

« Not In Our Name »: Why Médecins Sans Frontières does not support the “Responsibility to Protect”

Fabrice Weissman

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Le *Centre de réflexion sur l'action et les savoirs humanitaires* (CRASH) a été créé par Médecins sans frontières en 1999. Sa vocation : stimuler la réflexion critique sur les pratiques de l'association afin d'en améliorer l'action.

Le Crash réalise des études et analyses portant sur l'action de MSF dans son environnement immédiat. Elaborées à partir des cadres et de l'expérience de l'association, ces textes ne représentent pas la « ligne du parti » MSF, pas plus qu'ils ne cherchent à défendre une conception du « vrai humanitaire ». Leur ambition est au contraire de contribuer au débat sur les enjeux, contraintes, limites – et par conséquent dilemmes – de l'action humanitaire. Les critiques, remarques et suggestions sont plus que bienvenues, elles sont attendues.

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The Crash carries out in-depth studies and analyses of MSF's activities. This work is based on the framework and experience of the association. In no way, however, do these texts lay down the 'MSF party line', nor do they seek to defend the idea of 'true humanitarianism'. On the contrary, the objective is to contribute to debate on the challenges, constraints and limits –as well as the subsequent dilemmas- of humanitarian action. Any criticisms, remarks or suggestions are most welco

ARTICLE

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FABRICE WEISSMAN*

Introduction

Should military forces be dispatched to a foreign country to save its population from massacre, famine, epidemics, or oppression? While the question is as old as war itself, there has been a spectacular resurgence of interest in the issue since the end of the Cold War.¹ From Darfur to Burma, Chad to Georgia, Zimbabwe to the Democratic Republic of the Congo, using armed force to protect civilians and humanitarian aid workers has been a recurrent topic of controversy for policy makers, advocacy groups, and academics.

The application of military might to rescue populations in danger was argued in the 1990s as the “right or duty to intervene.” Today, it is debated as the “responsibility to protect” (R2P), a formulation invented in 2001 by a panel of experts brought together by the government

of Canada as part of the International Commission on Intervention and State Sovereignty (ICISS). Established in the aftermath of NATO intervention in Kosovo and the heated argument over its legitimacy and legality, ICISS was tasked with developing a normative framework that would forge international consensus on “when, if ever, it is appropriate for states to take coercive—and in particular military—action, against another state for the purpose of protecting people at risk in that other state.”²

According to its supporters, the doctrine developed by ICISS goes well beyond the latest variation in the theory of “humanitarian intervention” developed by Mario Bettati and Bernard Kouchner in the late 1980s.³ The ICISS doctrine is supposed to be more precise—its scope is limited to crimes of genocide, crimes against humanity, war crimes, and ethnic cleansing—and more ambitious: whereas humanitarian intervention advocated the use of force primarily to “protect humanitarian

**Fabrice Weissman works with the Doctors Without Borders/Médecins Sans Frontières (MSF) Foundation in Paris, France. Email: Fabrice.Weissman@paris.msf.org*

convoys... and victims facing their killers," R2P encompasses the "prevention of conflicts" and the "rebuilding of societies."⁴ To this end, the doctrine calls for the use of "mass atrocities tool boxes" including humanitarian, diplomatic, economic, judicial, social, political, and, as a last resort, military actions. R2P also claims to respect state sovereignty, recognizing that national governments have the primary responsibility to protect their own citizens. It is only in the event of a government failing to fulfill its "responsibility to protect" that the "international community" would have to exert it on its behalf—even to the point of declaring war on the perpetrators of violence against civilians.

Canadian diplomats and the former United Nations secretary-general Kofi Annan have been among the most vocal promoters of R2P, which is also actively supported by militant networks linking diplomats, international lawyers, liberal think-tanks, human rights NGOs, and humanitarian organizations.⁵ R2P was formally endorsed by 192 heads of state and governments at the World Summit in 2005. While reaffirming that only the U.N. Security Council could authorize the use of force, the world's leaders sought to take coercive measures collectively, on a "case-by-case" basis, against "national authorities [that] are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity."⁶ Encouraged by these developments, the partisans of R2P now intend to make it a "full-fledged rule of customary international law."⁷ This initiative is officially supported by a number of Western governments, including Canada, Great Britain, France

and, most recently, the United States. But southern countries have generally met R2P with hostility, fearing a return to imperialism in the name of law and morality.

R2P is most controversial as a theory of "just war"—that is, as a rationale for warfare rather than, say, an appeal to states to use diplomatic means to contain violence against civilians. Arguments that link R2P and the concept of a "just war" draw on the same sources of moral and legal legitimacy as humanitarian action.⁸ For partisans of R2P, the use of violence is the ultimate means of offering civilians the security and assistance they deserve and are entitled to—morally, in the name of our common humanity, and legally, as a result of states' commitments to ensure compliance with International Humanitarian Law (IHL). Humanitarian assistance and humanitarian intervention are thus considered as part of a continuum of actions designed to civilize wars so that they are conducted according to humanitarian norms. The vast majority of aid organizations share this point of view and consider R2P as the "best normative framework to address the protection needs of civilian populations."⁹ In practice, humanitarian organizations regularly invoke R2P to call for the deployment of foreign troops to protect civilians and humanitarian workers—in Darfur, in Chad, and in the Democratic Republic of the Congo, to cite just a few examples.¹⁰

This humanitarian enthusiasm for military might is not lost on the general public, journalists, or governments. Doctors Without Borders/Médecins Sans Frontières (MSF) is regularly asked whether it supports

the deployment of foreign troops committed to the protection of relief workers and civilians. In most conflicts, populations suffer from hunger, disease, displacements, and above all from the unchecked violence of combatants. Shouldn't a humanitarian organization draw the obvious

conclusion and call for armed intervention to protect civilians and those who come to help them? Shouldn't it be campaigning for a legal mechanism both to release such interventions from political opportunism and, in extreme circumstances, to make them compulsory?

The Fog of War

These would be simple questions to answer if dispatching foreign troops into the middle of a civil war automatically protected the population. Empirical observation of foreign armed interventions conducted since the end of the Cold War, however, shows that deploying troops and protecting civilians are two different things. Offering military protection is an act of war in its own right, which means engaging in hostilities without any certainty of success or of avoiding a bloodbath for civilian populations. The three foreign interventions generally cited as successes by partisans of R2P—the British intervention in Sierra Leone (2000), the Australian intervention in East Timor (1999), and NATO in Kosovo (1999)—offer many lessons.

The British intervention in Sierra Leone ended the violence against a population that had been subjected to a particularly brutal war since 1991. The 650 paratroopers who landed in May 2000 to support pro-government forces and the 11,000 United Nations blue helmets waged a war against the rebels of the Revolutionary United Front (RUF). They forced them to sign and abide by a final peace agreement, enabling the government in Freetown to re-establish its sovereignty over the whole of the country.

Peace was imposed at a price: a great tolerance toward the war crimes committed by pro-government forces, an embargo on vital humanitarian assistance to territories under RUF control, and the transfer of the most intransigent combatants to Liberia, some of whom were encouraged to overthrow Charles Taylor.¹¹

In East Timor, the Australian troops who arrived under a U.N. flag in September 1999 fought with anti-independence militias, thus helping the Timorese free themselves from Indonesian occupation—which was responsible for the death of 40% of the population in the 1970s and 1980s. The Australian intervention did not, however, prevent the capital, Dili, from being pillaged, nor did it stop anti-independence militias from deporting 260,000 Timorese to the Indonesian-controlled western part of the island.¹²

The NATO intervention in Kosovo in the spring of 1999 overturned the apartheid-like regime imposed by Serb nationalists and put an end to their numerous abuses. It allowed the Albanian Kosovars to recover a greater degree of freedom and fulfill their aspirations for self-determination. Achieving these ends involved the invasion and long-term occupation of this former Yugoslavian

province, placing it under international administration. Intended to preserve a multiethnic Kosovo without affecting the territorial integrity of the former Yugoslavia, the international operation eventually resulted in Kosovo achieving independence and the expulsion from the country of a significant proportion of the Serb and Roma minorities by nationalist Albanian-speaking militias.

It is not a question of disputing the legitimacy of these operations but emphasizing that these were wars against specific enemies¹³ in small countries where the overwhelming majority of the population supported foreign intervention. Like any political undertaking, these operations had their winners and losers, including some among the civilian population. Finally, they resulted in an improved security situation, because they rapidly enabled the intervening force or its allies to take control of a territory and exercise a quasi-monopoly on the use of physical violence—in other words, to govern.

The highly political dimension of any protection enterprise is well illustrated by the work of American military planners participating in the Mass Atrocity Response Operation Project. Invited by the Carr Center at Harvard's Kennedy School to develop an operational military concept that would enable R2P to be translated into action in the event of "mass crime in a landlocked sub-Saharan African country" they came up with three options: first, invasion and total occupation of the country, the overthrow of the criminal regime and the installation of a temporary government (in other words, an Iraq-style solution, which is their preferred option); second, partial occupation of the territory

in order to create "safe areas" administered by international forces, where civilians under threat can seek refuge; and finally, the evacuation of civilians across the border into a neighboring country where refugee camps would be secured—an option rarely referred to by partisans of R2P, who never consider the right to asylum as a way to shield civilians from violence.¹⁴

These scenarios describe the tangible implications of the use of military violence to protect people in conflict situations: invading and occupying all or part of a country and imposing one's sovereignty. In other words, protecting populations does not mean *restoring law and order* in the same way that police forces do in a peaceful country, but *creating a new political order through violence*.

This is naturally a perilous undertaking, which is subject to the hazards of war and runs the risks of failure, escalation, and the massacre of civilians. In Somalia, the American and U.N. troops who landed in 1992–1993 in order to "secure humanitarian aid" in a context of widespread famine and insecurity proved incapable of protecting civilians. They rapidly became a party to the conflict and were responsible for many IHL violations, including the bombing of aid organizations' facilities, torturing and murdering non-combatants, and massacring civilians.¹⁵ In Bosnia, people who had believed in the U.N.'s promises of protection and had sought refuge in the "safe areas" of Zepa and Srebrenica were deported and massacred in front of the U.N. peacekeepers.

The equation that military intervention = protection for the population is no more a given when the

intervening party arrives with a strong political will and devotes considerable resources. According to the “population-centered” approach developed by General Petraeus in Iraq from 2007 and by General McChrystal in Afghanistan since June 2009, the “protection of populations” is now the main strategic objective of the U.S. armed forces (“the purpose of all counterinsurgency actions must be the protection of the indigenous population,” General Petraeus stated¹⁶). For the new generation of American strategists, counter-insurgency wars are won only with the support of the population. This, in turn, is won by responding to their “more primitive concern for safety.”¹⁷ The protection of civilians is seen as the surest way to guarantee victory—he who protects, wins. In spite of the presence of

200,000 military personnel and their modern equipment, the democratic armies have not been successful in asserting themselves as the most effective or the most popular protector in Afghanistan, as illustrated by the increasing number of insurgent attacks and their progress in taking over territory.

There is no technical or legal riposte to the violence of war that will ensure that populations who are supposed to be helped will actually be protected and assisted. The calling for the military protection of a population signals the desire for a “just war” and for the advent through violence of a new political order—and this is an undertaking that always has uncertain outcomes and which inevitably creates victims among the people it is trying to save.

The Autonomy of Humanitarian Action

At this point of time, Doctors Without Borders/Médecins Sans Frontières refuses to call for the use of force to protect populations and relief workers because gaining access to the battlefield and assisting non-combatants with complete impartiality, whichever side they may belong to, means that we cannot make pronouncements on the legitimacy of the war aims pursued by the belligerents. There is no reason why an intervention conducted in the name of protecting civilians should constitute an exception to this rule. Aid workers cannot be for or against making war on Congolese factions, for example, in order to “protect civilian populations” any more than they can be for or against the war started by the U.S. to “put an end to

the suffering of the Iraqi people.” This is an operational principle and a prerequisite for defending a position as a third party who demands not to be targeted in carrying out relief operations in any conflict. What arguments could we use to counter the Congolese factions refusing access to the areas they control on the basis that we support international forces waging a war on them?

Furthermore, “distributing aid at the point of a gun,” as advocated by Robert Kaplan following Cyclone Nargis in Burma in reference to R2P,¹⁸ is incompatible with MSF’s *modus operandi*. Militarizing humanitarian convoys or facilities simply transforms them into military targets. The medical aid organizations currently operating in Afghanistan,

closely protected by international forces or pro-government security forces, have bitter experience of this logic. Seen as legitimate targets by insurgents, healthcare facilities have become part of the battlefield and deserted by the local population. We should remember that one of the great innovations introduced by modern IHL is to proclaim the demilitarization of health and relief facilities and their personnel, which is the only way of guaranteeing impartial access to all victims of a conflict.

But apart from operational constraints, there is a more philosophical reason for refusing the call to arms: if the purpose of humanitarian action is to limit the devastation of war, it cannot be used as a justification for new wars. This is what the International Committee of the Red Cross (ICRC) felt necessary to state in 1994, after the Security Council had adopted two resolutions authorizing the use of force in Somalia to “secure conditions for humanitarian relief operations.”¹⁹ The ICRC emphasized that it was under Chapter VII of the United Nations Charter and not under IHL that the Security Council had authorized the use of force. Even though the Council was acting with the intention of combating violations of IHL (in this instance, obstacles to delivering humanitarian aid), it could not claim to act in the name of humanitarian law: “Because international humanitarian law starts from the premise that any armed conflict entails human suffering, and undertakes to develop a set of rules designed precisely to alleviate this suffering. It would be logically and legally indefensible to conclude that this same law authorized the use of armed force, including in extreme

cases.”²⁰ In other words, “shoot to feed” or “shoot to heal” is incompatible with humanitarian action. MSF does not want to become a new party to a conflict where its own military strategy would be set by public health imperatives. Even if we are not pacifists, we are non-violent.

In our view, the aim of humanitarian action is to “civilize wars” through the distinction between combatants and non-combatants. It is not to conduct “wars of civilization” that split the world into civilized people and barbarians, thus paving the way to unbridled violence. It must be said that the founding fathers of the ICRC and other modern originators of humanitarian practices took a different view of this. Many of them believed that the “primitive peoples” should be civilized (including by force) before they could take advantage of the protection of IHL. At the end of the nineteenth century, Gustave Moynier, the co-founder of the Red Cross and the instigator of the first Geneva Conventions, judged the progress in IHL to be inaccessible to “savage tribes that practise cannibalism, engage excessively in war and give in to their brutal instincts without a second thought, while the civilised nations, which seek to humanise it, confess even in so doing that not everything that happens is lawful.”²¹ These perceptions would continue until well after the Second World War, as illustrated by the ICRC’s position in the face of the Mau Mau uprising in Kenya (1952–59).²² For a long time, the committee refused to concern itself with the fate of the 80,000 people interned by the British authorities on the grounds that the Mau Mau detainees were too “primitive” to understand “the notions of charity and

solidarity on which the Red Cross is based." "Humanitarian notions . . . are for the moment inaccessible to the naturally cruel black masses," explained the ICRC delegate for Equatorial Africa in 1962.²³

In the minds of a large number of humanitarians and philanthropists in the nineteenth and part of the twentieth centuries, savages needed to be raised to the status of civilized people to benefit from the protection of IHL. This is why they supported European colonization. In his book on the world of international lawyers in Geneva at the end of the nineteenth century, Martti Koskenniemi explains that IHL practitioners considered colonization as a moral duty operating within a framework of natural law and human rights.²⁴ Not that they came close to treating those who had been colonized as the equal of the Europeans, but "like children, with gentleness and persuasion" according to lawyer Joseph Hornung of the Institute of International Law in Geneva in 1885, seen by his colleagues as a "radical humanitarian."²⁵ Believing that "hegemony and guardianship exercised by the strong" were legitimate provided they were exercised "in the interests of the weak, in view of their future and complete emancipation," he criticized the colonial powers for their lack of ambition, exhorting them to export administrative structures and a legal system that would allow uncivilized people to accede to sovereignty. Although colonization was seen by international lawyers as a historical necessity whose rigors it was right to mitigate, as Koskenniemi explains, it was also thought of as a moral duty for the purpose of creating a worldwide federation of sovereign states, governed

by humanitarian laws. This opinion dominated most of the humanitarian policy and practice of the time—in France particularly, where the Ligue des droits de l'homme in 1931 pronounced itself in favor of "democratic colonization," rejecting the idea of "the right to conquest" in favor of the "civilizing mission" claimed by the official colonial doctrine of the Third Republic.²⁶

The refusal of MSF to call for just wars needs to be understood in light of the imperial aspect of liberal universalism since the nineteenth century. We want to break away from a humanitarian tradition that associates the abolition of slavery with forced labor, human rights with colonization, humanitarian assistance with humanitarian military intervention, and the liberation of Afghan women with aerial bombardments. In a word, we want to distance ourselves unambiguously from the politics of force acting under the banner of humanitarian universalism.

By attempting to subject the world to its own standard of humanity, armed universalism is as much a process of inclusion as exclusion, driving whatever resists it beyond the boundaries of what is human. It conceals a tyrannical principle of integration: the inevitable eradication of anything that obeys other standards and resists inclusion. Alexis de Tocqueville's remarks on the fate of Native Americans in the American Revolution reveal this quite clearly, as philosopher Alain Brossat remarks.²⁷ Described by the Declaration of Independence as "the merciless Indian savages, whose known rule of warfare is undistinguished destruction of all ages, sexes and conditions," Native Americans were seen as

foreign to democratic expansion. Failing to wage war humanely and to be willing to be absorbed into the democratic system, they were annihilated using the methods they themselves were criticized for. "It all seems as though the inclusive movement [of democratic universalism] at the same time set a limit, a frontier, a line at which the drive for inclusiveness turned back in on itself: beyond that boundary, we do not include any more; we exclude," remarks Brossat.²⁸ While in the West, the universalism of human rights is associated with the struggle for democracy and political freedoms, it also harks back, in the former colonies, to the experience of domination and exploitation. This is something that does not seem to be of concern to the co-president of the ICISS, Gareth Evans. In his seminal work on R2P, Evans, an indefatigable advocate of the R2P, seems to find it flattering to be compared to Christopher Columbus and Vasco da Gama, coming with the "Bible and the sword."²⁹

Dividing humanity into those who are included and those who are excluded is certainly not the prerogative of liberal imperialism—although it may provide an opportunity for it to assert itself radically. Peacekeeping policies and the development of any kind of political order inevitably produce their own share of victims and people who are excluded: the "residue" that will suffer a slow or violent death. The people of Sierra Leone and

Liberia who were sacrificed for the re-establishment of peace in Sierra Leone, as well as the "collateral victims" of operations committed "to protect the Afghan population" are clear examples of the old adage, "you can't make an omelette without breaking eggs." But in our view, humanitarian assistance is precisely about "the revolt of the eggs."³⁰ Our relief efforts are targeted at those who form the "silent residue of politics,"³¹ the men and women whose very existence is called into question by the decisions of the political and military powers.

Let us be clear that this is not about defending radical pacifism and even less about setting up "humanitarian virtues" against "political cynicism." We simply want to assert the distinction between two approaches that have everything to lose by being confused with each other. First there is political and military power, which is tasked with ensuring the *long-term* interests of the community, and which is necessarily called on to decide between competing interests and sacrificing human lives, including those of non-combatants. Second there is humanitarian action, which is resolutely on the side of losers, whose lives it seeks to protect *here and now* while questioning the reasons for their sacrifice. A humanitarian organization cannot call for war without abandoning its role as a counterpower within this system of checks and balances.

Exceptional Circumstances

Is this to say that MSF will never call for the use of force in any situation? Based on the point current

international debate has reached, the answer is never ... except for the exceptions. In fact, no one can say

whether exceptional circumstances might prompt MSF to abandon its humanitarian role, dive headfirst into the political debate, and demand the use of force. In this respect, MSF's decision in June 1994 to classify the massacres in Rwanda as genocide and call for immediate military intervention against the government orchestrating the genocide—and not for a neutral force to protect civilians—must be seen as an exception that proves the rule.

But one thing is sure, namely, that anyone who issues a call to arms must explain their intentions: war, certainly, but against whom, with whom, at what price, for what policy, and why here rather than elsewhere? Humanitarian organizations that regularly call for troops to be dispatched in the name of R2P rarely answer these questions and rarely specify what political order the war is meant to produce and why it would be better equipped to guarantee a population's security. When eight non-governmental organizations (NGOs), including Human Rights Watch, Oxfam, Caritas-France, and CARE, called on the European Union in December 2008 to fulfil its "responsibility to protect" using its "military and operational capacity" to "deploy a force that could effectively protect the population now" in the eastern part of the Democratic Republic of the Congo (DRC), they did not specify how.³² Should it pacify all of the eastern part and put it under international supervision on behalf of the U.N.? Send reinforcements for government troops to fight the rebels? Put an end to the interventions of neighboring Uganda and Rwanda? All of these questions were ignored as though the deployment of inter-

national troops could in itself establish order and security. And when Oxfam, for example, deplored the fact that the United Nations troops dispatched to Chad were proving incapable of guaranteeing the safety of civilians, it demanded even more troops without questioning the reasons for their failure or the policy and strategy they were supposed to be implementing.³³

Let us emphasize that the debate over the appropriateness of starting a just war cannot be decided by applying a standard or rule of formal law—for MSF or any partisans of R2P.³⁴ It would be particularly absurd to define a threshold of violence against civilians which, if crossed, would open the way to armed intervention. Prohibiting killings and deportations beyond a certain level is tantamount to condoning them below that level.

It is this Catch-22 that makes R2P a "just war" theory that is as vague and subjective as the right to humanitarian intervention. References to genocide, crimes against humanity, war crimes, and ethnic cleansing are of no great help in defining the conditions for the use of force. This is recognized by Gareth Evans himself: "the range of conduct potentially covered by both war crimes and crimes against humanity is extremely wide,"³⁵ and "the notion of 'ethnic cleansing' has no formal legal definition."³⁶ Even the use of the term "genocide" has been the subject of much controversy, as was the case in Sudan.

Fearing that legal wrangling could play into the hands of criminal powers, Evans therefore proposes to ignore the categories that define the scope of R2P and focus on situations characterized by "mass atrocity

crimes”—in other words, on morality. Furthermore, he specifies that embarking on military action is not dependent on exhausting all diplomatic options or on atrocities having already taken place. It is sufficient to have clear evidence that “large-scale killing or ethnic cleansing” is “likely” to happen,³⁷ and “reasonable grounds for believing, in all the circumstances, that other less extreme measures [than war] would not have worked.”³⁸ In the final analysis, he observes, deciding on the countries where the use of violence is necessary is based on “non quantifiable and subjective judgments.”³⁹ In order to establish a list of priority countries, he suggests referring to the experts of the International Crisis Group, of which he was once president.

Is there a conflict in the world in which civilians have no likelihood of being killed, raped, or forcibly displaced? Clearly not. R2P is therefore a doctrine of preventive war applicable to all countries involved in conflict or likely to descend into it as soon as they fulfill the “non quantifiable and subjective criteria” defined by those who advocate it. This is why it is open to all kinds of interpretation. While it allows Evans to advocate for the world to be governed by experts and philosophers—authorized to designate on which countries liberal democracies should declare war—R2P also lets states express their political preference in a universal moral language. This was how the Sri Lankan government defended total war against Tamil Tiger separatist guerrillas, calling it the “largest humanitarian relief operation in the world” and the most comprehensive expression of the “responsibility

to protect.”⁴⁰ Similarly, Russian President Dmitry Medvedev justified the intervention of Russian troops in South Ossetia as the “only way to save lives” faced with a power that “opted for genocide in order to accomplish its political objectives.”⁴¹ At her first speech to the Security Council on January 29, 2009, the new United States ambassador to the United Nations clearly lent her support to R2P, stating that “the international community has a responsibility to protect civilian populations from violations of international humanitarian law when states are unwilling or unable to do so,” to the point of “acting early and decisively.”⁴² This responsibility, she explained, must be exercised in Afghanistan, where “the Taliban forces deliberately employ tactics designed to increase the number of innocent civilian deaths,” and in Gaza where “violations of international humanitarian law have been perpetrated by Hamas” and where “there have also been numerous allegations made against Israel, some of which are deliberately designed to inflame.”⁴³

In these conditions, one can understand the resistance of weaker countries to the legalization of R2P. How could they support such a vague standard that would authorize the five permanent members of the Security Council to decide which country can be invaded and occupied to protect civilians from excessive violence, when the territorial integrity of these protective powers is fiercely defended by the threat of a nuclear holocaust? The latter is a crime against humanity if ever there was one. Given that implementation of R2P is condemned to be conditioned by the power relationships

and domination patterns that shape the international stage, legalizing it would effectively be legalizing a new form of imperialism—another reason for MSF to distance itself from it.

Although MSF is opposed to the use of violence for humanitarian ends, it cannot fail to support the general idea that states have a role to play in preventing and containing the violence of war. It is the

enthusiasm of the partisans of R2P for military means that is so perplexing. Policies on taking in refugees (curiously absent from the R2P “mass atrocities tool boxes”) as well as policies on mediation and on providing relief in conflict zones certainly have their limitations, but they have their virtues too. In our view, the role of a humanitarian organization is to cultivate the latter.

Notes

[Translated from French by Karen Stokes.]

1 The idea that a sovereign has a duty to declare war on a tyrant who is massacring his people is found as long ago as in ancient China. See Jean-Baptiste Jeangène Vilmer, “L’intervention humanitaire armée en Chine antique,” *Revue des deux mondes* (January 2006): 152–73, available at: <http://www.jbjv.com/L-intervention-humanitaire-armee.html>

2 International Commission on Intervention and State Sovereignty, *The Responsibility to Protect* (Ottawa: International Development Research Centre, 2001), vii, available at: <http://www.iciss.ca/menu-en.asp>

3 See in particular, Mario Bettatti, “Le droit d’ingérence: sens et portée,” *Le Débat* 67 (November–December 1991): 4–15.

4 Gareth J. Evans, *The Responsibility to Protect: Ending Mass Atrocity Crimes Once and For All* (Washington, DC: Brookings Institution Press, 2008).

5 This applies in particular to the International Crisis Group, Human Rights Watch, Oxfam-International, and Refugees International.

6 United Nations General Assembly, “Resolution adopted by the General Assembly, 2005 World Summit Outcome,” A/RES/60/1 (October 24, 2005).

7 Evans, *The Responsibility to Protect*, 52.

8 In the words of the R2P scholar Naomi Kikoler (Global Center for the Responsibility

to Protect), “R2P is broadly about the protection of civilians, drawing from international humanitarian, human rights, and refugee law for its legal foundation.” Naomi Kikoler, “Responsibility to Protect,” (Keynote address, International Conference, Protecting People in Conflict and Crisis: Responding to the Challenges of a Changing World, Refugee Studies Centre, ODI/Humanitarian Policy Group, Oxford, September 22–24, 2009), 3.

9 Oxfam, “Responsabilité de protéger: un principe qui doit devenir réalité,” press release, February 14, 2008.

10 See, for example, CARE International, Christian Aid, Concern Worldwide, Islamic Relief, IRC, Oxfam, and Tearfund, “Joint Agency Statement Following Tuesday’s Darfur Donor Conference,” press release (more funding for the African Union force), July 19, 2006; Oxfam, “Tchad: Les Etats membres de l’Union européenne tardent à prendre une décision sur l’envoi d’une force au Tchad alors que 400 000 vies sont en jeu,” press release, December 9, 2007; ACAT France/CARE/COSI/FIDH/HRW/LDH/Secours Catholique–Caritas France, “RD Congo: La France doit montrer l’exemple,” press release, December 10, 2008.

11 See Fabrice Weissman, “Sierra Leone, Peace at any Price,” in *In the Shadow of Just Wars: Violence, Politics and Humanitarian Action*, ed. Fabrice Weissman (London: Hurst, 2004; New York: Cornell University Press, 2004), 43–65.

- 12 See Gilles Gonzalez-Foerster, "East Timor: Better Late than Never," in *In the Shadow of Just Wars*, 25–42.
- 13 More specifically, the targets were: the RUF and its backer, Charles Taylor, in Sierra Leone and Liberia; the pro-Indonesian militias in Timor; and the Yugoslav army and Serb nationalist militias in Kosovo.
- 14 Mass Atrocity Response Operations (MARO) Project, "MARO Project Sample User's Guide, Scenario Number 1, Mass Atrocity in Country X: A Land-Locked Country in Sub-Saharan Africa," February 18, 2009), available at: http://www.hks.harvard.edu/cchrp/maro/pdf/sub_saharan_scenario.pdf
- 15 See Rony Brauman, *Somalie: Le crime humanitaire* (Paris: Arléa, 1993); Rony Brauman, "Somalia: A Humanitarian Crime" (Paris: Médecins Sans Frontières, 1993), available at: <http://www.msf-crash.org/drive/95d4-rb-1993-somalia-a-humanitarian-crime-uk-p.10.pdf>
- 16 David H. Petraeus and John A. Nagel, "Préface: David Galula, le Clausewitz de la contre-insurrection," *Contre-insurrection. Théorie et pratique*, by David Galula (Paris: Economica, 2008), viii.
- 17 Galula, *Contre-insurrection*, 25. According to Galula, a former officer in the French army who has become the posthumous mentor of American theoreticians of counterinsurgency, "the population's attitude in the middle stage of the war is dictated not so much by the relative popularity and merits of the opponents as by the more primitive concern for safety. Which side gives the best protection, which is the most threatening, which is most likely to be victorious: those are the criteria that determine the population's choice in favor of one or the other. That is all the more true, of course, if one side combines effectiveness with popularity," *ibid.*
- 18 Robert D. Kaplan, Op-Ed, "Aid at the Point of a Gun," *New York Times*, May 14, 2008.
- 19 United Nations Security Council, Resolution 794, S/RES/794 (December 3, 1992).
- 20 Umesh Palwankar, "Measures Available to States for Fulfilling Their Obligation to Ensure Respect for International Humanitarian Law," *Revue internationale de la Croix-Rouge*, no. 805 (1994): 11–27.
- 21 Gustave Moynier, *Les causes du succès de la Croix-Rouge* (Paris: Académie des sciences morales et politiques, 1888). Cited in Alain Destexhe, *L'humanitaire impossible ou deux siècles d'ambiguïté* (Paris: Armand Colin, 1993), 38.
- 22 Nicolas Lanza, "Le Comité international de la Croix-Rouge et le soulèvement des Mau-Mau au Kenya, 1952–1959," *Relations internationales*, no. 133 (2008): 91–110.
- 23 *Ibid.*
- 24 Martti Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law, 1870–1960* (Cambridge, UK: Cambridge University Press, 2002).
- 25 Koskenniemi, *The Gentle Civilizer of Nations*, 129.
- 26 Matthieu Méance, *La Ligue des Droits de l'Homme et les Africains* (Paris: Collection les cahiers du Centre fédéral Henri Aigueperse no. 44, 2006).
- 27 "It all seems as though the inclusive movement [of democratic universalism] at the same time set a limit, a frontier, a line at which the drive for inclusiveness turned back in on itself: beyond that boundary, we do not include any more; we exclude," *L'épreuve du désastre. Le XXème siècle et les camps* (Paris: Bibliothèque Albin Michel Idées, 1996), 36–37. For Brossat, the intractable link between the American democratic expansion and the destruction of the native Indian civilization was described by Alexis de Tocqueville in the second part of *Democracy in America*. In a chapter entitled "The present and probable future condition of the Indian tribes which inhabit the territory possessed by the Union," Tocqueville writes: "None of the Indian tribes which formerly inhabited the territory of New England—the Narangansetts, the Mohicas, the Pecots—have any existence but in the recollection of man. The Lenapes, who received William Penn, a hundred and fifty years ago, upon the banks of the Delaware, have disappeared; and I myself met with the last of the Iroquois, who were begging alms; but a traveller at the present must penetrate more than a hundred leagues into the interior of the continent to find an

Indian. Not only have these wild tribes receded, but they are destroyed; and as they give way or perish, an immense and increasing people fills their place. There is no instance upon record of so prodigious a growth, or so rapid a destruction," Alexis de Tocqueville, *Democracy in America* (Volumes 1 and 2, Unabridged), trans. Henry Reeve (Stilwell: A Digireads.com Book, 2007), 242–43.

28 Ibid.

29 Evans, *The Responsibility to Protect*, 4. In order to emphasize the key role he played in developing and promoting the R2P, Evans highlights this comment from a Sri Lankan propagandist: "Just like in the past when Columbus in 1492 and Vasco da Gama in 1498 came with the Bible and the sword, the likes of Gareth Evans now come in 2007 with R2P."

30 See Jean-Hervé Bradol, "The Sacrificial International Order and Humanitarian Action," in *In the Shadow of Just Wars*, 1–22, available at: <http://www.msf-crash.org/en/publications/2009/06/04/275/in-the-shadow-of-just-wars>

31 According to the expression used by Michel Foucault. Foucault, "Face aux gouvernements, les droits de l'homme," in *Dits et écrits*, vol. 4 (Paris: Gallimard, 1994), 708.

32 ACAT France et al., "RD Congo: La France doit montrer l'exemple."

33 Oxfam, "Tchad: l'ONU incapable de protéger les civils," press release, September 9, 2008.

34 In this respect, Raymond Aron's recommendations in the chapter of *Peace and War between Nations* (1962) devoted to morality in international relations strike us as being particularly apt: "the best conduct—the best with regard to the values which the idealist himself wishes to achieve—is that dictated by *prudence*. To be prudent is to act in accordance with the particular situation and the concrete data, and not in accordance with some system or out of passive obedience to a norm or pseudo-norm; it is to prefer the limitation of violence to the punishment of the presumably guilty party or to a so-called absolute justice; it is to establish concrete accessible objectives . . . and not limitless and perhaps meaningless objectives, such as 'a world safe for

democracy' or 'a world from which power politics will have disappeared.'" And Aron, borrowing from George F. Kennan, concludes: "We must be gardeners and not mechanics in our approach to world affairs." Raymond Aron, *Peace and War: A Theory of International Relations* (London: Weidenfeld & Nicolson, 1966), 585.

35 Evans, *The Responsibility to Protect*, 12.

36 Evans gives no definition of ethnic cleansing, simply explaining: "It can be accomplished in a number of ways, including outright killing, expulsion, acts of terror designed to encourage flight, and rape when perpetrated either as another form of terrorism or as a deliberate attempt to change the ethnic composition of the group in question." Evans, *The Responsibility to Protect*, 13.

37 Evans, *The Responsibility to Protect*, 144. "It is absolutely clear that military action can be legitimate as an anticipatory measure in response to clear evidence of likely large-scale killing or ethnic cleansing."

38 Evans, *The Responsibility to Protect*, 144

39 Evans, *The Responsibility to Protect*, 75.

40 See, for instance, Sri Lanka Ministry of Defense, "Sri Lanka—the only nation to have defeated LTTE & ended Terrorism," http://www.defence.lk/new.asp?fname=20090518_12 (accessed on March 15, 2009), and Ambassador Palitha Kohona, Permanent Representative of Sri Lanka to the United Nations, "Statement on the Protection of Civilians," (Security Council Debate on Protection of Civilians in Armed Conflict, November 11, 2009), available at: <http://www.slmission.com/statements/security-council/86-security-council/380-statement-on-protection-of-civilians.html> (accessed on March 15, 2009).

41 "Medvedev's Statement on South Ossetia and Abkhazia," *New York Times*, August 26, 2008, available at: http://www.nytimes.com/2008/08/27/world/europe/27medvedev.html?_r=1

42 USUN, "Statement by Ambassador Rice on International Humanitarian Law," press release, January 29, 2009, available at: <http://www.america.gov/st/texttrans-english/2009/January/20090130083551eafas0.5116>

693.html#ixzz0iHX5PixD (accessed March 15, 2009).

43 The retranscription of Susan Rice's speech on the website of the International Coalition for the Responsibility to Protect reproduces the passages in which the ambassador supports the R2P but omits those in which she claims its application by

the U.S. in Afghanistan and Israel. International Coalition for the Responsibility to Protect, "US Ambassador to the UN Susan Rice Voices US Support for RtoP," available at: <http://www.responsibilitytoprotect.org/index.php/crises/37-the-crisis-in-darfur/2109-us-ambassador-to-the-un-susan-rice-voices-us-support-for-rtop> (accessed March 15, 2009).

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