

Abstract

The 'Responsibility to Protect' report (RtP) has been hailed by academics and policymakers alike as an important policy development in the international community's potential to protect vulnerable and insecure populations from violence. This paper critically assesses the RtP, examining the problems with its particular conception of justice and security, based on the nature and source of threats to individuals. This paper criticises the RtP's focus on crises, arguing that this focus downplays the importance of systemic, 'chronic', problems of injustice and disorder across the globe – and thus the importance of responding to these chronic problems. This, together with the RtP's focus on civil and political rights over socioeconomic rights, results in the causes of crises being perceived as local, obviating the need for admitting the role of the international community in contributing to current crises and systemic injustices. Based on these criticisms, the paper concludes that the RtP's narrow conception of the relationship between justice and security will not further the international community's ability to discharge its responsibility towards individuals across the globe.

Policy Implications

The RtP's idea of 'sovereignty as responsibility' places the blame for crises involving mass-atrocity crimes solely on the government of the state in which the crisis occurs.

Protecting populations from harm – the key aim of the RtP – requires a broader understanding of the relationship between mass-atrocity crimes and poverty and inequality, including an understanding of the international community's role in creating the conditions in which these crimes occur.

To be effective, a policy aiming to protect populations from harm requires a reorientation of priorities away from military interventions into crisis situations, and towards redressing structural, systemic causes of crises before they occur. In addition to development issues such as health and education, these might include restrictions upon arms sales and corporate activities in unstable regions, and a focus on nonmilitary, more consensual, diplomatic peace efforts.

Addressing structural global inequality does not require a policy document such as the RtP. It adds little to the existing humanitarian intervention debate and detracts global attention and effort from addressing poverty and inequality.

The RtP should not be implemented any further, either by civil-society groups seeking to gather support for the doctrine or by the UN Security Council in its resolutions.

1 The Responsibility to Protect: progress towards justice?

'The developing international norm in favour of intervention to protect civilians from wholesale slaughter ... is an evolution we should welcome ... Because, despite its limitations and imperfections, it is a testimony to a humanity that cares more, not less, for the suffering in its midst, and a humanity that will do more, and not less, to end it.' (Annan, 1999a.)

In the 11 years since its inception as a policy which would enable the international community to better respond to individuals suffering in civil wars, state collapse and repression, the 'Responsibility to Protect' (RtP) has now been hailed as coming of age in 2011, when it 'enabled the world to prevent a massacre in Benghazi' (Adams, 2012). After the 'early years' when the RtP was discussed and defined, and after its reference in three UN resolutions and statements between 2005-2010, in 2011 it was referred to in 6 UN resolutions – 'in the glacial world of global diplomacy, this represents momentous progress' (Adams, 2012). Is this a testimony to a humanity that cares more and will do more to end suffering?

This paper critically examines the RtP policy doctrine, highlighting some problems with its conception of the relationship between justice and security. It contends that, despite the RtP's claims that its reconception of sovereignty has overcome the deadlock in the humanitarian intervention debate, the same problematic conception of justice and its relationship to security arises in relation to the RtP as with humanitarian intervention. Section 2 thus considers the nature of justice inherent in ethical arguments given in support of the practice of humanitarian intervention and in claims of the increasing legitimacy of humanitarian intervention in international society. Section 3 addresses the 'Responsibility to Protect' doctrine arguing that, despite claims that the RtP is revolutionary, it makes the same problematic assumptions about the injustices suffered by individuals across the globe. These problems stem from a focus on crises of civil and political rights abuses committed (or allowed to occur) by a government against its own population. Section 4 explores the problems with this conception of justice, starting with the assumption of progress in the field of international peace and security. The paper argues that this obscures the narrow view of justice taken in this narrative, and fails to comprehend the importance of systemic injustices in addition to crises, particularly those arising from socioeconomic issues such as poverty and inequality. These problems cannot so easily be attributed to local governmental failures, from which the international community can 'rescue' individuals, but point towards the potential role of the international community in creating these conditions of injustice and insecurity. The paper does not argue that the RtP should include a wider conception of justice within its remit, enabling intervention of various kinds in relation to issues of global poverty and inequality. Acknowledging that the RtP is only intended to address core international crimes rather than solving all the ills of the world, Section 5 nevertheless concludes that, despite its claims to be a human-centred policy that enables the international community to act in the face of great injustice, the RtP's narrow view of the causes of and solutions to global insecurity will mean that it will fail to help achieve justice for individuals across the globe.

2 Humanitarian Intervention and the Responsibility to Protect

Following a long history of 'just war theory' attempting to establish when and how it might be legitimate to wage war (in the absence of legal constraints) (Chesterman, 2003, p.11; Evans, 2005, pp.2-3; Bellamy, 2006, pp.8-9), a more recent development has been the consideration of whether 'humanitarian' reasons could constitute a just cause for war and a legitimate (or even lawful) exception to the UN Charter's prohibition on the use of force in Article 2.4 (eg Davenport, 2011, pp.513-515). Admitting that the term 'humanitarian intervention' might seem to some 'an obscene oxymoron', Jeff Holzgrefe and Robert Keohane use the following definition:

the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within whose territory force is applied. (Hozgrefe, 2003, p.18)

Literature in both the disciplines of international law and international relations addresses aspects such as whether war can ever be 'humanitarian' (eg Booth, 2002; Atak, 2002) and whether humanitarian intervention is or should be a legal concept and a further exception to the UN Charter's prohibition on the use of force contained within Article 2(4) (in addition to self-defence and the Security Council's collective security powers) (eg Glennon, 1999; Buchanan, 2003; Chesterman, 2003). Two particular aspects of this literature will be examined here. The first is the nature of the ethical arguments in favour of the practice of humanitarian intervention; the second is the search for empirical evidence demonstrating an increasing solidarity in relation to acceptance of humanitarian intervention in international society. Section 4 then demonstrates how these reveal a problematic understanding of the conception of justice.

The Ethics of Humanitarian Intervention

Fernando Teson's case for allowing states a right of humanitarian intervention under international law is based on 'a standard assumption of liberal political philosophy' – that 'a major purpose of states and governments is to protect and secure human rights' (1995; 2003, p.93). Those in power who violate these rights, the argument goes, undermine their right to exercise power and so should not be allowed to do so. Teson argues that we all have the obligation to respect (and promote respect for) human rights and, in exercise of this obligation, we can be obliged to rescue victims of tyranny or anarchy whose human rights are being violated, using force if necessary (2003, p.2). In not intervening, 'we deny, not only the centrality of justice in political affairs but also the common humanity that binds us all' (Teson, 2003, p.54). It is tyranny and anarchy (both opposites of democracy) that are the worst forms of injustice to individuals, he argues, because it is in these situations that the worst human rights abuses occur – including crimes against humanity, mass murder, genocide and widespread torture (Teson, 2003, p.8). Democracy, or at least free and fair elections, appears to be to Teson the most fundamental of rights, because he sees it as the basis of the enjoyment of all other human rights (1995, p.332). As against these horrific violations of fundamental human rights, the non-intervention rules of the UN Charter are unacceptable. Michael Glennon blames an outdated international legal system

for not allowing humanitarian intervention in cases such as Haiti, Somalia and Rwanda when, he claims, 'the international community stepped in to halt the slaughter of civilians' (1999, p.5).¹ Similarly, in relation to the US invasion of Panama in 1989 which overthrew General Noriega, Anthony D'Amato describes scholars who maintain the importance of the UN Charter's non-intervention principles as 'so conditioned by a statist conception of international law that they seem unable to see through the abstraction that we call the "state" to the reality of human beings struggling to achieve basic freedoms' (1990, p.516). Teson, D'Amato and Glennon all pose a vision of an outdated statist interpretation of international law set against a more inclusive international law or morality that takes account of achieving justice for individuals. Glennon makes an explicit reference to justice in relation to Kosovo, saying 'justice (as it is now understood) and the UN Charter seemed to collide' (1999, p.1) when NATO members feared that Russia would block Security Council authorisation of the use of force against Slobodan Milosevic – justice was thus served by NATO's intervention without Security Council authorisation. Then-Secretary General Kofi Annan echoed this tension between states' and individuals' rights in his claim that:

states are now widely understood to be instruments at the service of their peoples, and not vice versa ... When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them. (1999b, pp.49-50, cited by Weiss 2007, p.96.)

The moral view underlying such arguments is clear – individuals are at the core of international society and the international legal system, and a state which grossly violates its citizens' civil and political rights does not deserve the benefit of the UN Charter rules on non-intervention and non-use of force. These moral arguments have been accompanied by work which assesses whether these ethical arguments have gained ground and resulted in humanitarian intervention being viewed as a more legitimate practice in international society since the end of the Cold War; it is to this argument which the paper now turns.

Humanitarian Intervention: a legitimate practice?

Rather than relying on a particular moral argument, some scholars have addressed the empirical evidence of the legitimacy of humanitarian intervention in international society (eg Malanczuk, 1993; Wheeler, 2000; Chesterman, 2002; Kahler, 2011). Nicholas Wheeler's assessment of Cold War interventions which could have been viewed as humanitarian by their outcomes (India-East Pakistan in 1971, Vietnam-Cambodia in 1978 and Tanzania-Uganda in 1979) concludes that there was no solidarity among states as to the legitimacy of any humanitarian credentials these interventions might have had (Wheeler 2000, p.130). Post-Cold War, however, he argues that the situation became more complex, turning on Article 2(7) of the UN Charter and the role of the Security Council in intervening in the internal matters of member states. If an internal situation of human rights abuses was judged by the Security Council to be a threat to international peace and security, then intervention to halt this abuse was more likely to be seen as legitimate by international society (2000, p.139). Following the establishment of 'no fly zones' by a Western coalition as a result of the designation by Security Council Resolution 688 of the trans-boundary consequences of Iraq's repression of the Kurds as a threat to international peace and security (2000, p.145; p.169) in 1991, in 1992 all 15 Security Council members were in favour of the US (and UN) intervention to provide humanitarian relief in Somalia, even in the

absence of the host state's consent (Wheeler 2000, p.185; Malanczuk 1993, p.30). In relation to NATO's intervention in Kosovo, undertaken without Security Council authorisation, Wheeler argues that 'for the first time since the founding of the Charter, seven members either legitimated, excused or acquiesced in the use of force justified on humanitarian grounds.' (2000, p.281). Whilst Wheeler does not go as far as some legal scholars in asserting an emerging or established *legal* norm (eg D'Amato 1990, p.520; p.523; Alexander, 2000; D'Amato, 2001), he does find increasing *legitimacy* with regard to humanitarian intervention in international society, at least where the Security Council has found a threat to international peace and security. This description of the increasing legitimacy of the idea of humanitarian intervention suggests that the 'international community' is becoming more open to acting to protect the individual and their civil and political rights, and that this represents significant progress towards achieving justice for individuals across the globe. This narrative of progress towards justice will be examined in Section 4.

Because the idea of humanitarian intervention does not find explicit expression in the UN Charter, a 'deadlock' between human rights and non-intervention characterised the humanitarian intervention debate for some time – with arguments in favour of a legal right of humanitarian intervention based on the 'trumping' of non-intervention by human rights; and arguments against based on the protection offered by non-intervention rule against the pursuit of national interest (Welsh, Thieklung and McFarlane, 2001).² It was in the context of this deadlock that the idea of a 'responsibility to protect' arose; and this article now moves on to consider this doctrine.

3 The Responsibility to Protect: an endorsement of 'responsible sovereignty'?

In 1996 Francis Deng and others first drew attention to the idea of sovereignty as responsibility (Deng et al, 1996), in the context of humanitarian crises. After Kofi Annan's 1999 'Two Concepts of Sovereignty' speech and article in which he challenged the idea of sovereignty as non-intervention, Annan again challenged this deadlock in his Millennium Report to the General Assembly in 2000, when he asked

If humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we react to a Rwanda, to a Srebrenica – to gross and systematic violations of human rights that affect every precept of our common humanity? (Annan, 2000.)

In 2000, the International Commission on Intervention and State Sovereignty (ICISS) was convened to consult with NGOs, academics and policy think tanks in order to consider 'how to move from polemics – and often paralysis – to action' (ICISS, 2001). In 2001 it produced its report, the 'Responsibility to Protect'. The RtP outlines the changing international context leading up to the production of the report in a section entitled 'Human Rights and Emerging Practice', where the importance of the individual is evidenced by the increasing number of human rights treaties since the end of World War II (including the Genocide Convention, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention Against Torture and the Convention on the Elimination of all forms of Discrimination Against Women)

(2001, p.16), but notes that ‘millions of human beings remain at the mercy of civil wars, insurgencies, state repression and state collapse’ (2001, p.11). The heart of the RtP doctrine is a challenge to traditional conceptions of sovereignty as the exclusive control over a state’s territory and a re-conception of the idea of sovereignty as responsibility towards a state’s population (2001, p.12; Deng et al. 1996, p.xviii; p.1; p.6). The primary responsibility for a people lies with the government of that state, but if the

population is suffering serious harm, as a result of internal war, insurgency, repression or state failure, and the state in question is unable or unwilling to halt or avert it, the principle of non-intervention yields to the international responsibility to protect. (2001, p.xi.)

The idea of the responsibility to protect was endorsed by the General Assembly at the UN’s 2005 World Summit where, Wheeler says, in relation to certain atrocities, ‘190 states committed themselves to the principle that the rule of non-intervention was not sacrosanct’ (2005, p.97). It was claimed that, had it existed at the time, the doctrine could have prevented the tragedies of Rwanda and Srebrenica (Wheeler 2005, p.97, citing Straw, 2005). It should be noted that the General Assembly’s World Summit Outcome Document did not adopt the entire text of the ICISS’ report – paragraph 138 of the Outcome Document noted each state’s responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity (not a new international legal obligation) and paragraph 139 refers to the responsibility of the international community, using peaceful means in accordance with Chapters VI and VIII of the UN Charter, to help protect populations. This paragraph also referred to the international community’s willingness to take collective action in accordance with Chapter VII of the Charter should a state ‘manifestly fail’ to protect its population. In relation to the international community’s willingness to use force in carrying out its responsibility to protect, the summit document recommended that the General Assembly consider the responsibility to protect populations, ‘bearing in mind the principles of the Charter and international law’ (UN, 2005). This is a somewhat cautious approach to the detailed content of the full RtP report. Nonetheless, although the Security Council’s powers to authorise intervention still rest in Chapter VII’s conception of threats to international peace and security, the RtP can be seen as an endorsement of the Council’s widening tendency to refer to human rights abuses in authorising Chapter VII actions. Recent examples include Security Council resolutions 1970 (26 February 2011) and 1973 (17 March 2011) relating to Libya, which referred to the Gaddafi Government’s responsibility to protect the Libyan population when authorising NATO action under Chapter VII of the Charter. As such, the ideas within RtP could be argued to be gaining increasing legitimacy within international society, even in the ‘watered-down’ form accepted by the General Assembly rather than the full ICISS report.

Justice in the Responsibility to Protect

With its reconception of sovereignty as responsibility, the RtP report was not intended to be a mere restatement of the humanitarian intervention debate. It widened its focus from military reaction to crises, to include the prevention of crises and post-conflict rebuilding; and it also noted that the responsibility of the international community to protect individuals when their state fails to do so can be fulfilled using economic, political and legal, as well as military, means (ICISS, 2001, p.19). In relation to the primary responsibility of the state for its people, the understanding of how best to fulfil this requirement of responsible sovereignty relies on the same liberal philosophical underpinning as the

arguments put forward by scholars such as Teson in favour of humanitarian intervention. The report expresses the view that it is 'first and foremost the responsibility of sovereign states' to prevent harm to their people and that a 'firm national commitment to ensuring fair treatment and fair opportunities for all citizens provides a solid basis for conflict prevention' (2001, p.19) although the international community can help local efforts to identify triggers of conflict (2001, p.19). In addition to 'direct' causes of armed conflict the report acknowledges the 'root' causes of conflict to be 'poverty, political repression, and uneven distribution of resources' which can be remedied by promotion of human rights, minority rights and representative political arrangements (2001, p.22). In the event of national failure to ensure fair treatment and opportunities, the international community's responsibility to react is triggered in relation to the developing crisis. This reaction can encompass economic sanctions and diplomacy and the report stresses the importance of non-military reactions to crises (including, for example, the role of the International Monetary Fund and World Bank in conflict prevention efforts through good governance campaigns (2001, p.27)); although it also acknowledges that sanctions can be a blunt instrument and, as such, it may be necessary to consider military reaction (2001, p.29). Once a state has broken down or abdicated its responsibility to protect its population, the international community must take on the responsibility to rebuild with an emphasis on 'local ownership' in building a durable peace based on good governance (2001, p.39). The international community should undertake long term financial and physical commitments, including disarmament and rehabilitation of armed forces, criminal justice and the return of refugees (2001, pp.39-45). Particularly in terms of prevention and rebuilding, the RtP takes a liberal approach to the constitution of domestic society which is best suited to carrying out its responsibility towards its citizens – good governance, demonstrated by democratic representation, fair treatment and fair opportunities for individuals.

4 Humanitarian Intervention and the Responsibility to Protect: the problematic approach to justice

This section will demonstrate problems with viewing justice as best achieved through the RtP's focus on local crises of civil and political rights, especially when the international community uses military means to respond. It will explore the vision of progress within the debates over humanitarian intervention and the RtP, and explore what this vision fails to address, in particular the potential role of the international community in creating conditions of injustice (whether resulting in crises or not) and the type of human rights which are considered most important in achieving justice.

It will argue that claims of progress towards justice for individuals across the globe are overstated, because they tend to focus on military interventions in response to crises of civil and political rights and dismiss the importance of the socioeconomic realm in achieving justice for individuals. This has the effect of presenting the 'international community' as striving to achieve justice for individuals across the globe rather than as being implicated in creating existing global conditions of injustice (whether they are related to particular crises of civil and political rights abuses or not). Given the potential for socioeconomic inequality to be related to disorder, this impoverished conception of justice also has consequences for security as much as for justice.

Progress

Commenting on the RtP's conception of sovereignty as responsibility, Ramesh Thakur describes RtP in terms of an increasing consensus that '[i]ntervention for human protection purposes occurs so that those condemned to die in fear may live in hope instead' (2006, p.251). This emotive language is filled with the idea of the progress and development of the community of humankind in caring for each other as human beings, wherever they happen to live in the world (Orford, 1999). The liberal notion of the evolution of humankind is evident in Wheeler's description of progress from the Cold War's refusal to accept humanitarian intervention as a legitimate action within international society to his claim that 'international society became more open to solidarist themes in the 1990s' (Wheeler 2000, p.285; Macfarlane, Thielking and Weiss 2004, p.977). This is echoed by the RtP's section on Emerging Rights and Practice, which describes states as becoming more concerned with justice for individuals, evidenced by the increasing number of human rights treaties and which views the concept of sovereignty as undergoing significant evolution (Evans, 2008, pp.11-16). It is also reflected in international legal scholarship which views progress as having been made towards humanity in international law (Peters, 2009). Kofi Annan's speeches share this view that progress has been made towards a developing international norm of human protection and that the UN Charter is read differently now compared to how it was in 1946. Whilst Annan acknowledges some 'limitations or imperfections' in the current interpretation of humanitarian intervention and the RtP (1999a), and Wheeler acknowledges that there is less solidarity in relation to the 'holocaust of neglect' that characterises other areas of world (economic) policy (2000, citing Shue 1996), both nonetheless see progress in international society's focus on achieving justice for individuals. The limitations and imperfections are seen as unfortunate, but not as a significant impediment in the seemingly inevitable movement towards justice in international society by 'a humanity that cares more, not less, for the suffering in its midst, and a humanity that will do more, and not less, to end it' (Annan 1999a). Criticisms of the RtP (and the UN's endorsement of it) centre on the failure to address the issue of potential Security Council inaction – an operational criticism (Wheeler, 2005). Wheeler also criticises Jack Straw's belief in the potential for the RtP to have prevented Rwanda or Srebrenica, for his failure to understand the lack of political will, rather the lack of an ICISS Report, was the problem in these cases (2005). However, in making this criticism, Wheeler does not take issue with the fundamental assumptions of the RtP – of the notion of justice as 'doing something' in response to crises caused by democratic faults at the local governmental level (see also Bellamy 2004, p.2; Zifcak, 2010). This section contends that these limitations and imperfections *are* in fact a significant impediment to the progress made towards justice for individuals within international society because they are an integral part of the approach to justice within the humanitarian intervention debate and the RtP doctrine. A doctrine that aims to enable the international community to respond better to mass atrocity crimes without a broad understanding of the complex relationship between poverty, inequality and violence is unlikely to succeed in its aims. Furthermore, the increased attention on the importance and claimed success of the doctrine diverts public attention and effort away from other global problems.

Who is Responsible for 'Doing Something' – and When?

Posing the question as one of 'do something or do nothing' (Chesterman, 2003, p.108) – of being in favour of humanitarian intervention or of being one of 'the defiant, the indolent, the miscreant' (Glennon, 1999, p.7) who subscribe to an unreasonable theory of ethics which permits wholesale

slaughter (Teson, 2003, p.14) – makes it hard to disagree with those who advocate a right of humanitarian intervention in certain circumstances, only for the gravest of human rights abuses, with a careful checklist to help ensure that interventions have humanitarian credentials (Orford, 1997, p.447). A good example of this language is Glennon, who argues that '[a] child saved from ethnic cleansing in Kosovo by NATO's intervention is no less alive because the intervention was impromptu rather than part of a formal [legal] system' (1999, p.5). Characterising the debate in this way – either of the futility of the rules of non-intervention and non-use of force in the face of governmental abuse of citizens (eg Weiss, 2007, p.12; Teson, 2003) or of a government's responsibility towards its own citizens – necessarily views the responsibility for human rights abuses as lying with the particular state in which the violence occurs. This idea is also present in the RtP report, where the international community's preventative role was perceived to be in helping to identify local triggers of conflict – and responding to these triggers with diplomacy, sanctions or military intervention (ICISS, 2001, p.19) – rather than in changing its behaviour towards other states. Whilst claiming to overcome the deadlock between human rights and non-intervention, the RtP nonetheless echoes this sentiment in its association of the main problems faced by vulnerable populations – civil wars, repression and state collapse – with a national (not international) governmental commitment to fair treatment and fair opportunities (ICISS, 2001, p.11; p.19; Teson, 1995, p.342; Gordenker and Weiss, 1993, p.14; Reisman, 1991, p.203). Though the focus of the RtP was intended to be on the rights of the victims rather than the interveners, and though military intervention was only one of the options considered appropriate to protect people across the world, much of the report – some 13 pages – on the responsibility to react elaborates upon revised 'just war theory' criteria for judging the legitimacy of an intervention, as well as operational military issues. Despite claiming that RtP moves the debate on from the intervention deadlock, Weiss goes on to say that 'the acknowledgment by the 2005 World Summit (preceded by the work of the High-Level Panel on Threats, Challenges and Change) of RtP has reinforced the legitimacy of humanitarian intervention as a policy option' (Weiss, 2007, p.89), bringing the debate back to military intervention in response to national governmental failures – though in contrast to Thakur and Weiss, Bellamy focuses more on the need for 'upstream' conflict prevention (Bellamy, 2010, p.158).

This avoids the question of the potential responsibility of the international community for some of the causes of violence within one state's borders – it is assumed that the international community's existing relationship with the state in question is 'neutral'. In other words, it assumes that the international community is currently 'doing nothing' – when in fact it constantly intervenes in the economic and political affairs of many states. In general terms, Philip Alston argues that the focus on *ad hoc* interventions in response to civil and political crises allows the interveners to avoid supporting existing multilateral human rights promotion and protection regimes (1991, p.107). Whilst of course those carrying out the acts in question are not without blame, this assumption places the state in question as the *only* cause of harm. Specifically in relation to the Western representation of the Balkan crisis, Anne Orford argues that the key threats to internal justice and international peace were held to be at the local level, largely the product of historical ethnic tensions; and set against the local cause of threats, the international level was responsible for rescue – rather than being part of the cause (Orford, 1997, p.444; Orford, 2003, p.18). In contrast to this view of threats to justice for individuals, Orford points out the contribution made by the economic liberalisation project of the World Bank and International Monetary Fund to the increasing instability in, and eventual violent breakup of, the former Yugoslavia. She notes that before the two international financial institutions' (IFI) interventions

into the country, the different Yugoslavian provinces had been able to coexist peacefully with a degree of autonomy from the central government, without perceiving a need for full separation. The IFIs required the central government to enact constitutional changes which increased centralised control at the expense of autonomous regions, as well as decreasing education opportunities and reducing constitutional protections for workers (Orford, 1997, p.453). This led to a decrease in income per capita, increased unemployment and attendant social unrest, together with a perception within the various regions that independence would be necessary to be able to reverse the damaging social changes introduced by the central government and the IFIs (Orford, 1997, p.454). Pre-existing nationalist sentiments had previously been managed effectively through regional autonomy, but were fuelled by the increasing sense of insecurity, instability and social exclusion resulting from the constitutional reforms and increased centralisation decreed by the IFIs. This is a very different, and more complex, picture than that of purely local factions fighting for local reasons, with the only question about the international community being whether it should intervene to protect individuals.

The conception of justice evident in the RtP and the humanitarian intervention debate thus places the blame for violence at the feet of local actors and places the responsibility to rescue individuals, after a crisis has occurred, in the hands of 'enlightened states' (Glennon, 1999, p.3). Teson echoes this in his idea that our universal obligation to respect human rights might require us to rescue those who are victims of human rights abuses – but he does not view our obligation to respect human rights to be engaged earlier than the point of rescue. Such a view of justice fails to consider whether we, in 'enlightened states', might bear some responsibility for crises which develop in other states, through our prior relationship with the state in question. This can also be demonstrated with regard to Rwanda, where Belgium's colonial policy of elevating Tutsis to senior economic positions at the expense of the Hutu population is said to have led to many of the ethnic tensions which were a causative factor in the genocide in 1994. Similarly, Rwanda's exposure to the international market in coffee and the economic problems in Rwanda caused by the collapse in coffee prices is also said to have contributed significantly to the tensions (Jones, 1995; Robbins, 2002, p.269; Verwimp, 2003). Peter Uvin also points to the role of the international aid agencies and development programs in contributing to the 'structural violence' of poverty, inequality and humiliation in the name of helping Rwanda develop (Uvin, 1998, p.107; p.136; p.143). Mamdani argues that colonialism in Rwanda and Darfur created ethnicity of racial differences which would not otherwise have existed in these countries; this 'race-branding' did not merely heighten tensions but created them in the first place (Mamdani, 2001, p.13; p.42; p.80; Mamdani, 2009, p.6; p.15; p.59; p.271). Again, this is not to say that those carrying out acts of violence were not to blame, but any response to violence, such as proposed in the RtP, which ignores the broader context in which violence occurs cannot succeed in preventing such violence.

Weiss' argument of the existence of widespread support for RtP – because in consultations nobody asked for less intervention, they often wanted more – does not respond adequately to the question of what intervention, when and how, would best help individuals in need, not just from repression by their own government but by the international community which claims to be willing to rescue them. The next section builds upon the question of who is responsible for causing crises and for rescuing people, by addressing what sort of treatment of individuals is considered to be just or unjust.

Justice Within and Between States

The conception of justice described in this paper conceives of serious injustices to be genocide, crimes against humanity, serious war crimes and mass murder – deliberate action by a (non-democratic) government against the civil and political rights of its people (Teson, 2003, pp.1-2; D’Amato, 1990, p.516; Rawls, 1999; Slaughter, 1995, p.509; Slaughter, 1997; Franck, 1992, p.88; Opongo, 2009). Holzgrefe and Keohane’s definition of humanitarian intervention refers to ‘fundamental’ human rights, implying that other human rights, which in theory exist by virtue of our humanity alone, are not actually fundamental to this humanity. This definition is adopted by other scholars (Kahler, 2011; Holzgrefe and Keohane, 2003; Malanczuk, 1993; Reisman, 1990, p.872; Meron, 1986). These views of injustice are limited to the government’s failure to protect its people’s civil and political rights, such as the right to life, freedom from torture, freedom of movement, freedom of thought and religion and the right to take part in public affairs and vote and be elected (ICCPR arts 6, 7, 12, 18 and 25). Franck comments that, in relation to Haiti and Russia, ‘the international community vigorously asserted that only democracy validates governance’ (1992, p.47) which accords with Teson’s assertion that anarchy and tyranny are the worst forms of injustice because it is in these conditions that evils such as genocide are perpetuated (2003, p.9). Rawls focuses more on the civil and political arena than socioeconomic issues in building his theory of justice: equality of civil and political opportunities can never be compromised, and increased socioeconomic equality is not a justification for civil and political inequalities (1999, p.61). On the other hand, significant socioeconomic inequality is permissible provided the poorest members of society gain some benefit. The RtP contains largely the same liberal conception of a government’s responsibilities. One paragraph of the RtP does refer to the role of Cold War debts and the trade policies of richer countries in preventing poorer states from addressing some of the root causes of conflicts, such as poverty (ICISS, 2001, p.20). But, as argued in section 3.2 above, the solution to this problem is seen to lie only in the promotion of national democratic participation and human rights (ICISS, 2001, p.10; pp.22-23), sidestepping the issue of the potential responsibility of significant parts of the international community for the poverty that is acknowledged to contribute to much of the violence in the world (Zizek, 2008; Bellamy, 2003; Galtung, 1996). It is assumed that democratic participation and the strengthening of human rights at the *national* level will decrease poverty and increase peace; and therefore that there is no need to consider the extent of the international community’s duty towards non-citizens in relation to poverty and inequality. Only six lines are given over to considering the potential ‘direct’ responsibility of the international community for socioeconomic development in poorer countries (rather than tying socioeconomic development to national political constitution) and the potential for this justice to help produce international stability and security (ICISS, 2001, p. 23 para 3.22; Chandler, 2004, p.62).

The issues dealt with in the preceding two sections, of who is responsible for crises and what sort of abuses constitute the sort of crisis which requires intervention are, of course, related to each other. Hilary Charlesworth comments that ‘using crises as our focus means that what we generally take for “fundamental” questions and enquiries are very restricted’ (2002, p.377) and argues that this focus ‘diverts attention from structural issues of global justice’ (2002, p.382) such as global poverty and health inequality. Similarly, James Richardson contrasts the ‘negative’ political rights, such as freedom from torture, with ‘[a]rbitrary acts of violence against the underprivileged, or acts of omission such as the dispossession without restitution of those who inadvertently stand in the way of “development”, [which] are passed over with silence’ (1997, p.25). Alex Bellamy contrasts ‘death by politics’ (state sponsored killing) with ‘death by economics’ (such as starvation), and argues that the latter is somehow seen as outside the interest or responsibility of international law and the ‘international

community' (2003, p.332). Bellamy makes the point that 'structural violence', rather than organised military violence, is the main contemporary problem facing humanity; and he concurs that focusing on the need for 'intervention' ensures that military interventions are perceived as discrete acts rather than a different part of the spectrum of the international community's ongoing interventions into 'problem' states (2003, p.329).

The problems identified above in the RtP and the humanitarian intervention debate do not just reflect the question of which human rights are most important, but of who owes human rights duties to whom in the world. Teson does not deny that we, in State A, owe human rights duties to individuals in State B, but he views our obligation to respect these human rights to start at the point of rescue from violation of certain civil and political rights, rather than in how individuals from other countries are treated by the 'international community' whether in relation to crises or to more systemic issues which affect basic survival and subsistence, such as global health and poverty. Henry Shue and RJ Vincent have both argued that the idea of 'basic rights' should include a right to subsistence in addition to civil and political rights. An alternative focus on socioeconomic issues, together with the idea of wider responsibility towards justice for individuals beyond that of a government towards its own citizens, would consider international responsibility not just for crises such as the Balkans, but for global inequalities in access to food and health. The scale and degree of suffering resulting from socioeconomic problems such as health and poverty are significant challenges to the RtP's 'negative' rights focus. Andrew Hurrell quotes the 1998 statistics of 588,000 deaths from war, 736,000 from social violence and 18,000,000 from starvation to highlight this point. At the same time, 34 million people worldwide were suffering from AIDS and HIV, 1.2 billion people were suffering from malnourishment, and 2.4 billion people lacked basic sanitation (2003, p.42, citing Pogge, 2001; Charlesworth, 2002). The General Comments issued by the Committee on Cultural, Economic and Social Rights, suggesting that all states must respect the economic, social and cultural rights of individuals in other countries, appear to go unnoticed compared to the importance of respecting civil and political rights through military interventions (General Comment No 12 para 36; No 14 para 39 and No 15 paras 31, 33 and 34 all refer to the responsibility of all states parties to respect, protect and facilitate the enjoyment of economic, social and cultural rights in other countries). Seen in this light, Teson's claim – that if an ethical theory permits wholesale slaughter it is not an ethical theory (2003, p.14) – somewhat misses the point. Why should an ethical theory (or international law) prohibit the abuse of certain civil and political rights by a government but not other rights, including socioeconomic rights? Why should an ethical theory (or international law) *prohibit* some forms of violence within states but *permit* prior interference by states and IFIs which can have dramatically destabilising effects on a state and increase poverty, inequality and violence? Why should an ethical theory (or international law) prohibit Bellamy's 'death by politics' but permit his 'death by economics' through starvation, malnutrition and lack of access to drugs?

4 Conclusion

This paper has considered the view of justice within debates over the concepts of humanitarian intervention and the resulting doctrine of 'the Responsibility to Protect' and has made three arguments about this view. First, it has argued that injustice is perceived to be synonymous with large-

scale abuses of civil and political rights and the denial of electoral democracy. Socioeconomic rights are not viewed as being as important in achieving a just society in contemporary liberal doctrine. Second, the paper has argued that justice is perceived to be largely a domestic matter, such that individuals must be treated justly by their state (through civil and political rights) but – other than when the question of intervention arises – other states, or the ‘international community’, do not owe duties to non-citizens across the globe. The state-citizen focus neglects a broader cosmopolitan conception of justice which considers all states to have responsibility to all individuals across the globe regardless of their citizenship.

This is related to a third argument of the paper – that international peace and security work, perhaps unsurprisingly, has tended to focus on ‘acute’ crises of civil and political rights, which appear to be caused by local actors involved in mass atrocity crimes, at the expense of more ‘chronic’ systemic injustices relating to socioeconomic issues such as starvation, global health inequalities and poverty. In response to acute crises, justice is seen to require military intervention to halt the abuses and rescue individuals from their government. This combination, of the civil and political content of justice and the restriction of who is responsible for treating individuals justly to the individuals’ own state, fails to respond adequately to the question of who is responsible for what injustices. It also fails to respond to the question of when this responsibility arises. It allows the international community to present itself as a promoter of justice across the globe and downplays the role played by the international community in contributing to both systemic conditions of socioeconomic injustice and also to the very crises for which the international community developed the RtP as a response mechanism.

This paper has demonstrated some potential risks using the concept of ‘justice’ to promote a more interventionist, and more military, approach to the governance of international security. In response to Annan’s quote at the start of this article, it is worth recalling Martti Koskenniemi’s warning that, according to Pierre-Joseph Proudhon’s ‘whoever says humanity wants to cheat’ (Koskenniemi 2005, p.116). Even if members of the international community are not ‘cheating’ and are genuinely concerned about vulnerable populations, this paper has argued that the RtP is not the best way for the international community to fulfil its responsibility.

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¹ Glennon is presumably referring to the Security Council authorised peacekeeping (or quasi-peacekeeping) operations – UNMIH/Operation Uphold Democracy, UNOSOM/UNITAF and UNAMIR/Operation Turquoise – in response to crises in these countries. The view that these operations halted the slaughter of civilians is extremely controversial (eg, Evans, 2008, p.11).

² Although then-Prime Minister Tony Blair actually listed national interest as one of his conditions in favour of a military intervention by Britain on humanitarian grounds, in opposition to most of the ‘just war’ based criteria offered for assessing the humanitarian credentials of particular interventions, which require a ‘right intention’ to do justice (Fixdal and Smith, 1998; Chesterman, 2003, p.9).