Filling the Gap: The Moral Purpose of the State and the Duty to Intervene

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What responsibilities do governments have for the human rights of people living under the jurisdiction of other states? For instance, is there a reason for intervention on humanitarian grounds when a political regime is (i) harming its own citizens or (ii) unable to prevent harm imposed on its citizens by another actor? When, given the importance of state sovereignty in international law, can intervention in such cases be regarded as legal, and is there a scenario in which it is morally permissible to engage in illegal humanitarian intervention? If there is a moral and/or legal right to intervene, does this also constitute an obligation for states to intervene?

The above questions have now concerned scholars since the establishment of the modern state in the wake of the Westphalian peace. However, they still have not lost any of their urgency as situations continue to arise frequently in which human rights violations are taking place within the jurisdiction of sovereign states. For most of this time, the debate revolved around the question of *permissibility* and thus if intervention can be considered as either a moral or a legal right or both. Yet, in recent years the scholarly dialogue has shifted from questioning and/or positing a *right* to intervene towards questioning and/or positing a *duty* to intervene (Bagnoli 2006: 118). One reason for why this shift occurred is undoubtedly the release of the report by the International Commission on Intervention and State Sovereignty (ICISS)[1] in 2001, *The Responsibility to Protect (R2P)*, and the ratification of parts of it by all member states of the United Nations at the 2005 World Summit.[2]

The report develops the idea that the notion of sovereignty as *control* (meaning that a state has total authority over its own people) should be replaced by understanding sovereignty as *responsibility* (meaning that the state carries a duty of safeguarding the basic human rights of its citizens) (ICISS 2001: 2.14, 2.15). On this account, it follows that the sovereignty of a state can be temporarily suspended in cases in which it is rendered unable or is unwilling to meet its responsibility of protecting the human rights of its citizens (e.g. in the case of genocide, war crimes, ethnic cleansing, and crimes against humanity). In such cases, the 'responsibility to protect' these citizens is automatically reassigned to the international community which carries a 'responsibility to react' that may involve humanitarian intervention given the fact that all non-military means have been exhausted first (ICISS: 4.1; Pattison 2008: 262). What is astonishing is the fact that R2P argues both that a state's sovereignty is contingent on its ability to protect the basic human rights of its citizens and that intervention becomes a moral obligation for outside actors once a state fails at upholding its 'responsibility to protect'. As a result, the report moves away from regarding humanitarian intervention as something that is permissible under certain circumstances – a *right* – towards viewing it as a responsibility that falls on the international society – a *duty* (Pattison 2008: 263; Pattison 2013: 571).

In this regard, however, the report does not explain why an intervention, just by virtue of being permissible, also generates a *duty* that obliges international society 'to protect'. Instead, it simply assumes that this 'international responsibility to protect' arises once the principle of non-intervention is overridden (Tan 2006: 88). There is obviously a gap in this reasoning. In order to posit a *duty to protect human rights* that yields an obligation for states to intervene in the affairs of other states, there has to be proof of a *positive duty*[3] created by these rights that applies to all states in the same way. However, I believe that one can certainly produce the proof that is missing here. In order to evidence my assertion, I will present a constructivist argument for (i) why it makes sense to replace the notion of sovereignty as *control* with sovereignty as *responsibility* and (ii) for why intervention becomes a *duty* that falls on

international society once we acknowledge the political reality of (i). Following from this, I am going to explain that states should intervene in the affairs of other states in order to defend human rights.

My argument proceeds in three steps. First, by comparing realist, liberal and constructivist conceptions of human rights, I will show how the constructivist understanding is the only one of the "big three" metatheories that acknowledges the political reality of human rights, that is, defining standards of conduct applicable to political arrangements. Second, I will show that sovereignty can be thought of in a similar way to human rights which means that it also has a functional, political reality that must be recognised. Here, drawing on the work of Christian Reus-Smit, I will explain that the function it fulfils is guarding the '*moral purpose of the state*' which is the protection of human rights. This enables me to prove that the political realities of human rights and sovereignty are co-dependent. Finally, as a third step, I will explain how this co-dependency yields a positive duty on the side of international society to intervene in the affairs of sovereign states to protect human rights. In this regard, I will further present evidence for why discharging such duty can also happen for practical instead of moral reasons whereby I am going to provide two examples: (i) status enhancement, and (ii) prevention of international insecurity.

Sovereignty as Responsibility

(i) How should human rights be conceived?

Let us begin by taking a closer look at what can be termed the *realist perspective* of human rights. In this regard, it is important to note first that realists themselves have paid very little attention to human rights. For this lack of interest, there are at least two reasons. First of all, realists understand human rights as being part of ethics and thus belonging to domestic politics, the working of which they regard to be diametrically opposed to international politics (Casla 2018: 143). This assumption is closely tied to the realist notion of the international realm being characterised by anarchy and thus an environment in which ethics has no place, meaning that an act being right or wrong only depends on the result of the act itself. As a consequence, the realist tradition has tended to view human rights as a secondary state goal that is subordinate to security (Wagner 2014: 2).[4] A second reason is that realists are generally sceptical towards the concept of international law (Morgenthau 1940; Krasner 2002), and the idea that there is something akin to a universal morality that could figure as a bedrock for an international legal regime that incorporates the protection of human rights (Morgenthau 1948). Realists consider such aspects of international politics to be simply epiphenomenal which means that they mirror the balance of power, but do not restrict or shape state behaviour referring to the fact that norms get subsumed 'in the material structure of the international system' (Mearsheimer 1995: 91). Accordingly, realists argue that states may establish and enforce international legal norms and institutions to protect human rights yet that it is not the norms themselves that shape the particular way in which a state acts but instead it is the underlying material interests and power relations that determine the state's behaviour (Slaughter 2011).

Their scepticism thus stems, first and foremost, from a worry that admonitions to obey such legal and institutional norms might be used malevolently by states to hide the pursuit of narrow selfish interests (Dunne and Hanson 2016: 63; Donnelly 1999). In this sense, realists criticise human rights policies for inevitably having a tendency to be selective and biased.[5] For example, states might stress the significance of human rights when dealing with some states but not with others with whom they have certain kinds of links (e.g. close trade relations). This shows, the objection runs, that states are self-interested actors that inevitably take a partial approach to further their own goals illustrating that they are not really ever worried about human rights (Caney 2005: 93-94). Consequently, realists regard human rights and individuals' interests as largely peripheral to international relations. They perceive of morality as an appropriate standard for judging individual relations, but not the relations of states as the latter remains to be governed by the logic of power and interest. It follows that, from a realist perspective, individuals are objects, rather than subjects, of international politics. Thus, they certainly have no claim, beyond a moral claim, on other states or international society which is why the most that they can hope for is that their own state will act on their behalf (Donnelly 1993: 617).

However, if human rights are secondary to the study of international relations as they do not determine state behaviour but only figure as a veil behind which states can hide their self-interest, why would these states adopt

something like R2P which ultimately waves the irrevocability of the principle of non-intervention (which is at the heart of realism), thus forfeiting some of their sovereignty in the name of human rights? Moreover, if states are pursuing their interests in anarchic conditions, why would they be concerned with their legitimacy from a human rights perspectives as evidenced by jointly establishing human rights bodies at the international and regional level, and endowing these bodies with rights to enforcement?[6] In this regard, it appears, human rights have proven to be anything but marginal to international relations as their repeated violation has triggered debates questioning the limit of state rule over society and national sovereignty. Accordingly, human rights issues even pose a particularly potent challenge to the central logic of a system of independent, sovereign states under anarchy and thus to one of the key assumptions of realism whereby such development cannot be explained by a logic of self-interest (Sikkink 1998: 517).

Then, since the *realist perspective* ignores the fact that human rights matter for the study of international relations in so far as they seem to be able to drive and/or shape state behaviour, it is now time to consider a second approach that is more sensitive towards this reality: *liberalism*. While liberal thinking differs, the central idea is that individuals have a set of basic rights that they enjoy by virtue of being human.[7] Accordingly, the liberal perspective of human rights adopts what has been termed *moral universalism*. On this view there are some moral values that are valid across the world. If *X* is morally universal, then *X* applies to all persons. Thus, the *liberal perspective* considers defending human rights as defending natural claims of human beings. It follows, that for adherents of the*liberal perspective* the function of human rights can be separated from the existing political reality of human rights. Then, to determine whether *X* qualifies as a human right, one does not need to look at the purpose *X* is supposed to serve in real-world politics. Rather, one only needs to consider if *X* is a 'normatively salient interest attached to our status as human beings' that is profound enough to place a duty of respect and protection on others (Valentini 2012b: 180; Raz 1986: ch. 7).As evidence for this conception liberals point to the fact that moral universalism has been increasingly embedded into the practice of international politics since the birth of the Enlightenment. Starting off from Europe, over time, the rights of citizens became enshrined in legal constitutions all over the world, the slave trade was abolished and criminalised, workers' rights became acknowledged, and international humanitarian law was expanded. These advances finally became codified in the Universal Declaration of Human Rights (UDHR) in 1948 which is regarded by liberals as the ratification or rather the acknowledgement of the existence of moral universalism (Dunne and Hanson 2016: 63).

The liberal conception of human rights, however, suffers from a serious weakness: namely the fact that it is insensitive towards the *function* of human rights. As Valentini explains, "human rights are a political-legal construct that emerged under particular circumstances and which places constraints primarily on the conduct of states and their officials, rather than on that of individuals" (Valentini 2012a: 576). However, on the liberal perspective this functional reality gets lost as it assumes human rights to be something that exists independently of the relationship between states and individuals. Thus, the liberal perspective regards the implementation of these rights as a moral obligation rather than an illustration of a particular consensus that exists among actors and institutions in international society and which has some function: that is, to define standards of conduct applicable to political arrangements. That the latter instead of the former is the political reality was probably illustrated best by Hannah Arendt's reflections on the refugees and rejects that have been expelled from their political communities as a consequence of World War II:

The conception of human rights based upon the assumed existence of a human being as such broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still human. The world found nothing sacred in the abstract nakedness of being human.

– Hannah Arendt (1951: 299)[8]

Thus, it seems that human rights matter only in the context of political arrangements (such as states) and that individuals are deprived of them once they are failed by these arrangements. This, again, highlights the political reality of human rights (i.e. serving a function) as these rights predominantly matter for the conduct of the state towards its citizens or in the case when a state breaks down or is threatened by civil war. A further illustration of this

reality can be provided by the fact that many of the rights postulated by the UDHR have a limited scope that only applies to the territory of the state to which the right holder belongs or in which she resides. The idea of a human right to free elementary education (§26.1 UDHR) or the right to equal access to public service (§21.2 UDHR), for example, only make sense when there exists a state-supported school system and public service. Beyond that, these rights are generally understood as not imposing duties upon foreigners. For example, the right to equal pay for equal work (§23.2 UDHR) does not impose any duty on foreigners to help maintain such equality within some country X or internationally (Pogge 2000: 47-48). Consequently, it is safe to say that the liberal perspective is also an insufficient starting point for considering if states should intervene in the affairs of other states in order to protect human rights as it ignores the reality of human rights in international relations. What is needed is a theory that is sensitive towards this reality and which does not disregard human rights as marginal or insignificant the way realism does. This theory, as I will argue, is *constructivism*.

Constructivists perceive of international norms as "shared understandings as to the permissible limits of state action, and an acceptance that conduct should be justified and appraised in terms of that norm" (Wheeler 2002: 30).[9] In this regard, they are viewed as having a social ontological character meaning that they are social rather than natural facts. Accordingly, the application of international norms is regarded as a social construction co-constituted by the members of international society (Kuo 2014: 79). Viewing international politics according to this dynamic is helpful for understanding the development of human rights. Similar to social life, the international realm is constituted by a variety of contending sets of expectations as to how actors ought to behave (Dunne & Hanson 2016: 64). Adopting a terminology created by John Rawls the rules of conduct that are reached despite this disunity can be referred to as an 'overlapping consensus'. What is meant by this with regard to human rights is that people of different faiths or secular traditions (what Rawls refers to as 'comprehensive doctrines') can still and do converge on some common moral values. They thus reach an 'overlapping consensus' on a set of human rights even though they disagree on as to which moral theory is the most plausible to ground these rights (Caney 2005: 29; Donnelly 2007). Such consensus then is political rather than moral or religious which means that it is socially constructed rather than "by nature" of human rights itself. Understanding human rights in this sense, constructivists then argue that the inter-state order can be transformed by the social construction of norms (as their acceptance establishes that conduct should be justified and appraised in terms of these norms) and has in fact been transformed in this way by the emergence of a consensus on universal human rights in the form of the UDHR (this will become apparent in the next section) (Dunne & Hanson 2016: 64). Thus, constructivism acknowledges both the fact that human rights are an integral part of international relations and the fact that these rights are, first and foremost, political insofar that they fulfil a function, that is, to define standards of conduct applicable to political arrangements. Having established the political reality of human rights in this way, it is now time to take an in-depth look at sovereignty in order to examine how it relates to the former.

(ii) The co-dependency of human rights and sovereignty

Recall the fact that the political reality of human rights is one of a social construct that is fulfilling a specific function which is defining standards of conduct applicable to political arrangements. Continuing to adopt a constructivist perspective, one can think of sovereignty in the same way.

Although sovereignty and especially anarchy were once taken as enduring facts of the international realm, a number of authors has now shown that they are better understood as 'social facts' (Searle 1995) or 'social kinds' (Bhaskar 1979; Wendt 1999), that is, social constructs that are produced and reproduced through the practices of states (Lake 2003: 308). Accordingly, sovereignty has to be understood as nothing exogenous to the system but as a principle of historical contingences meaning that "the division of sovereignty by territory (internal or external) and by identity (similar or different) is neither natural nor necessary but the result of several historical developments" (Kuo 2014: 79).[10] In this regard, then, sovereignty is to be seen as also fulfilling a *function*. This has been illustrated most powerfully by Reus-Smit (1997; 1999; 2001) who links sovereignty to the 'moral purpose of the state' which is to be regarded as the embodiment of the constitutive values defining legitimate statehood and rightful action. Reus-Smit explains that "the idea of sovereignty did not emerge in a moral vacuum but had to be justified, and that justification has always taken the form of an appeal to higher-order values that define the identity or raison d'être of the state" (Reus-Smit 2001: 527). What is meant by this is that sovereignty has always been tied to a conviction on what the

state's purpose (i.e. its function) is as well as to its ability of fulfilling this purpose (Reus-Smit 1997: 566-571). Accordingly, sovereignty is to be understood as being contingent on fulfilling its function – that is guarding the 'moral purpose of the state'. Obviously, what is associated with this purpose and thus what is considered as the threshold to be reached for an actor to be granted legitimate statehood has changed over time.[11] However, as evidenced by the UDHR consensus, the moral purpose of the state has come to be most commonly linked to the cultivation of an environment in which individuals can freely pursue their interests protected by a particular set of state-sanctioned 'rights' (Reus-Smit 1997: 571). These rights, then, are at minimum the basic civil and political rights agreed upon in the UDHR and thus a subset of the account of *human rights* on which there is an overlapping consensus in international society. It follows that, under the consensus of the UDHR (which resembles the contemporary agreement on the set of rights that constitute the moral purpose of the state), sovereignty and human rights are *co-dependent* as the latter enables and legitimizes the former while the former enables recognition and protection of the latter.

Identifying and being aware of this relationship, then, provides the necessary justification for why sovereignty as *control* should be replaced by sovereignty as *responsibility*. This is the case, because framing sovereignty in this way acknowledges political reality which means that it is sensitive towards the fact that there is a consensus on the moral purpose of the state (i.e. the gateway for sovereignty) being the guardian of human rights. The sovereignty that is granted to a state by international society under the current consensus, thus, can be regarded as being dependent on this state fulfilling its responsibility towards its citizens. Failure, in this regard, will certainly result in this state being publicly condemned and its sovereignty being partially or fully revoked due to it losing its legitimacy. Examples for this include, first and foremost, the passage of resolutions in the UN (i) to publicly denounce the failure of a state to uphold its moral purpose (e.g. UNGA Resolution A/RES/74/246 condemning human rights abuses against Myanmar's Rohingya Muslims), (ii) to impose sanctions on such state (e.g. UNSC Resolution 181 imposing an arms embargo on South Africa in response to its Apartheid policies) or (iii) to authorize military intervention (e.g. UNSC Resolution 1973 authorizing the intervention in Libya).

Intervention

After having provided a rationale for why *sovereignty* should be framed as *responsibility* in the previous section, what remains to be done is to prove that the co-dependency of human rights and sovereignty indeed yields a positive duty for states to intervene in the affairs of other states in order to defend human rights.

Human rights (such as the right to life and freedom from violence and injury) are what is called *Hohfeldian claim rights*, that is, duties that are *owed* to other individuals (Hohfeld 1917). In this sense, as Valentini points out, they follow a particular logical structure: "For an agent *A* to have a right to *X* against another agent *B* is for *A* to have the standing, or authority, to demand *X* from *B"* (Feinberg 1970; Valentini 2016: 53). It follows, that the notion of a right is to be understood as combining a duty (a moral 'ought') with a structure of interpersonal accountability for the duty's fulfilment (Valentini 2016: 53). The political reality of this structure was revealed by the constructivist perspective which has shown that sovereignty is granted by the state discharging its *duty* to provide protection of human rights which has become regarded as fulfilling its moral purpose. Here, the structure of interpersonal accountability for the duty's performance is given by the relationship between sovereignty and human rights where the latter enables and legitimizes the former while the former enables recognition and protection of the latter. Thus, individuals have a standing, or authority, to demand *X* from *B* where *B* is the state. However, what remains unclear is how this would create a positive duty on the side of other states to intervene when *B* fails to discharge its duty.

In order to shed some light on this recall the fact that the overlapping consensus on the moral purpose of the state (that is illustrated by the UDHR and the acceptance of the R2P doctrine's idea to replace sovereignty as control with sovereignty as responsibility) is used as a means to determine which states can justify their sovereignty and thus their legitimacy to international society by fulfilling their function of protecting individuals' rights. Beyond that, as was shown in the previous section, what this consensus constitutes is that these rights are regarded to be universally agreed upon (even though the underlying comprehensive doctrines differ) what in turn establishes them as what is called a *norm* on the constructivist perspective (i.e. a shared understanding as to the permissible limits of state action, and an acceptance that conduct should be justified and appraised in terms of that norm) (Wheeler 2002: 30).

The norm of *human rights protection* understood as the 'moral purpose of the state' is thus to be seen as one of the ordering principles of international society (a shared understanding which binds together it members) meaning that it is universal in scope with respect to the actors of international society. Then, if these rights are universal in scope and universally accepted as an international norm, they constitute a claim that is held against every agent and/or agency that is part of international society. It follows that in so far as these human rights are universal, they will have primary and secondary addressees in the sense that they yield a *special positive perfect duty**[12]*** in the domestic environment of the state and a *general imperfect duty**[13]*** in international society. What is meant by this is that their 'claim against' is directed at a particular agent (the state) in the domestic environment whereas such claim does not have a particular addressee in international society that could be held accountable.

To illustrate this further, consider the addressees of the right to freedom from torture. Based on the moral purpose of the state, each government has the duty to safeguard people within its borders from torture and to take the necessary steps to prevent, deter, and stop torturing (Nickel 1993: 80-81). The states sovereignty being contingent on its ability to discharge such duty then highlights why it cannot refrain from doing so and why human rights protection constitutes a special positive perfect duty in the domestic nexus for which the state can be held accountable by its citizens. However, such an explicit structure of interpersonal accountability for the duty's performance cannot be found in international society as citizens of some state *A* do not have a claim against any particular agent *i* of international society *S* in so far that they have not opted into a constitutional structure with *i*.

However, the fact that human rights protection thus constitutes a general and imperfect duty with respect to international society does not revoke its validity. Being a shared understanding which binds together international society, the norm still acknowledges that human rights are to be protected. This means that it does not deny that someone ought to act but expounds that there simply is no identifiable agent who can be called upon to act (Tan 2006: 102). What is important is that the issue of agency here is thus not conceptual but strategic. Hence, even if it is not directed at any agent in particular, the duty of human rights protection still demands full coverage. As Shue explains, "universal rights, then, entail not universal duties but full coverage" (Shue 1988: 690). This means that, even though human rights (being understood as universal under the UDHR consensus) do not compel everyone in the same way to act to aid their protection as they compel everyone not to violate them, it is still the case that they compel action in general. This means that all international actors do have an obligation to cooperate and coordinate so that the duty of human rights protection canbe effectively discharged. In this sense, that is contributing towards the protection of human rights, intervention in the affairs of other states is a *positive duty* that falls on every state of international society respectively. Full coverage, then, is to be provided by a division of labour amongst duty-bearers (Shue 1988: 690). Here, there are a number of actions that outside actors can undertake to comply with this default duty. They might publicly condemn the human rights violations, apply diplomatic pressure, or impose sanctions (both military and economic).

However, in situations in which the last resort condition for military intervention is met by the seriousness and urgency of the human rights violations that are taking place (e.g. one of the four crimes outlined in R2P adopted by the UN), it seems reasonable to suggest that states would be morally obliged to effectively discharging their duty to protect by contributing to such intervention (e.g. by providing needed equipment, infrastructure or troops) (Glanville 2014: 52). Nevertheless, it needs to be mentioned that active participation in a military intervention is only a moral obligation so long as it does not bear excessive cost to oneself. What is meant by this is that it cannot be expected that states engage in intervention if such intervention would severely endanger their capacity to protect the rights of their own citizens. However, this does not undermine the positive duty of intervention as such but rather obliges international society to distribute the costs more evenly so that the universal protection of human rights may still be discharged (Glanville 2014: 56-57).

Finally, as mentioned in the introduction, there are also practical reasons for why states can have an interest in discharging their positive duty of protecting human rights beyond their own borders. This again is linked to the political reality acknowledged by adopting a constructivist perspective. As Raymond Cohen has explained, "[j]ust as the relationship of the individual to society is defined by a network of norms and values, the relationship of the state to other actors in the international system can be thought of as being governed by a network of permissions and constraints" (Cohen 1980: 129). State identity, thus, is shaped by the mutual constitution of agential and structural

interaction in international society by which the shared understandings as to the permissible limits of state action (i.e. the norms) are created. In this regard, then, international society is characterised by compliance and not by enforcement, which means that infringing upon the 'rules' seldomly leads to direct punishment but that sustained deviation from the standards, on which there is consensus in international society, may severely damage the reputation of a given political actor (Malcom 2009: 36-37). Hence, factors such as fearing infamy or desiring acceptance can be as potent as prevalence of economic or military influence in terms of their ability to incentivise compliant behaviour. It follows that discharging the positive duty of human rights protection abroad might just be a matter of a state's interest in enhancing its status in international society[14] or making sure that it is not eroded because other actors deem inaction in the face of human rights violations as unacceptable.

Yet, there is a second practical reason that should be mentioned. This reason is related to the fact that not acting in the face of gross human rights violations erodes the authority of the UN as the primary facilitator of international legitimacy. The UN having institutionalized the overlapping consensus on human rights (the UDHR), the fact that human rights and sovereignty are co-dependent (R2P), and the threshold for legitimate intervention (R2P) is to be regarded as bearing the duty to oversee international society's most extensive moral commitments. Then, if it would fail to secure that these commitments are upheld there is a risk that states would start to attempt addressing this moral deficit by looking elsewhere or acting unilaterally (Gallagher 2013: 89-90). The threat that arises from this is not that unilateral action may not be able to prevent the human rights violations that are taking place, but that the UN's authority may become damaged to the extent at which international instability will emerge as a result of the fact that the understanding of what constitutes rightful conduct and rightful authority with regard to the use of force (previously defined and monitored by the UN) has become open to interpretation. This would naturally lead to a heightened sense of insecurity in international society. It follows, that a state's move on discharging its positive duty of human rights protection abroad can also be linked to this state wanting to guarantee that international order continues to be upheld and thus to its own security concerns.

Conclusion

According to the above, we can assert that the essay has successfully shown (i) why it makes sense to replace the notion of sovereignty as *control* with sovereignty as *responsibility* and (ii) why intervention becomes a *duty* that falls on international society once we acknowledge the political reality of (i). This was done by adopting a constructivist conception of human rights which ultimately has yielded a picture of human rights and sovereignty being co-dependent. In doing so, the essay was able to close a gap in the reasoning of the 'Responsibility to Protect doctrine' and further demonstrate why states should intervene in the affairs of other states in order to defend human rights. It was further illustrated why discharging the duty to protect can also happen for practical instead of moral reasons whereby two examples for such practical reasons were presented: (i) status enhancement, and (ii) prevention of international insecurity.

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[1] The International Commission on Intervention and State Sovereignty was a commission established by the Canadian government to answer Kofi Annan's question on how the international community should respond to gross and systematic violations of human rights if humanitarian intervention is, indeed, an unacceptable assault on sovereignty (Bellamy 2010).

[2] However, there were some notable differences between the ICISS report and the way R2P was adopted by the UN. Here the most notable differences are (i) that R2P adopted by the UN only applies to mass atrocity crimes (genocide, war crimes, crimes against humanity and ethnic cleansing), rather than human rights violations in general, (ii) that there was no mention of the criteria of intervention, and (iii) that the UN Security Council was implemented as the only body with the authority to legitimize intervention (A/RES/60/1 2005 World Summit Outcome: paragraphs 138 and 139).

[3] A positive duty is a duty that obliges its bearer to actively perform actions or pursue goals (such as the police's duty to protect citizens). Accordingly, such duties differ from negative duties which only prohibit actions (such as the duty to refrain from torture) (Breaky 2014: 1198).

[4] For realists, the survival of the state is closely tied to the idea of sovereignty meaning that any limits on sovereignty imposed on the state by outside actors (e.g. in the form of human rights obligations) are seen by realist as potentially threatening the state's security as they offer an entry point that could be used by opponents to intervene in the state's affairs.

[5] The point also has been raised forcefully by Carl Schmitt: "When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with humanity in the same way as one can misuse peace, justice, progress, and civilization in order to claim these as one's own and to deny the same to the enemy. The concept of humanity is an especially useful ideological instrument of imperialist expansion, and in its ethical humanitarian form it is a specific vehicle of economic imperialism. Here one is reminded of a somewhat modified expression of Proudhon's: whoever invokes humanity wants to cheat". (Schmitt 1932: 54).

[6] Examples for this include, among others, the European Convention on Human Rights, the American Convention on Human Rights, and the African Charter – the (Banjul) Charter on Human and Peoples' Rights as they all have yielded the establishment of judicial or quasi-judicial bodies which deal with violations of the human rights they specify committed by states.

[7] Following from this, while realists tend to look to Hobbes and Machiavelli in order to justify the promotion of national self-interest, liberals draw heavily on the works of Locke and Kant. In this respect, especially Kant's 'Perpetual Peace' (1795) has been a lodestar for the theory as it develops an idea of international liberalism emphasizing that all individuals have equal moral worth which is why an abuse of rights in one part of the world is 'felt everywhere' (Dunne and Hanson 2016: 63).

[8] Something similar can be observed today at Europe's borders as we watch refugees get rejected and deported back to Turkey under an EU-sponsored migration deal (Humphreys 2016).

[9] For a detailed discussion of the role of norms in international politics, see also Finnemore and Sikkink (1998), Tannenwald (2007) and Johnston (2008).

[10] The same point has been raised by Ruggie (1993) and Philpott (2001).

[11] For example, in ancient Greece the moral purpose of the state was seen in "the cultivation of bios politikos", which is a distinctive form of communal life; Renaissance Italians linked it to the "terms of the pursuit of civic glory"; in Europe during the age of absolutism it was tied it to "the preservation of a divinely ordained, rigidly hierarchical social order"; and since the Enlightenment, the moral purpose of the state has been understood as "the protection of individuals' rights" (Reus-Smit 2001: 527-528).

[12] Special duties are owed to a specific set of persons, whereas general duties are owed to all persons simply *qua* persons. In this regard, special duties are usually understood as duties we have to those peoples we stand in some sort of special relationship to (e.g. friends, family members, colleagues, fellow citizens) and those to whom we have made promises or commitments of some sort (Jeske 2019).

[13] In the case of perfect duties there is "no latitude for discretion in when, how, where and toward whom the duty should be performed" (Breakey 2015: 1200). Imperfect duties, however, usually do not specify when, how, where and toward whom the duty should be performed.

[14] See Paul et al. (2014) for a detailed discussion of status concerns as an element of international politics.