

Overcoming War and Empire by Incentivizing Justice and Democracy

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The international interventions of the past decade in Kosovo, East Timor, Afghanistan and Iraq have posed peace and law and human rights in strange forms of tension against each other. In fact international humanitarian law and peace are congruent, but the only forms of international intervention that would be legitimate have not as yet been tried. This relates to the lack of creative evolutionary approaches to social science and policy. The essay shows the limited legitimacy of recent interventions, explains why such non-humanitarian actions are no longer appropriate and how international law and civic action can be used to build peace and to transform the power that tends to encourage empire and imperialism into power for democracy.

A Critique of Collective Security as Envisioned in the United Nations System

Collective security as envisioned when the UN Charter was written was intended to allow strong states to protect weak states whenever there would be aggression by one against the other. But there have been relatively few acts of invasion across neighboring borders; the Iraqi invasion of Kuwait that was reversed by the Persian Gulf War was an exception. Most wars occur within states as civil wars between factions or insurgents against incumbents. This fact is based on economic power relationships that deserve more attention from economists and more action to create incentives for peace to replace the historic incentives for war. Almost any international intervention whether fully endorsed or just barely tolerated by the UN Security Council leads to power gains and losses within the country in conflict and internationally and results in some measure of outside control and imperialism even when the motive is humanitarian. It is sometimes said that collective security is what the P5 permanent members of the Security Council do to poor nations. And now we have seen the invasion of Afghanistan and Iraq led by the world's only superpower. The fact that the first of these wars is deemed legal (the United States was attacked by people based in Afghanistan) and the second is much less widely viewed as legal obscures the main issues. Both wars can be seen as callous acts of empire by the people attacked, and consequently there is no effective demonstration of the value of avoiding the types of behavior that led to these wars. Instead of reducing terrorism, more people have seen reasons to become terrorists to resist what they perceive as the hand of empire.

Collective security involves collective punishment; whole nations suffer for the actions of their leaders. Often, as in the Gulf War of 1990/1991, the leaders do not suffer at all; in which case there is no disincentive to start other wars, whether wars against weaker segments within a state, or wars to liberate or protect the weak. The use of military force, even when endorsed by Security Council mandate, requires the violent imposition of order as defined by and administered by global powers whether they are sensitive to the local and regional culture or not.

The Need to Replace Military Globalism with the Democratic Rule of Law

Such military globalism feels like imperialism to the people whose lives and homes and cultures are attacked and it looks like imperialism to millions of people worldwide who value human rights and cultural autonomy. The historical evidence indicates that norms of humanitarian law and democracy can be built up within a region, and even create a magnet for imitation as has happened in the European Union. However there is no evidence that such norms can be imposed from the outside unless there are strong indigenous roots that an outside force can then endorse. Whoever would impose democracy probably does not understand it. Democracy requires voluntary participation and a history of common

learning and interactive mutual respect. This is unlikely to be forthcoming when soldiers of major military powers impose order according to norms that are at best globally recognized primarily by international elites and are at worst the norms of industrialized states acting against less industrialized, less "modern" or less Westernized nations and peoples.

The Responsibility to Protect the People

Nevertheless, when militias supporting states such as Serbia or Indonesia attack the people of Kosovo or East Timor, I would assert that the international community has a responsibility to protect the people attacked and that the UN Security Council has a duty to act. Such action is needed to demonstrate the disutility of war crimes and genocide. To sustain this principle it would be important to respond whenever the government of any state abrogates its sovereign responsibility to protect the people within its borders either because it is unable or unwilling to do so. However it matters greatly HOW the international community responds. The widespread outcry against the human rights abuses in Darfur shows that the norms are widely respected by citizens throughout the world, but the lack of effective action to stop the genocide shows that there is currently no effective way to protect the international norms that are identified by the statute of the International Criminal Court. The purpose of this essay is to indicate how protection could be provided without war—without action that contradicts the essential objectives of the action taken.

This is a multi-stage process. In any given time period it is important to respond to gross violations of human rights in whatever ways best serve the needs of the people persecuted, and to do so in a way that creates the least possible violence and the least possible motivation for additional future violence. Concomitantly, pre-violence time periods should be identified to introduce programs that mitigate the causes and the incentives for abuse and that demonstrate its counterproductive effects, to show that crime does not pay, even for heads of state who have often experienced immunity from censure. Preventive action can avert both human rights violence and any military response. A systematic program to remove the incentives for violent conflict can bring practice into line with stated norms. Current practice recognizes standards that are important, but often not honored in practice.

The "best-practices" criteria for international humanitarian action can be specified as follows:

- There must be a just cause relating to a supreme humanitarian need,
- Force should be used very carefully for specific testable objectives, but it should be available early to be used proactively to stop violence as soon as it appears,
- The action taken should be consistent with the ends sought and meet the test of proportionality.
- The decision to intervene and the type of force used should have a high probability of achieving a positive humanitarian outcome both for the case at hand and in its impact on future norms.

The Case Histories of Kosovo and East Timor

In Kosovo, and also in East Timor there was a clear humanitarian need for international action. In both instances earlier humanitarian intervention could have prevented extensive crimes against people and property. The impending violence that attracted international attention in Kosovo in 1998 had been anticipated for several years as the Belgrade government removed ethnic Albanian Kosovars from public employment, and much of the displaced leadership established a peaceful informal parallel civil administration, while others became new recruits into the Kosovo Liberation Army. When action was taken by the international community it was not only too late to have any preventive value, but it was

also disproportionate and disjunctive in relation to the problems faced by the people persecuted by Serb militia and Yugoslav army personnel. The bombing by NATO was inconsistent with the stated humanitarian goals. It made it easier for Milosevic to dislodge people from their homes, not harder. The probability of achieving a positive outcome in Kosovo when the intervention took place must be assessed in relation to the goals set, whether explicit or hidden. The humanitarian goals claimed were not effectively met because of the extensive displacement and destruction of lives and property, and the ambiguous stability for Kosovo of the resulting peace. If the goal was regime change and bringing Milosevic to court, those objectives were achieved.

In East Timor the efforts at intimidation of pro-independence citizens provided clear signals that, if people were not intimidated before and during the ballot, there would be retribution after it. This was clearly presented as a serious possibility to the UN Security Council prior to the August 1999 ballot asking people to choose between autonomous incorporation into Indonesia or independence. Nonetheless between the announcement of the ballot results on September 4 in New York (September 5 in Dili), and the time the Security Council voted to set up a multinational force under Chapter VII of the Charter (Resolution 1264, September 15, 1999), almost two-thirds of the population had fled their homes and villages to escape the murder and pillage of militia units opposed to independence.

The intervention force approved by the Security Council in September 1999 succeeded in mitigating a humanitarian disaster. The fact that it arrived too late to save the lives and homes of many is a result of the fact that the Security Council did not find a way to act except by a coalition of the willing led by Australia, which would not act without the agreement of Indonesia. Australia was the only major state to have recognized Indonesian sovereignty in East Timor following the Indonesian invasion and occupation of East Timor in 1975. But there was no way to act except to wait for Australia to wait for Indonesia. This demonstrates the lack of international peacekeeping capacity. The United Nations should have its own standing force ready to move in to protect the people without waiting for major states to do so. The best model would be a directly recruited force responsible to the UN Secretary General without the encumbrance of real or perceived imperial attitudes or ambitions.

The Potential Importance of Civil Society Engagement

The most essential basis for a legitimate system of global responsibility to protect would engage the active participation of local and regional communities. The past half century of professionalization and international institutionalization of development planning has created a culture in which outsiders arrive in problem areas to suggest and guide and sometimes to impose solutions. Should the historic experience and knowledge of the local people and the cultural region not be given similar respect? The past 200 years of economic growth has served some nations well, but it now seems clear that many nations might have developed in a manner that would have better served their people had the paths chosen been more firmly grounded in their own history. Now there are disturbing disjunctions. Should the salary of an engineer recruited as a driver for a "development expert" be higher than the salary of a construction engineer? How can community development become development of the people, for the people and by the people? How can democracy grow from existing historic roots? These are urgent questions to address if participatory development is to engender local power for democracy. More local and regional leadership is needed to nurture power from the cultural roots of nations and peoples.

The sources of terrorism lie in the alienation that arises in the people who are most disenfranchised at the bottom of an undemocratic world system where military imperial power is imposed on nations that are themselves deeply undemocratic, excluding their citizens from effective participation. Terrorists are recruited in countries that lack modern education and constructive opportunities where there is a

backdrop of extreme poverty and a sense of anger at insults to the nation, the religion and the culture. Terrorists arise when it feels more empowering to participate in commitments to destroy than to participate in building.

A major commitment is needed throughout the system of United Nations agencies, by individual governments, and by networks of NGOs to redeploy "development assistance" away from the experts and to give it to the people. All children deserve access to and engagement in modern education and experience of their own historic culture and of world community values as well as access to food, clean water, shelter and basic health services. If this is not available, the security of the entire world is put at risk. Locally generated community development can provide the key to bringing basic cultural and economic services to villages and cities throughout the world. People must be engaged in their own development and in their own security.

There is an unused tool available for locally-based community development in the largely hortatory commitments made by almost all governments throughout the world to various norms of international law and programs of action generated by a range of UN bodies and conferences. In the hands of the people this body of commitments can become a powerful tool—either for direct action or for putting pressure on one's own government to fulfill its stated obligations. If local civil society groups were proactively involved doing what is needed to enhance implementation, they would not only achieve some of the objectives identified such as better access to clean water and sanitation, but they would build their own power to achieve and to protect themselves from any future economic exploitation or violation of their human rights. Such self-generated action can be coordinated with the work of international networks of Non-Governmental Organizations that could provide resources when invited and help connect with broad networks of governments and with the UN Security Council. The goal is to put the Security Council on call to serve the people, especially people in communities at risk of violence and exploitation.

Empowering the People for Self-Rule and Democracy

The goal is to forge local and worldwide networks in support of UN norms as a counterweight to the power of the sorts of militias that played truly devastating roles in Kosovo and in East Timor. In most countries at risk of violence and human rights abuses, as well as those at risk of extreme poverty, there are many civic groups that can better mobilize themselves to act if they see an overarching strategy for self-enhancement. The goal is to empower local communities that are embedded in their own cultures to use the global norms that fit their needs.

In parallel with local action, international NGOs that respect cultural autonomy can, when asked, assist in monitoring human rights interests by keeping records of violations and making these available to the UN High Commissioner for Human Rights or to officials of the International Criminal Court. The role and the responsibility of individuals before international law is expanding. A major step forward is represented by the International Criminal Court, making individuals as well as states responsible under international law. This is the best way to end the collective punishment inherent in war and in traditional forms of interstate action for collective security. It is the responsibility of the world community to protect people when the state in which they live will not or cannot prevent war crimes, crimes against humanity or genocide. But it is not the duty of anyone to do this in a way that leads to violence or undermines justice. Concepts of justice vary, but the ideas in the Universal Declaration of Human Rights are widely recognized. Almost none of the norms of the Universal Declaration have been denounced, but many remain unobserved. The citizens of every nation can insist that they be protected according to these norms by effective international law. If it is known that people are watching,

potential wrong doers will be deterred. Local and global networks of civil society groups and of governments can monitor the implementation of agreed norms of humanitarian law.

Asserting the Sovereignty of the People

Civil society within countries at risk of conflict and international civil society groups can use preventive diplomacy to avert violence. It is easier to visualize how this could have worked in Kosovo or East Timor than in Afghanistan under the Taliban or Iraq under Hussein, but that is largely a matter of timing and sequencing. By engaging in the implementation of the less controversial parts of the many plans of action and other agreements that states have endorsed, thousands of aware citizens can be ready to prevent the importation of illicit arms, the exploitation of labor or the violation of human rights. In Afghanistan there were some opportunities for this before the Taliban achieved effective control, although such opportunities were almost certainly inadequate once state violence against descent was decisive in most parts of the country. This was also true in Hussein's Iraq, as was the case in Hitler's Germany.

The price of freedom is early vigilance. That is the point of the strategy of proactive, locally-based engagement suggested here. The big news is that now, unlike the 1930s, there is a network of civil society groups committed to protect the human rights of people everywhere, and to respond to cries for help. There is also a network of middle-power states that is equally committed to protect the citizens of every nation from genocide, war crimes and crimes against humanity even when such crimes are committed by a citizen's own government. These are the groups and the nations that understand that collective security by means of war is essentially dysfunctional and counterproductive, but that there are now institutions and norms that make it possible to replace the rule of war with the force of law. As more and more states sign onto a law-based mode of international action, the role of imperial, war-based power will shrink. If the nations using the soft power of law are supported by civil society, that mode of action will prevail. Above all, if civil society within the countries and communities at risk of exploitation and violence uses its own ability to communicate and grow, it will be able to act in concert with the states and citizen networks that actively seek direction from the people who most need their support. Such direction from below will undermine the power of empire. Empires depend upon authoritarian decisions imposed from above with military force. The value of such force can be replaced with effective law-based action implemented by the people and by the United Nations.

Taking Action to Establish New Norms for Future Expectations

It is important to assess how different forms of international action can contribute to the expectations of individuals, and the norms that affect state practice. What is done successfully in one case will become a model for the future. Rightly or wrongly, states will feel constrained to act within the precedents set. Thus each case becomes a precedent and a model for future action. The most benign form of intervention in defense of human rights would be to send in UN Marshals to apprehend individuals who commit crimes against humanity, war crimes or genocide. This could be done with almost no violence if there were strong convictions within the nation concerned that these crimes should be stopped and prevented in the future. Civil society support of UN action would be of critical value to underpin successful interventions by UN Marshals, so that a pattern of such interventions would deter future violations.

We have seen that individuals and networks of non-state actors can be very powerful. A combination of high technology, lethal weapons and borderless communications means that a wide range of people and groups can act decisively to do harm. It will not always be practical to bomb the country that harbors

terrorists, and such action generates new terrorists. Modes of international action must be developed that engender relatively peaceful responses by states and by individuals. The efficacy and legitimacy of any given action should be assessed in terms of its long-term impact, not just in terms of what it achieves initially. A democratic response to any challenge to peace and human rights is required by the people from within nations and cultural regions to uphold their own civic values, their own cultural norms and the peaceful global norms that have been endorsed by the United Nations and by governments worldwide.