

The UN and Never Again: the Responsibility to Protect.

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March 13, 2004

at

Carleton University, Ottawa, Canada

Conference on the Media and the Rwanda Genocide

(Check against Delivery)

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I represented Canada at the United Nations from 2,000 to 2,003 and served on the Security Council in the year 2,000. My time at the UN, then, did not coincide with the Rwandan genocide but it did coincide with efforts that the Government of Canada made to have the genocide properly recognized by the Council and to have steps taken by the Council to prevent a similar human tragedy from happening again. My comments in that context will be about the way forward, in terms of multilateral cooperation.

Under UN auspices, virtually as we speak, a high level panel is at work trying to reform the way the UN does business. The panel of senior statesmen and women, from every region, was appointed by Secretary General Kofi Annan in the fall of 2003 to consult widely and to make proposals to the membership both on what the UN should do to respond to the changing threats which the world is facing and how the UN should do it. Getting the “what-to-do-part” right is more important than the “how” or, more accurately, the “who”. The panel is grappling with nothing less than a cultural change in the interaction of nations and the establishment of new norms of behaviour. The substance of reform, to quote a current popular movie, has been somewhat “lost in translation”, however, as the media focus on which countries might get permanent seats on the Security Council and possibly, also, get vetoes. This tends to be more newsworthy, because it entails diplomatic struggles and winners and losers. It is, also, understandable because the make-up of the Council certainly makes a difference in the way the Council conducts itself. That was obvious in the Iraq war, for example, when elections in the Fall of 2002 brought some much more independent-minded states to the Council for the 2003-4 term than the ones they replaced. And, more pertinent to this conversation, the South African UN Ambassador has argued that if South Africa had been on the Security Council during the Rwandan genocide, a powerful African voice would have urged action and the response of the Security Council might have differed. I leave it to you to judge whether that would have been the case or not, bearing in mind the tragic irony that the then government of Rwanda, itself, had a seat on the Council at the time.

In any case, the UN is now trying to address itself to several crucial questions, all having to do with sovereignty and intervention in the internal affairs of states. Today, I will focus on the most urgent of the questions, that is, the issue of military intervention in response to massive humanitarian necessity. A highly pertinent document which is, so to speak, on the UN high level panel's table, is called, "The Responsibility to Protect". (For the convenience of participants in this conference, several copies of the report are available here today, outside this room). Many of you will already know about it and some of you will have read it. It was commissioned by the Government of Canada during the tenure of Lloyd Axworthy as foreign minister. Appalled by the world's apparent inability to respond to the brutalization of innocent civilians by governments and warring factions, Mr. Axworthy conceived of the idea of appointing a Commission on Intervention and State Sovereignty, comprised of experienced people from governments, the military, the media, academe, from around the world, to make recommendations on how to do better. He was in effect, responding to Kofi Annan's challenge, that "if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to a Rwanda, or to a Srebrenica, to gross and systematic violations of human rights that effect every precept of our common humanity?" The commission, thus, met in the wake of the shame and the failures of Rwanda, and Bosnia, and the Congo and initially at least of East Timor. The inability of the UN Security Council to act on the tragedy of Kosovo was, also, part of the context.

You will probably all be familiar with the Brundtland Commission report on sustainable development, which was produced in the late 80's. That commission was asked to reconcile two ideas that at the time seemed quite contradictory, environmental protection and economic growth. They succeeded by coining the term, "sustainable development". We were hoping for a similar outcome on sovereignty and intervention, that the commission would change the vocabulary, and in changing the vocabulary, it would change the way people think, and if they had consciences, act. . A contradiction has emerged in the UN Charter itself, which was written almost 60 years ago, that is, in other times for other circumstances. The UN Charter has as its most basic goal the protection of succeeding generations from the scourge of war. At the same time, Article 2 of the Charter embodies the principle of non-intervention in the internal affairs of states members, national sovereignty. The framers of the UN Charter, with World War II fresh in minds, thought that the best way of protecting people from war was to create a system of collective security which prevented countries from involving themselves in the internal affairs of their neighbours. Over time those two basic precepts of the UN Charter have come into conflict with each other. Increasingly, even while the number of interstate conflicts has diminished, the conflicts within states has, at least proportionally, increased. Now, it is the conflicts within states, as was the case in Rwanda, that have become the crucial issue. But international consensus has been slow to acknowledge this reality, which is why the issue of intervention is now on the table of the UN reform panel.

There are other issues that are equally or almost equally pressing with which the UN is going to have to come to grips. One is intervention to prevent the proliferation of weapons of mass destruction and another is intervention to stop terrorism. The lesson the Americans in particular drew from 9/11 is the danger of the nexus of the two, of weapons of mass destruction passing into the hands of terrorists. If a state is thought to be developing weapons of mass destruction and is, also, presumed to support terrorist acts abroad, is the international community not justified in interfering pre-emptively in the internal affairs of that state? There is a third category for potential intervention, which has to do with the overthrow of legitimately and duly elected governments. At what point is the international community justified in stepping in and restoring democratically elected governments that have been overthrown against the will of the citizens? We have just had a fairly confusing case in Haiti, on which I would urge circumspection, on the grounds of common law experience that hard cases make bad law. A further possibly legitimate grounds for outside intervention in a nation's internal affairs arises when a state cannot or will not act against organized international crime operating from within its borders, which is imperilling other states. All of these issues, along with military and other intervention for humanitarian purposes, is under examination by the UN panel.

With respect to the “Responsibility to Protect”, this document is regarded by many thinkers in the international field, among them, for example, Anne-Marie Slaughter, the Dean of the Woodrow Wilson School at Princeton, as containing some of the best foreign policy thinking in the last 50 years. I commend it to you. The Canadian objective when we established this commission was to make the responsibility to protect a norm of international behaviour. We, also, wanted to modify, albeit very carefully, the near proscription in international law against intervention. It was crucial to get the concept right. A lot had been said, and heard, about the right to intervene, including from former colonial powers such as the French. We believed that that was exactly the wrong way to approach this issue. The colonial experience of so many UN members made them understandably reluctant to create new pretexts for interference. The responsibility to protect, however, put the emphasis on the right side of the equation, not on the intervener's rights but on the protection of people.

Given everything that has gone on, starting with the Rwanda genocide and continuing through a series of disasters, the ideas in the Responsibility to Protect should have been welcome. In fact, the reverse has been more true. The Government of Canada and like-minded countries have so far got almost nowhere with this issue at the United Nations, (not that they have given up). The Latin Americans when they think about intervention are thinking about the Munro doctrine, and about relations they've had in the past with the United States. In Asia there is a near complete lack of cohesion. There is no regional organization that really speaks for the Asians on these questions. They are very attached, and I have put it to them in these terms, to the 17th century European idea of sovereignty. For people who so stress Asian values, it's surprising how attached they are to the Treaty of Westphalia of 1645. The Europeans, on the other hand, are basically in a post-intervention mode. They have learned the hard way from their terrible history.

Pertinent to today's discussion is the resistance we encountered from African countries to the ideas inherent in the Responsibility to Protect. I was surprised by their reticence, and maybe I should not have been. When we promoted the Responsibility to Protect at the UN, we met two kinds of resistance. Some were sceptical, because they thought there would be too little intervention, and others were sceptical, because they thought there would be too much intervention.

Perhaps we should have realized that the Africans would be reticent about an idea coming from another side of the planet on how to make things better in Africa. Given the colonial history, including the Berlin Conference of 1885 that carved up much of eastern and central Africa for the benefit of Europeans, and given the ravishes of the slave trade (in which some Africans also participated) perhaps we should not have been surprised that, from an African point of view, that when people showed up from the other side of the earth with an idea that we said was good for them, their reaction would be circumspect. I can understand that. But I cannot condone it because unless matters change, it is not obvious how innocent people are going to be protected in internal conflicts. If Africans cannot surmount their history, it's going to be very difficult to move forward. Some of those resisting African governments no doubt were self-interested, concerned as others are merely with their own preservation in power, wishing not to set up a situation in which they might be the subjects of intervention even if their treatment of their own people might warrant it. But even for more responsible Africans, the idea of intervention, by non-Africans is a difficult sell. But they cannot at one and the same time decry the reaction of the world to Rwanda and oppose measures to make timely outside intervention more possible pragmatically and less problematic legally.

For this audience, it is advisable for me to make clear just how difficult “selling the Responsibility to Protect” was and remains at the UN. With the collaboration of the Secretary General, the report was discussed at one Security Council retreat. At that retreat, one “Permanent Five” Ambassador confessed that if the conditions arose elsewhere akin to those that presaged the Rwandan genocide, his government might be no more able to act than it was in Rwanda.. As for the General Assembly, we were even less successful. We could not get agreement among members even to permit official discussion of the report. We could not even get agreement to permit discussion of the report in the UN just by interested countries at their own expense. We were blocked by countries such as Cuba, Pakistan, Sudan and Libya and other rejectionists who oppose any attempt at new thinking at the UN. The hope for this report now primarily lies in the secretary general's reform efforts, and the work of the reform panel. The chairman of the panel that authored the Responsibility to Protect report is a member of the UN reform commission.

I want to talk a second about the Security Council, which for all the criticisms of it, many deserved, remains the pre-eminent body for the maintenance of international peace and security. I think the Security Council can make progress if the wider membership truly wants progress. For example, it has made progress under pressure from countries like Canada and others to be more transparent, to be more open, and to be more active in protecting people. In one case germane to today's discussion, that is, the International Criminal Court and the immunity or not of UN peacekeepers from prosecution for, inter alia, war crimes, we virtually forced the Security Council to debate the issue in public. They, or at least the British presidency of that particular month, wanted to go behind closed doors to consider the American demand to give Americans and others involved in UN authorized military operations perpetual immunity from the court. They wanted to have a public debate only after they had voted on the issue. It took vigorous argument inside the Council by sympathetic members, including Mexico, and two letters from the Canadian delegation to the President of the Security Council, circulated to every UN member, reminding the Council of the importance of transparency and accountability in general and on this issue in particular.

I want to make two more points; one is on the pertinence of the Iraq war to the Responsibility to Protect report and the other is on the significance of “the CNN effect”. I invite you to look at the synopsis of this report. (You do not even have to read the rest of it but I think you will want to read the rest of it once you have seen the synopsis). The synopsis lays out the basic thesis for intervention. It proceeds from the argument that sovereignty entails responsibility. The most basic responsibility of the state is to protect its people. If a state cannot or will not acquit that responsibility then it devolves upon the international community to do so. It sets out a number of principles, particularly the threshold of international action, as follows: “large scale loss of life, actual or apprehended with genocidal intent or not”, and it establishes a number of precautionary principles.

I fear that the Iraq War has had a very negative effect on the debate about military intervention for humanitarian purposes. That is particularly regrettable because the Iraq war would not have met the tests of the Responsibility to Protect report. The 2003 US State of the Union did not set human security as an objective of the Iraq War. That speech dwelt on the alleged existence of weapons of mass destruction and on the alleged connections between Iraq and terrorists and on the urgency to act. The Iraq War did not have met many of the tests of the report. First, there was no evidence of, and no argument even made to the effect that, the Iraqi government was preparing a widespread slaughter. The first test of the report was, therefore, not met. (A decade earlier there had been two cases in Iraq where that test would have been met.). Nor would the invasion have met the test of the “right intention”. The stated intention this time was to prevent the alleged development and proliferation into terrorists hands of weapons of mass destruction. The further precautionary principle, the principle of last resort, was, also, not

met.. The UN was still engaged, weapons inspections were underway and sanctions were still effective. I think the war would have met the tests of proportionality, and possibly even of doing more good than harm. And, finally, and this goes to Alison Des Forges' point, and that is, who decides? Who has the authority to decide? On this point, I invite the audience to read an opinion written by Mr. Hans Blix, the UN arms inspector, who had also served as Swedish Foreign Minister and Swedish legal advisor. In his view, the Security Council collectively, not individual members, "owns" the decision to go to war in all cases, including with respect to intervening in Iraq.

This raises the issue of what to do when the Security Council cannot or will not authorize intervention to stop conscience-shocking atrocities. In the case of Kosovo, with the examples of Rwanda and Bosnia in mind, member countries effectively by-passed the Council or at least the threatened Russian veto of a decision to intervene. By the way, I would make the point that because intervention everywhere is not possible it does not follow that intervention where it is possible is also precluded. We have been through Kosovo and the Security Council would not decide. Do we make a doctrine of going around the Security Council, or do we just accept that pragmatically that there will sometimes be a necessity to act, Council authorization or not?

Please allow me one final comment, from a non-journalist, about the significance of journalism to outside intervention in humanitarian conflicts. I believe I heard someone argue that there is no such thing as “a CNN effect” or that its significance is exaggerated. I think that that is factually wrong. I have not done the empirical research but I have three examples to support the argument that the CNN effect is real and important. First, on Bosnia, during the siege of Sarajevo, I watched a global televised “town hall meeting” in which President Clinton was on a stage, taking questions from correspondents around the world on various aspects of American foreign policy. Onto the screen came the CNN’s Christiane Amanpour, who said, approximately, “Mr. President, [she was on from Sarajevo] people here are being slaughtered.. You are the most powerful man in the world. Why aren't you doing something about it?” President Clinton literally recoiled from the question. It was a powerful question, and it wasn't very much longer before the United States became more directly involved.. Coincidence or consequence?

The second example is with respect to the eastern Zaire crisis of '96, which was a kind of continuation of the Rwanda War. When we here in Ottawa saw on Canadian television that perhaps a million refugees were going to perish if nothing was done, it was a powerful stimulant of conscience, particularly with the failures of Rwanda in mind, and a strong galvaniser of action. Whatever the supposed rationality of public servants and politicians, they do react to such images. It was not long before Canada was leading a UN effort to rescue those refugees. The last case is Kosovo. The European public reacted strongly to the sight of trains transporting detainees across Europe again. The TV images evoked such powerful memories of what happened in the Second World War that it had a strong effect on the positions of the governments concerned. So, I have no doubt that journalists really do have a crucial role to play in responding to atrocities.

General Dallaire

As the subject is preventing genocide, some of the examples before we enter the next phase of this panel. 2 weeks before the Americans launched into Iraq, the president of United States stated on the State of the Union, which is more and more becoming State of the World, he said that the United States is not going to do like the UN and what it did in Rwanda, it's going to intervene. When we know ladies and gentlemen that, in fact, the United States was one of the leading countries that prevented the intervention in Rwanda, you have got to wonder about history, and the idea and the aims of that nation in prevention. Sir, mon ch er, a vous auez.