

HUMANISING INTERSTATE AFFAIRS: REDEFINING SOVEREIGNTY FOR THE POST-MODERN ERA

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Abstract

As emerging norms such as the Responsibility to Protect (R2P) take hold among international institutions and actors such as the United Nations, the formerly static constructs of statehood and state sovereignty must confront the transformative nature of implications for sovereignty in the 21st century. Due to coinciding intersectionalities between human rights and humanitarian norms, multipolar alignment of power, authority and legitimacy, and the increasing influence of non-state actors, sovereignty has taken on characteristics previously unimagined, and is likely to align with continuing developments in human rights and democratic governance.

In applying a genealogically investigative approach, the analysis of emerging notions of post-national sovereignty will be reviewed with particular reference to the Responsibility to Protect (R2P) norm. The effects of interdependency on sovereignty will be examined, in addition to the changing nature of the relationship between state and non-state actors, and the relationship between the Global North and South. Ultimately, this paper seeks to examine why R2P has redefined sovereignty for the 21st century?

With the state of modern conflicts taking on increasingly irregular, asymmetric, and intra-state characteristics, states have now recognised the need for overriding international human rights and humanitarian norms as applied to current structures of absolute authority and monopolies on state violence. Since its emergence on the international stage, the Responsibility to Protect (R2P), conceived as a liberal compromise between absolute mutual non-interference and the international society's obligation to protect civilians from mass atrocities, has played and will continue to play a monumental role.

Keywords: Sovereignty, Post-national, R2P, human rights, globalisation

LA HUMANIZACIÓN DE LOS ASUNTOS INTERESTATALES: LA REDEFINICIÓN DE LA SOBERANÍA EN LA ERA POST-MODERNA

Resumen

A medida que normas emergentes tales como la "Responsabilidad de Proteger" (R2P) toman cuerpo en las instituciones internacionales y en instituciones como las Naciones Unidas, los constructos estáticos previos como Estado y soberanía estatal tienen que enfrentar la naturaleza cambiante de tales normas y sus implicaciones sobre la soberanía en el siglo XXI. Debido a coincidentes "interseccionalidades" entre Derechos Humanos y normas humanitarias, alineaciones multipolares de poder, autoridad y legitimidad, y la creciente influencia de actores no estatales, la soberanía ha adquirido características inimaginables hasta la actualidad y es muy probable que se alinee con los desarrollos constantes en Derechos Humanos y gobernanza democrática.

Asumiendo un enfoque genealógico en la investigación, se revisará el análisis de las nociones emergentes de soberanía post-nacional con especial énfasis en la norma de la Responsabilidad de la Protección (R2P). Se examinarán los efectos de la interdependencia en la soberanía además de la naturaleza cambiante de la relación entre actores estatales y no-estatales y la relación entre el Norte Global y el Sur. En última instancia este artículo busca examinar por qué la R2P ha redefinido la soberanía en el siglo XXI.

Con los conflictos modernos asumiendo crecientes e irregulares asimetrías y características intra-estatales, los Estados han reconocido la necesidad de anular los Derechos Humanos y las normas humanitarias que se aplican en las estructuras actuales de autoridad absoluta y monopolios en la violencia del Estado. Desde su aparición en el escenario internacional, la norma de responsabilidad de proteger -R2P- concebida como un compromiso liberal entre la absoluta no-interferencia mutua y la obligación internacional de la sociedad de proteger a los civiles de las atrocidades en masa ha desempeñado y seguirá desempeñando un papel monumental en darle forma a las nociones pos-nacionales de soberanía contemporánea.

Palabras Clave: Soberanía, Pos-nacional, R2P, Derechos Humanos, globalización

L'HUMANISATION DES QUESTIONS INTERÉTATIQUES: REDÉFINITION DE LA SOUVERAINÉTÉ DANS L'ÈRE POSTMODERNE

Résumé

Comme des normes émergentes telles que la « responsabilité de protéger » (R2P) sont incorporées dans les institutions internationales comme les Nations Unies, les concepts statiques précédentes que l'état et de la souveraineté de l'Etat doivent faire face à la nature changeante de ces normes et leur implications pour la souveraineté au XXI e siècle. En raison des "intersectionnalités" homologues entre les droits de l'homme et des normes humanitaires, les alignements multipolaires de pouvoir, d'autorité et de légitimité, et l'influence grandissante des acteurs non étatiques, la souveraineté a acquis des caractéristiques inimaginables jusqu'à aujourd'hui et il est très probable pour l'aligner sur l'évolution constante dans les droits de l'homme et la gouvernance démocratique. Avec les conflits modernes en supposant croissants et les asymétries irréguliers et caractéristiques intra-étatiques, l'État a reconnu la nécessité d'abroger les droits de l'homme et des normes humanitaires applicables dans les structures actuelles de l'autorité et des monopoles absolus dans la violence d'Etat. Depuis son apparition sur la scène internationale, le niveau de responsabilité de protéger -R2P- conçue comme un compromis libéral entre la non-ingérence absolue et l'obligation mutuelle internationale de la société pour protéger les civils contre les atrocités de masse, il a joué et continuera en jouant un rôle monumental dans la définition des notions post-nationales de la souveraineté contemporaine.

Mots-clés : *Souveraineté, post-nationales, R2P, les droits de l'homme, la mondialisation.*

Introduction

While sovereignty as an idea, has always played a central if not fundamental role in modern interstate affairs (Thomson, 2013), its constitutive role in International Relations (IR) has attracted robust debate regarding its changing nature, substantive content and normative dimensions. Subsequently, this has introduced alternative constructs of sovereignty, many of which are based on liberal values (Doli and Korenica, 2009; Lake, 2003; Lawson and Shilliam, 2009). Juxtaposed against realist and neo-realist assumptions of sovereignty as a fixed and exogenous attribute of states (Lake, 2003: 305; Doli and Korenica, 2009: 7), liberal values focus on the importance of internal democratic organisation as a feature for non-belligerent interstate affairs (Doli and Korenica, 2009; Lake, 2003; Lawson and Shilliam, 2009). Sovereignty's roots can be found in what is commonly known as The Peace of Westphalia (1648); in essence two treaties signed between the belligerents of the Thirty Year War acknowledging and codifying, in principle, the legitimate authority of state authorities to govern with coercion of interference from other states (Doli and Korenica, 2009: 7-8; Jackson, 1999: 438-441; Lawson and Shilliam, 2009: 661; Osiander, 2001: 14-15). Although this is often cited as the symbolic moment in which the current international system was born, critics purport that the evolution of the international system is inaccurately attributed to the Peace of Westphalia (Jackson, 1999: 438-439; Lawson and Shilliam, 2009: 660-661). Notwithstanding the divergence of opinion

on the classical narrative, 1648 certainly serves as an important transitional point in world history.

In a contemporary inter-state system structural limitations (and opportunities) seen through the eyes of neo-liberal and neo-realist theorists, what single core concept remains so inviolable? Mutual non-interference; as established by the Peace of Westphalia. This assertion is supported by the de jure and de facto practices of the modern inter-state system, as evidenced by international documents such as the UN Charter (Osiander, 2001: 278). Prior to the establishment of the United Nations, interstate protocols were developed on an ad hoc basis, with diplomatic envoys serving as the primary channel of exchange. Hugo Grotius (a Dutch philosopher, c. 1583-1645) purported that "sovereignty is a unity, in itself indivisible" (Lake, 2003: 305). With a few exceptions such as North Korea, Cuba and Iran, states no longer adhere to the supreme authority of a single individual authority. However, the classical perspective does share with its contemporary counterpart a significant and foundational doctrine: territorial integrity (Zacher, 2001).

The classical notion of sovereignty can be effectively summated as exhibiting both an internal and external dimension. Thomson presents these within a "domestic-international" dichotomy (Thomson, 1995: 214). Internal sovereignty requires the maintenance, control, and defence of territorial integrity by a legitimate state authority with a monopoly on the legitimate means of force (i.e. police, army, defence forces) (Bartelson, 2006; Lawson and Shilliam, 2009; Zacher, 2001).

Domestic sovereignty is characterised by the exclusive capacity of the state authority to implement their own (e.g. democratic) policies within the scope of the domestic populace and territory, without interference from other states (Doli and Korenica, 2009; Osiander, 2001; Zacher, 2001). External sovereignty rests upon the mutual recognition of states as sovereign and the inviolability of each sovereign state's territorial integrity via mutual non-interference on both a *de jure* and *de facto* basis (Lake, 2003; Osiander, 2001). This is by no means a perfect definition, as extant realities often reflect contradictory principles.

Whereas the legal definition and principles of modern sovereignty can be demonstrated through international treaties and conventions, the real world applicability of sovereignty is far from the idealised notions found in such documents as the 1933 Montevideo Convention (Doli and Korenica, 2009: 13; Krasner, 2001: 22). Lake highlights the failure of International Relations (IR) theory to account for hierarchical relationships between state actors (Lake, 2003: 303-304). It would be reasonable to characterise the relationship between the United States and the Federated Islands of Micronesia as anything but *de facto* sovereignty. Krasner refers to this as 'international legal sovereignty' whereas Jackson (1999) frames this in the paradigm of 'juridical sovereignty' (Doli and Korenica, 2009: 11).

1. Normalising Human Rights

In observing the longitudinal trends of liberal internationalism, classical notions of sovereignty have been realigned with widely accepted notions of appropriate state conduct (Held and McGrew, 2007). Conflicting ideologies of self-determination and nationalism are often juxtaposed against the liberal human rights norms of the Global North (and much of the Global South) (Alston, 2005). Since the end of WWII and the creation of the United Nations (UN), the legitimacy of absolute mutual non-interference between sovereign states has since been progressively challenged by each new generation of human rights. International Human Rights Law (HRL) and International Humanitarian Law (IHL) have become globalised and established as fundamental norms cross-culturally, between and among states, within the citizenry of states, and at the supra- and inter-state levels (Cornwall, 2004; Halabi, 2004). One of the most notable entrenchments of liberal norms occurred during the Nuremberg trials and the subsequent legal precedence and international jurisprudence it created as a result of prosecuting Nazi leaders for war crimes. In a pivotal moment in history, the 'authority' of the state no longer afforded the same impenetrable protection to its organs and agents as it once did when monarchs and emperors ruled with impunity. The International Tribunals in Former Yugoslavia and Rwanda can be seen as an extension and application thereof HRL and IHL norms developed at Nuremberg.

The American Declaration of Independence recognises the supremacy of the People and the right of the demos to challenge and overthrow a tyrannical state. In the *Two Treatises of Government*, Locke provides significant exposition affirming this right (Powell, 1996). Wellman points to the institution of democracy as a vehicle for facilitating the permissibility of state coercion of those within its territorial boundaries (Wellman, 1996). Similarly, Buchanan notes that the state only maintains political legitimacy to the extent where it exercises coercive force in a morally justifiable manner (Buchanan, 2002). As noted by Finer, Linz and Nordlinger, the legitimacy of a government is related to its domestic organisation, whereby the legitimacy of democracy has ultimately triumphed over the illegitimacy of illiberal states, such as those under military, dictatorial, autocratic, theocratic, authoritarian, or other undemocratic means (Sutter, 1999). The conduct of a modern democratic state is beholden to the consent of the People, whereby the establishment of state supremacy serves only to deter those others who would attempt to proliferate and enforce their own laws to the detriment of the collective Peoples (Buchanan, 2002). States must act within the scope of normative constraints, expressed as human rights and humanitarian principles in contemporary political discourse (Buchanan, 1999).

The global proliferation of human rights and humanitarian regimes are not without its detractors. Murphy notes that critical theorists including Norberto Bobbio, Jurgen Habermas, and David Held have observed that the neoliberal mode of globalisation has severely undermined the "democratic gains won over the last century" (Halabi, 2004). Neo-liberal approaches coerce the integration of emerging Global Southern economies into a great-power dominated international system. According to Cox and Gill as cited in Halabi (2004: 27-28), neoliberal internationalisation favours the interests of transnational and domestic business and political elite at the expense of state and individual actors, while undermining the capacity of emerging markets to 'catch up' to 'First-World' levels of development. The co-option of neoliberal market strategies by illiberal states has resulted in neo-authoritarian regimes as evidenced by the People's Republic of China (PRC) and Russia (Sautman, 1992: 72-102). As transnational organisations accumulate greater economic and socio-political capital to the extent of overriding the agency of weak states, individual actors in the Global South lose their capacity to fully realise their human rights.

In recent years, the challenge to human rights as a universal concept has lost much of its legitimacy, with greater acceptance of universal rights, despite acknowledgement that such rights have their origins in liberalism (Etzioni, 2011: 94). These extend to recognise the proliferation of Western interests in the Global South under the guise of human rights regimes

(Etzioni, 2011). Absent moral distinctions on the basis of culture, modern human rights promote the tolerance and reasonable accommodation of derogating views (Galston, 2006: 755-760). In contrast, the 'Asian values' and OIC arguments exclude universality on the basis of assumed ethno-cultural and religious supremacy. Oftentimes, these positions serve to justify human rights abuses and derogations by appropriating constructs of cultural relativism (Sen, 2008: 16). On the floor of the 1994 Vienna Conference, then U.S. Secretary of State Warren Christopher declared that, "we cannot let cultural relativism become that last refuge of repression" (Cole, 2013: 346). Current debates now focus on legitimate avenues of proliferating universal rights and determining the conditions whereby humanitarian intervention is justified (Etzioni, 2011).

However, claims by sovereign states to be free from interference in its 'internal and domestic affairs' have left many without these universal rights and freedoms. Nonetheless, as demonstrated by the 2005 UNGA World Summit Outcome, the Responsibility to Protect (R2P) norm formalised the legitimacy of humanitarian and military intervention in the case of genocide, ethnic cleansing, war crimes, and crimes against humanity. The social, moral, and legal legitimacy for humanitarian intervention existed well before, as early as 1970 when the International Court of Justice declared that all human rights are 'obligations erga omnes' and applicable to all states, without exception. Similarly, the ICJ pronounced in its 1996 Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons: "The Court observes that the protection of the International Covenant of Civil and Political Rights does not cease in times of war, except by operation of Article 4 of the Covenant whereby certain provisions may be derogated from in a time of national emergency" (Siatitsa and Titberidze, 2011).

Particularly the Court and the Covenant itself makes further requirements, that is that any state party must present itself to the UN Secretary General, list the provisions derogated from and the reasons that it was done so. Furthermore through the same process, the end date for derogations will be reported. Article 4(2) sets out 'non'-derogatory physical integrity rights, encompassing the right to life, freedom from genocide, freedom from torture, cruel, inhumane, or degrading treatment (including non-consensual medical or scientific experimentation), freedom from slavery, the right to recognition as person before the law, and the freedom of thought conscience and religion¹.

2. Responsibility to Protect (R2P)

The initial call for a new norm reconciling the twin principles of sovereignty and fundamental human rights emerged from UN Secretary General Kofi Annan's challenge to the international community at the turn

of the century in 1999 (Thakur and Weiss, 2009). Humanitarian justifications for military interventions and breach of state sovereignty are not a novel manifestation. In the aftermath of the Jewish Holocaust, the prevailing theme of 'Never Again' was marked by the UN adoption of the Genocide Convention on 9 December 1948, which brought legal legitimacy to subordinating the traditional notion of mutual non-interference among sovereign states. During the Cold War era, state interests were very much at play in determining the allegiances of Western or Soviet patrons. The American-Soviet impasse resulted in a human rights deficit, with the UN Security Council's Chapter VII powers obstructed by realpolitik deadlocks. A revival of the liberal human rights project began in 1989 when a period of unipolar American leadership and international cooperation fostered conditions necessary to intervene in Bosnia (1992-94), Somalia (1992-95), Rwanda (1994-95), Haiti (1994) and East Timor (1999-2002) (Stein, 2004). The humanitarian justifications for these interventions serve as a reminder to the "notion of responsibilities that the state has to its population and to the international community" (Benjamin, 2010).

R2P is first and foremost a regime that incorporates fundamental human rights protections as an inherent requisite for sovereignty (Bellamy and Drummond, 2011: 180-183). Domestic authority is no longer absolute, but rather limited in both a *de jure* and *de facto* sense, by international human rights and humanitarian juridical norms (Arbour, 2008: 447-448). During human rights crises, if and when states fail to realise their sovereign responsibilities to those under its jurisdiction or cooperate with the international community, the responsibility subsequently falls on international institutions (Bellamy and Drummond, 2011: 182). Under the R2P regime, intervening states *must* protect the peoples of a state suffering massive human rights abuses, rendering inaction, in addition to the human rights abuses themselves, a violation of the R2P norm (Arbour, 2008). While humanitarian intervention focuses agency on intervening states to demonstrate the 'right to intervene', R2P places the onus and obligation first on sovereign states and then upon the international community.

At its core, the R2P norm outlines principles for intervention, which are centred around justifiability, sufficiency of evidence, and sole humanitarian intent. In doing so, traditional *jus ad bellum* 'precautionary measures' are clearly articulated in terms of right intention, proportional means, least resort and reasonable prospect of success (Baldino et al., 2011: 65). From an operational perspective, R2P builds upon *jus in bello* principles established via international law in the form of clear objectives, common military approach, acceptance of limitations, appropriate rules of engagement, proportionality, and adherence to current IHL regimes (Arbour, 2008). R2P represents an

evolution of the current IHL regime and adds a degree of robustness by taking into account the increasingly intra-state nature of conflicts. The Rwandan Genocide is a sobering example of how the R2P paradigm adds to the IHL regime by establishing a framework requiring the justification of state non-intervention by delegitimising inaction, in the face of overwhelming evidence of human rights atrocities (Merle, 2005: 59-76). Former UK Prime Minister Tony Blair applauded the introduction of a “new doctrine of international community,” reminding the international community that, “acts of genocide can never purely be an internal matter” (Shepherd, 2009: 513-530).

Following the increasingly intra-state, asymmetric and irregular nature of armed conflict, the lack of response by the international community to crimes against humanity as witnessed in the Sudanese Civil War serves as a stark reminder as to the consequences of inaction (Traub, 2010). Given the rise of social media, where round the clock news cycles are complemented by live minute-by-minute sources from citizen-journalists; Merle purports that the rearticulated rights-based norms inherent to R2P have fundamentally shifted the burden of regulating state conduct from the international community to individual states (Merle, 2005: 59-76). This is to demarcate humanitarian intervention (HI) from the R2P norm, in that individual states have a legal and moral responsibility to protect its people from atrocities, while HI is considered on a case by case basis, without a consensus on intervention principles. Thus the moral permissibility of legitimate armed intervention, given the likelihood of civilian and military casualties is articulated between ‘motives’ (i.e. the ‘purity’ of humanitarian intent) and outcomes (i.e. the probability of achieving humanitarian goals without deviating from such intent) (Bellamy, 2004: 216-232). Parekh purports that the use of force for humanitarian purposes should be “wholly or primarily guided by the sentiment of humanity, compassion or fellow-feeling, and in that sense disinterested” (Parekh, 1997: 55-74). In this sense, Parekh describes a ‘collective good’ or cosmopolitan approach that departs from zero-sum realist paradigms. This is well aligned with the liberal origins of R2P and those in the academy that promote the UN-endorsed criteria of ‘right intent’ (Glanville, 2011; Gierycz, 2010: 110-128).

Despite the international media coverage of the violent prone regimes of President Al Bashir in Sudan, President Mugabe in Zimbabwe, and the military junta in Burma, and numerous coups in such small nation-states as Fiji, UNSC responses have been tempered by assertions of non-intervention from illiberal major powers including the PRC, India, and Russia (Axworthy and Rock, 2009). Ironically, Russia’s invocation of R2P in its attempt to legitimise an illegal incursion into Georgia (Allison, 2009: 173-200) and its occupation of Eastern Ukraine (Reeves, 2014) have highlighted the

need for more clarity in defining the R2P principles of military intervention. Much akin to the rights-based developments post-Nuremberg, the arrest of Radovan Karadzic in Serbia and his subsequent prosecution by the ICC for war crimes serves as a reminder of how international regimes such as R2P contribute to the advancement of global justice (Axworthy and Rock, 2009). The appointment of Edward Luck (under the Obama Administration) as Special Advisor on the Responsibility to Protect is indicative of R2P’s normalisation and importance as a major and significant international framework for challenging resistance to change, especially by those nation-states who still hold on to a four century old interpretation of sovereignty (Axworthy and Rock, 2009).

Concerns among critical security theorists cannot and should not be dismissed. Stein refers to the NATO initiated interventions of Northern and Southern Iraq in 1991 and 1992, the bombing of the Bosnian Serbs by NATO forces in 1995, and the 1999 NATO Kosovo campaign, as examples of the Global North’s supposed manipulation of humanitarian ideals into a tool for the imposition of neo-colonial logics of violence (Stein, 2004: 14-20). Historically, the ‘mission to civilise’ demonstrated the self-interested use of power disequilibrium (Merle, 2005: 59-76). During the Cold War, both Western and Soviet superpower blocs routinely fought proxy wars in ‘Third World’ states (Merle, 2005), as agency was presumed to be in the hands of ‘great powers’ (Barkawi and Laffey, 2006: 340). Noted American intellectual Noam Chomsky cites the invasion of Panama under Bush Sr., the Iran-Contra scandal, and the cases of US intervention in Vietnam, Cuba, Korea, and Iraq (First Persian Gulf War) as examples of the misappropriation of ‘humanitarian’ interventionism (Chomsky, 2008). Effectively, Chomsky argues that the “...the United States no longer has to worry daily about a Soviet nuclear threat, where and how it intervenes abroad is increasingly a matter of choice” (Chomsky, 2008). While political and military realities may have changed since the end of the Cold War, the potential for the abuse of R2P by self-interested great powers nonetheless exists.

The potential for abuse of the R2P norm should not, in itself, justify legitimate opposition to the normalisation, codification, and proliferation of the R2P norm. As such, utilitarian perspectives would demonstrate that the collective good to international society resultant from the R2P norm has and will continue to outweigh the risks of potential abuse. In the event of abuse and oppression of a citizenry by its own government, the international community would be faced with a “strong moral reason to prevent and stop the abuse and oppression by all permissible means” (Hill, 2009: 221-240). While noting the limitations of the Security Council, Stein is supportive of multilateral action in quoting UN Secretary General, Kofi Annan:

“The genocide in Rwanda will define for our generation the consequences of inaction in the face of mass murder” (Stein, 2004: 14-20). While past interventions have initially been ‘tainted’ by neo-imperialism, the cost of non-intervention in situations of severe human rights abuses, war, or poverty is morally and intrinsically unjustifiable (Brooks, 2005: 1885).

While ‘weak’ and opposing states view R2P as “nothing other than a mere expedient of the great powers to impose their interests and values on the weakest states”, the extant reality is that the majority of weak, failing, or failed states, enveloped, affected by or recovering from intra-state conflicts are found in the Global South, while members of international community with the necessary resources, infrastructure, and force projection capabilities for a successful R2P mission are most often founded in the Global North (Arbour, 2008: 202). R2P brings all states to accountability, even as potential interveners are hesitant to provide unequivocal support for R2P. The US position is purposefully vague as it states that, “international efforts should complement Government efforts rather than assume responsibility for them” (Focarelli, 2008: 206). Given the climate of mistrust that surrounds intervention, the emerging R2P norm requires concrete codification and clarity in its operational principles. As P-5 veto power remains the “principal obstacle to effective and prompt responses,” Focarelli (2008: 213) the legitimacy of R2P, international human rights norms and justifications, must be separated from the misappropriations of authority, legitimacy, and power by great power nations in the past, to ensure that the international community is well equipped to take on the challenges of the 21st century – and ultimately step in when states are unwilling or unable to protect their citizens from the inhumanity of human rights atrocities.

Conclusion

Sovereignty is a complex doctrine that has undergone numerous changes since its formal inception. The evolution and proliferation of international rights-based norms brings a measure of accountability to all sovereign states. In confronting the transformative nature of international institutions and global norms, sovereignty in the 21st century will take on characteristics as foreign to the Macedonian Empire as was the Peace of Westphalia. The subordination of state power by human rights and humanitarian norms has already made a great impact in human history. Whether such progressions have advanced the liberal human rights project remains to be seen; especially in light of conflicts in Syria, Iraq, Afghanistan, Yemen, and Libya. As globalisation simultaneously promotes neoliberal exchange, nationalistic expressions of identity result as a response to the securitised ‘other’ (Brooks, 2005: 1885).

In the Global South, this can be seen in regional associations such as the African Union (AU), OPEC, OIC, Shanghai Cooperation Group, Organisation of American States (OAS) and ASEAN. Similarly, the adoption and promotion of liberal democratic identity has been evident in the Global North, whereby the European Union (EU) represents a supranational identity of liberal cooperation, values and laws. Non-state actors, from sub-state communities who share transnational religious identities, to the emergence of integrated diaspora, have also contributed to the transformative progression of sovereignty and right-based conceptions of the nation-state. Other relevant actors such as IGOs, NGOs, and corporate entities, will continue to increase the complexity of sovereignty. As humanity ventures into a ‘post-national’ era, cultural, national, and even territorial borders will become more fluid, with the subordination and shift of power from traditional notions of statehood to globalised norms and actors.

Notes

1 In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. 2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision. 3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

References bibliographics

- ALLISON, R. (2009). "The Russian case for military intervention in Georgia: international law, norms and political calculation". *European security* 18: 173-200.
- ALSTON, P. (2005). "Ships Passing in the Night: The Current State of the Human Rights and Development Debate seen through the Lens of the Millennium Development Goals". *Human Rights Quarterly* 27: 755-829.
- ARBOUR, L. (2008). "The responsibility to protect as a duty of care in international law and practice". *Review of International Studies* 34: 445.
- AXWORTHY, L. and ROCK, A. (2009). "R2P: a new and unfinished agenda". *Global Responsibility to Protect* 1: 54-69.
- BALDINO, D.; PIETSCH, J.; LUNDBERG, D, *et al.* (2011). Contemporary Challenges to Australian Security: Assessing the Evidence.
- BARKAWI, T and LAFFEY, M. (2006). "The postcolonial moment in security studies". *Review of International Studies* 32: 329-352.
- BARTELSON, J. (2006). "The concept of sovereignty revisited". *European Journal of International Law* 17: 463-474.
- BELLAMY, A.J. (2004). "Motives, outcomes, intent and the legitimacy of humanitarian intervention." *Journal of Military Ethics* 3: 216-232.
- BELLAMY, A.J. and DRUMMOND, C. (2011). "The responsibility to protect in Southeast Asia: between non-interference and sovereignty as responsibility". *The Pacific Review* 24: 179-200.
- BENJAMIN, D.O. (2010). "Rethinking Nonintervention". *Public Integrity* 12: 201-218.
- BROOKS, R.E. (2005). "Failed states, or the state as failure?" *The University of Chicago Law Review*: 1159-1196.
- BUCHANAN, A. (1999). "The Internal Legitimacy of Humanitarian Intervention". *Journal of Political Philosophy* 7: 71-87.
- BUCHANAN, A. (2002). "Political Legitimacy and Democracy". *Ethics* 112: 689-719.
- CHOMSKY, N. (2008). "Humanitarian Imperialism." *Monthly Review*.
- COLE, W.M. (2013). "Does respect for human rights vary across 'civilizations'? A statistical reexamination. *International Journal of Comparative Sociology* 54: 345-381.
- CORNWALL, A. (2004). "Putting the 'Rights-Based Approach' to Development into Perspective". *Third World Quarterly* 25: 1415-1437.
- DOLI, D. and KORENICA, F. (2009). "Discourses on the Notion of Sovereignty: Towards an Inclusive Modern Definition". *GLPS Academic Papers*: 1-19.
- Etzioni A. (2011) Obama's Implicit Human Rights Doctrine. *Human Rights Review* 12: 93-107.
- FOCARELLI, C. (2008). "The responsibility to protect doctrine and humanitarian intervention: too many ambiguities for a working doctrine." *Journal of Conflict and Security Law* 13: 191-213.
- GALSTON, W.A. (2006). "Pluralism and Pluralism and Liberal Democracy". *Perspectives on Politics* 4: 751-753.
- GIERYCZ, D. (2010). "From Humanitarian Intervention (HI) to Responsibility to Protect (R2P)". *Criminal Justice Ethics* 29: 110-128.
- GLANVILLE, L. (2011). "On the Meaning of 'Responsibility' in the 'Responsibility to Protect'". *Griffith Law Review* 20.
- HALABI, Y. (2004). "The Expansion of Global Governance into the Third World: Altruism, Realism, or Constructivism?" *International studies review* 6: 21-48.
- HELD, D and MCGREW, A. (2007). *Globalization/anti-globalization: beyond the great divide*, Malden, MA; Cambridge, UK: Polity.
- HILL, T. (2009). "Kant and Humanitarian Intervention". *Philosophical Perspectives* 23: 221-240.
- JACKSON, R. (1999). "Sovereignty in world politics: a glance at the conceptual and historical landscape". *Political Studies* 47: 431-456.
- KRASNER, S.D. (2001). "Sovereignty". *Foreign Policy* 122: 11.
- LAKE, D.A. (2003). "The New Sovereignty in International Relations". *International studies review* 5: 303-323.
- LAWSON, G. and SHILLIAM, R. (2009). "Beyond Hypocrisy? Debating the 'Fact' and 'Value' of Sovereignty in Contemporary World". *Politics. International politics* 46: 657-670.
- MERLE J-C. (2005) The problem with military humanitarian intervention and its solution. *The Philosophical Forum*. Wiley Online Library, 59-76.
- OSIANDER, A. (2001). "Sovereignty, international relations, and the Westphalian myth". *International Organization* 55: 251-287.
- PAREKH, B. (1997), "Rethinking Humanitarian Intervention". *International Political Science Review / Revue internationale de science politique* 18: 49-69.
- POWELL, J. (1996), *John Locke: Natural Rights to Life, Liberty, and Property*. New York: The Foundation for Economic Education (FEE).
- REEVES, S.R. (2014). "To Russia with Love: How Moral Arguments for a Humanitarian Intervention in Syria Opened the Door for an Invasion of the Ukraine". *Michigan State International Law Review* 22.
- SAUTMAN, B. (1992), "Sirens of the Strongman: Neo-Authoritarianism in Recent Chinese Political Theory". *The China Quarterly* 129: 72-102.
- SEN, A. (2008). "Human Rights and 'Asian' Values". *Peacework* 35: 16.

- SHEPHERD, A.J. (2009). "A milestone in the history of the EU: Kosovo and the EU's international role". *International Affairs* 85: 513-530.
- STEIN, M.S. (2004). "Unauthorized humanitarian intervention. *Social Philosophy and Policy* 21: 14-38.
- SIATITSA, I. and TITBERIDZE, M. (2011). *Human Rights in Armed Conflict From the Perspectives of the Contemporary State Practice in the United Nations: Facutal Answers to Certain Hypothetical Challenges*. Available at: http://www.geneva-academy.ch/RULAC/interaction_between_humanitarian_law_and_human_rights_in_armed_conflicts.php.
- SUTTER, D. (1999). "Legitimacy and Military Intervention in a Democracy". *American Journal of Economics and Sociology* 58: 129-143.
- THAKUR, R. and WEISS, T.G. (2009). "R2P: From Idea to Norm—and Action?" *Global Responsibility to Protect* 1: 22-53.
- THOMSON, J.E. (1995). "State sovereignty in international relations: Bridging the gap between theory and empirical research". *International Studies Quarterly*: 213-233.
- THOMSON, A. (2013). "Syria chemical weapons: finger pointed at jihadists". *The Telegraph*.
- TRAUB, J. (2010). "Unwilling and unable: the failed response to the atrocities in Darfur". *Global Centre for the Responsibility to Protect*: 1.
- WELLMAN, C.H. (1996). "Liberalism, Samaritanism, and Political Legitimacy". *Philosophy & Public Affairs* 25: 211-237.
- ZACHER, M.W. (2001). "The territorial integrity norm: International boundaries and the use of force". *International Organization* 55: 215-250.

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