

Sri Lanka Needs Peace, Not R2P

Written by Mary Ellen O'Connell

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MARY ELLEN O'CONNELL, APR 28 2009

Proponents of “responsibility to protect” or “R2P” have been linking their concept in recent weeks to the waning civil war in Sri Lanka. Are they right to do so? Talk of R2P may well distract from what should be a clear and unified demand to both sides: Cease fire.

The UN, its Under-secretary for Humanitarian Affairs John Holmes, the US, the EU, and others have all been pressing for a ceasefire. The foreign ministers of Sweden, the UK, and France are involved, but the French Foreign Minister, Bernard Kouchner, is the outspoken proponent of militant R2P. He may be the wrong man for this job.

During the natural disaster in Burma in mid-2008, Kouchner called for military intervention to force humanitarian assistance into the country. He was willing to order troops to kill in order to get food and other emergency aid to storm victims. Burma's military dictators reacted predictably-in opposition to a threat to their power. Fortunately, cooler heads prevailed and the junta was persuaded to allow aid to flow-presumably following firm assurances that there would be no military intervention. With the cooperation of the Burmese government, the humanitarian response is considered a major success.

Those hoping to help bring peace in Sri Lanka should heed the examples of Burma, Kenya, Burundi, Mozambique, and other successes. Ending a war and preventing its reoccurrence is the work of peacemakers. R2P is associated not with peace but with war and should be quietly allowed to fade away.

R2P was created when Canada brought together a group of eminent persons to consider humanitarian intervention like NATO's unlawful use of force during the Kosovo Crisis. The International Commission on Intervention and State Sovereignty (ICISS) issued its long report in 2001. It contains only one part not already found in international law and practice: the report asserts that states may use force in situations other than those permitted by the UN Charter (self-defense and with Security Council authorization), by either going to the United Nations General Assembly for authorization or by acting through a regional organization, then seeking Security Council authorization after the fact. (P. XIII) For many, this is all that R2P means: Military intervention in violation of the UN Charter. The 2005 World Summit Outcome makes clear that the international community remains committed to the Charter's rules against the use of force (paras. 78 & 79) and the ICISS report's main innovation remains unlawful.

Several ICISS members have tried to take R2P's emphasis off unlawful war. Following the United States-led invasion of Iraq in 2003, there was a major effort by Gareth Evans, Ramesh Thakur and others to de-link R2P from the Iraq War. But that has been difficult to do, given R2P's origins and Prime Minister Tony Blair's linkage of Kosovo and Iraq-both wars for human rights in his view.

It is also difficult to de-link R2P from unlawful war because we have no examples beyond Kosovo and Iraq of what else it is, or might be. Former Secretary General Kofi Annan says that what he did in Kenya in early 2008 was an application of R2P and there has been no foreign military intervention there. But what Annan did was classic mediation. There is nothing unique in his efforts that can be credited to R2P.

Classic mediation is exactly what is needed now in Sri Lanka. Reaching an effective cease-fire and then sending in UN peacekeepers, following classic peacekeeping doctrine, has a history of success. Reaching a true and effective

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ceasefire will not be easy. Both sides in the Sri Lankan civil war have committed egregious violations of human rights law and international humanitarian law. Innocent civilians, especially children, as well as civilian property and the natural environment have suffered terribly. There are serious grievances on both sides. Now is the time for the international community to support the peace negotiators in their difficult work. All should invoke the clear rules and norms of the international community-international legal norms that support the peaceful resolution of disputes and respect for human rights. Using R2P newspeak now risks confusing the parties as to what they are legally required to do.

Introducing new ideas at a time like this in Sri Lanka won't help, but confusion is not the only problem with invoking R2P. Sri Lanka's long and tragic conflict surely teaches that the time is ripe to outlaw civil war. The UN Charter prohibits inter-state armed conflict. It does not equally prohibit internal armed conflict. Most states have national laws against treason and insurrection, but as these are the laws of the enemy, they are easily dismissed by rebels bent on seizing power. If the international community expressed its abhorrence of such violence and built a robust new principle against violent internal change, we might begin to see a decline in the civil wars that plague our world as we have seen with major inter-state war.

R2P stands for the opposite of outlawing war-it is the assertion that some states or groups of states can defy the world's law to use force when they want. R2P is of great concern in the Global South where such intervention continues to take place and the use of imperial force is hardly forgotten. Mentioning R2P in connection with Sri Lanka may well raise the same mistrust and opposition as in Burma. Better to concentrate on creating a peace process. And better for us all to concentrate on expanding the law of peace.

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