are easily reconciled with a pluralist view of the world: the operation of the Security Council has always been on a 'case by case basis', meaning that military intervention is only ever going to be infrequent and subjected to coordination problems.

The fact that action in response to mass atrocities in one part of the world may have no bearing on a decision taken in response to violations elsewhere, leave R2P open to the charge of organised hypocrisy. It is often said, in this spirit, that there was no serious collective action in the early stages of the Syria crisis because of the 'betrayal' felt by Russia (and other countries) over the excessive force – and the expanded mandate – that characterised the NATO-led action against Libya. But one could argue that such a claim does not withstand much scrutiny: even without the so-called war of regime change against Gaddafi, inaction against Syria would most likely have been the outcome. Syria would have been Syria without Libya. For pluralists, inconsistency is a signal of competing priorities and complex risk assessments, such as when states reasonably judge that the costs of taking 'decisive action' to protect a target population may well be too great for their citizens to bear.

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This challenge to articulate a conception of intervention that is more minimalist, and consistent with pluralism, had been taken up by Robert Pape.^[xvii] His 'new standard' of 'pragmatic humanitarian intervention' is an attempt to ensure that R2P is aligned with a traditional pluralist conception of how key international institutions work – including the privilege of great powers on the UN Security Council who have the power to block action if they believe it to be contrary to their interests or detrimental to international order as a whole.

The conventional English School categories of pluralism and solidarism continue to capture the dynamics of intervention in international society. This does not mean that the English School is the only source of concepts to shed light on aspects of the intervention dilemma. Realism reminds us that coercive interventions seldom succeed and often exacerbate the problems that they were designed to resolve. Similarly, critical theorists point to the profoundly undemocratic character of deliberation within the R2P framework;^[xviii] they also note that, in historical context, R2P looks very much like the 'executive' arm of the United Nations trying to impose a particular form of state-society relations on the global South following the collapse of formal empires in the early part of the twentieth century.^[xix]

Of the two conceptual categories suggested by Bull a half-century ago, it is solidarism that is looking vulnerable to the transformations that are under way. The narrative of a triumphant march of human rights and democratisation increasingly looks like an out-dated 'brand' now that the post-American era is upon us. If solidarism is fundamentally about the guardianship of human rights everywhere – including not only civil and political rights, but economic and cultural rights too – then perhaps its days are numbered. There is clearly no consensus about this wider basket of rights – and neither is there willingness to do the guardianship on the part of the powerful states in the world, nor the capacity on the part of international institutions.

Human protection, however, developed out of a coalition of states and civil society groups committed to ending the crime of genocide and other conscience shocking atrocities – it was never about upholding the entire basket of rights. And there is no doubt that there is a clear consensus among UN member states that such atrocities are morally wrong as well as being deleterious to international peace and security. Agreement on condemnation has proven easier to forge than 'a common course of action even in the face of mass atrocities.'^[xx] Shorn of its complacency, a reinvigorated pluralist defence of responsibility is what is needed to bring greater reliance to R2P in our deeply divided world: after all, pluralism is on the side of states rather than being a source of their de-legitimation.

Notes

[i] Hugo Grotius, *The Rights of War and Peace*, edited and with an introduction by Richard Tuck, from the edition by Jean Barbeyrac (Indianapolis: Liberty Fund, [1682] 2005).

[ii] See for instance Thomas G. Weiss, 'RtoP Alive and Well after Libya', *Ethics & International Affairs* 25:3 (2011).

[iii] The responsibility to protect, or R2P, is a particular variant of humanitarian intervention that emerged in the first decade of the twenty-first century. It is beyond the scope of this chapter to trace the evolution of R2P and the intricacies of its relationship to humanitarian intervention. For an authoritative account of R2P, see Alex J. Bellamy, *The Responsibility to Protect: A Defense* (Oxford; New York: Oxford University Press, 2015); Alex Bellamy and Tim Dunne, eds, *The Oxford Handbook on the Responsibility to Protect* (Oxford: Oxford University Press, 2016, in press).

[iv] David Rieff, 'R2P, R.I.P'., *The New York Times*, November 7, 2011.

[v] Nicholas J. Wheeler, 'Pluralist or Solidarist Conceptions of International Society: Bull and Vincent on Humanitarian Intervention', *Millennium – Journal of International Studies* 21:3 (1992).

[vi] Jennifer M. Welsh quoted in Rosemary Foot, 'The State, Development, and Humanitarianism: China's Shaping of the Trajectory of the R2P', in *The Oxford Handbook on the Responsibility to Protect*, eds Bellamy and Dunne (Oxford: Oxford University Press, 2016, in press), 12.

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- [vii] Ken Booth, 'Human Wrongs and International Relations', *International Affairs* 71:1 (1995).
- [viii] Hedley Bull, 'The Grotian Conception of International Society', in *Diplomatic Investigations: Essays in the Theory of International Politics*, eds H. Butterfield and M. Wight (London: Allen & Unwin, 1966).
- [ix] Nicholas J. Wheeler and Tim Dunne, 'Hedley Bull's Pluralism of the Intellect and Solidarism of the Will', *International Affairs* 72:1 (1996).
- [x] Simon Chesterman, 'Humanitarian Intervention and Afghanistan', in *Humanitarian Intervention and International Relations*, ed. J. M. Welsh (Oxford: Oxford University Press, 2003); "'Leading from Behind": The Responsibility to Protect, the Obama Doctrine, and Humanitarian Intervention after Libya', *Ethics & International Affairs* 25:3 (2011).
- [xi] Kofi Annan, 'Statement by the Secretary-General of the United Nations – 55th Session of the Commission on Human Rights', April 7, 1999.
- [xii] Gareth J. Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and for All* (Washington: Brookings Institution Press, 2008).
- [xiii] J. Crawford, *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentaries* (Cambridge: Cambridge University Press, 2002).
- [xiv] This phrase is adapted from Linklater: Andrew Linklater, 'The English School', in *Theories of International Relations*, ed. Scott Burchill (New York: Palgrave Macmillan, 2013), 90.
- [xv] In Stephen Hopgood, *Keepers of the Flame: Understanding Amnesty International* (Ithaca: Cornell University Press, 2006), 139.
- [xvi] Toni Erskine, 'Coalitions of the Willing and Responsibilities to Protect: Informal Associations, Enhanced Capacities, and Shared Moral Burdens', *Ethics & International Affairs* 28:1 (2014): 139.
- [xvii] Robert A. Pape, 'When Duty Calls: A Pragmatic Standard of Humanitarian Intervention', *International Security* 37:1 (2012).
- [xviii] Aidan Hehir, *The Responsibility to Protect: Rhetoric, Reality and the Future of Humanitarian Intervention* (Basingstoke, New York: Palgrave Macmillan, 2012).
- [xix] Anne Orford, *International Authority and the Responsibility to Protect* (Cambridge; New York: Cambridge University Press, 2011).
- [xx] Foot, in *The Oxford Handbook*, eds Bellamy and Dunne.

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