

GREAT DECISIONS

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Today we are going to be talking largely about the Responsibility to Protect (R2P), but I thought it might be good to start giving a little bit of a background and the history of intervention and the occurrence of mass atrocities. Since WWII there have been a number of circumstances where mass atrocities have been carried out and the international community has failed to act. What has prevented successful intervention in these atrocities?

It's very important to remember that these are complex situations. Often times the facts of what was emerging has not been realized on a broader scale and it's also very difficult to know exactly what is going to do more good than harm. These are not simple situations where the silver bullet shot fired in just in the nick of time is going to save the day. Often time's intervention has had far worse results than not intervening. It has been counterproductive. Brought down a government and left chaos in its wake. We have many of those situations so it's both in terms of these being difficult situations, difficult to know what to do that will really help. Often times it's forgotten that in fact the international community has intervened, we have peace keeping troops on site for example that was the case in Rwanda and in Srebrenica and in Bosnia but the intervening troops were too few. They didn't have the right equipment. They didn't have the right information. So even though the international community had intervened many people remember that as a non intervention because it was so ineffective. I think it is very important to remember the facts in past cases when we're building policy for what will work in the future.

Can you elaborate on some of those cases, starting with Cambodia and moving on to Rwanda?

Yes well Cambodia of course is a terribly tragic situation and I think that this was one in which it was not clear what was unfolding. Cambodia had been part of the end of French Colonialism, had been part of the Vietnam War. The United States certainly wanted to leave that region and in fact our history of military intervention in Vietnam, in Cambodia had lead to the weakened governmental institutions that finally collapsed in the lunacy of Pol Pot [leader of the Khmer Rouge] and his decision to remake that society. At least in the case of the US having intervened

so tragically for so many years, it certainly wasn't in the mind of American leaders to intervene again in Cambodia. So in Cambodia, in my view, while many people say that this was a failure of the west to intervene, it was actually a failure of having intervened once so badly that led to this final outcome. There were things that the west should have done but I'm not convinced myself that a major western military intervention was the right one. And, in fact,

what ended the killing fields of Cambodia was an invasion from the neighbor of Vietnam and that turned out to lead to twenty years of dictatorship. So while I think it was necessary for the military to be used in that situation, Vietnam had a right to use this force because of the provocations from Cambodia. That's when the international community should have come in and said to Vietnam, there are certain ways you can use military force, but you can't take away the self determination of the Cambodia people.

This killing has to stop, your border may be secured but to stand for twenty years as a controlling outside Tierney, is just another international crime. In the case of Rwanda and Srebrenica are also quite similar in that these were cases which there was an inadequate intervention by the west, there were peace keeping troops in Rwanda. Let's talk about that case first, but when Kofi Annan was head of the Department of Peace Keeping Operation at the United Nations before he was Secretary General. He was given the job of finding a peace keeping mission to go to Rwanda to police a very shaky cease fire there, between the Hutu and Tutsi's. He could not find the number of troops that his experts said that should be going to Rwanda. And yet he sent a far too tiny group of troops to go there. They were given the mandate of policing a ceasefire that didn't exist with far fewer troops than the experts said were needed. Then when the killing started and it was triggered because an outside revolutionary force of Tutsi's was coming back in to take power from the ruling Hutu's. When that force was coming to the country the ruling Hutus would try to wipe out the Hongar people who might be friendly to this invading group and when that killing began, this tiny group of UN blue helmets couldn't do anything about it. So they were pulled out and that of course was the wrong move at that time. Many people had said that if we had sent lots of troops in, but frankly what we should have done was the right thing from the beginning. That was either to send the right number of peace keeping troops in the right conditions with the real cease fire or not to have sent troops at all and given people the false sense of security that they were going to be protected by the UN and they weren't.

So would you say that there is a common lesson to be learned through some of these examples that you've been telling me about?

Yes, I def think there is, and I would just add that the third one we have been talking about, Srebrenica follows a very similar pattern to Rwanda. A small UN peacekeeping troop was sent there, told people if they would come to a safe area in or around Srebrenica that the UN would keep them safe. But there weren't enough UN troops; we always knew there weren't enough. We had no means to keep them safe if the Serbs were going to counter attacking which they did.

So as I analyze all three cases we see the use of military force, wrongly as at the start of each of these tragedies. So now when I hear people say well, under the Responsibility to Protect (R2P) under extreme emergency, we should send outside military force into these situations. I say, wait a minute, that's what caused problems in all three of these very tragic situations.

Isn't there something else we should be doing? Aren't there means for example, can't we send negotiators to help build the ceasefire? That's what helped to avoid catastrophe in Kenya. Negotiators went to Kenya after the elections when violence was beginning and before it spun out of control they were able to get people talking and all the credit goes to Kofi Annan for doing that. If outside military force had come in and people were encouraged to start fighting each other, those protected by outside troops and those not, I think Kenya would have disintegrated into a real civil war. I would say the same about Burma for example there were calls to send a military invading force into Burma when the Junta, after the natural disaster in 2008, was being reluctant to allow foreign aid workers in and some proponents of R2P said, we have to send military force, this is an occasion for R2P to be put to work. The Foreign Minister of France, Kushner, who's been a major proponent of R2P, as well as many Canadian leaders who have been behind the original R2P concept. They were actually calling for military force, to force humanitarian assistance into Burma, fortunately, cooler heads prevailed, negotiators were sent from the UN, they worked with the Junta, they understood what their concerns were and a plan was worked out so aid could come in and aid did flow in and there was not a loss of lives in result, so military intervention, which Robert I have to say, I think this is so often forgotten by people who want to see robust action in response to atrocities.

The military weapon, the use of the military which I know very, very well is a blunt instrument. It is not a fine tuned diplomatic tool the way negotiation or mediation is. When you send a military force, people are going to die and while some people say, well yes some innocence will have to die so other may live. I find that a very hard price to pay for these kinds of situations...and I'm confident when we have the cases to show other means work better.

The best known cases of atrocity in recent decades would be the Cambodian massacre of their own people by Pol Pot and the Rwandan massacre of the Tutsi's by Hutu's and the massacre at Srebrenica of Bosnians by Serbs and all three of these cases we find that in fact there was military intervention, outside military intervention that lies at the beginning at each of those tragedies.

What really is the Responsibility to Protect? Could you just give us some background on it? What do you see are its strengths if any and what do you see as its weaknesses?

In principle on the way that the recent document of R2P describes it, we have to all be in favor of it. States DO have a responsibility to protect their people, they have an obligation to not to commit genocide. Not to commit crimes against humanity and the entire world has the responsibility to ensure that every member of the international states system does not

perpetrate such crimes. Where I have some very serious concerns with the concept is that, from the beginning from when it was first developed in Canada 2001, it was designed to be an apology for, or, it argues at its heart that in some cases we should use military force in major humanitarian crisis. It was after all written in response to NATO's use of force in Kosovo crisis.

Well I thought that crisis alone would have taught us that the use of military force, in complex human rights situations is almost never the right answer. You kill people using military force and if you're trying to save and protect the human rights of some and end up killing others and civilians, innocent people who do not deserve to die, then where is your net advance in terms of human rights?

How have you enhanced human rights, especially because the R2P concept, the original document published in December 2001 and even the most recent report by the Secretary General, allow in some cases, for the use of military force in violation of international law. That is a self contradictory and self defeating part of this R2P concept.

Human rights come from international law. We understand what human rights are, we promote them on the strength that they are from treaties, that they are from rules of customary international law, enforced by the world court, they are part in partial of international law. So trying to support this area of international law, we allow violations of other areas of international law, we end up undermining this whole important normative area and we end up with less, not more at the end of the day.

If we really want to support human rights, we should be saying, let's support international law in general and let's support what I consider to be the most important principle of international law and that, the law against war.

Human rights are incredibly important but they will never flourish for people that are living in a state of war.

The UN Charter, the most basic document in all of international law says, that state are prohibited from using force, except in self defense and yet the R2P doctrine says, well...ok...you should not generally use force, but in some cases if you leader of country A, you, President Bush, you, Prime Minister Blair, if YOU think the human rights situation is so extreme than you can decide to use military force. That's against international law and if we're allowing that than we risk undermining all of international law and that includes human rights.

Some opponents of Responsibility to Protect, most recently at the UN General Assembly said that the document is really just another form of colonialism. Do you have any thoughts on that?

O'Connell: I understand exactly what Mr. D'Escoto is talking about...the use of military force in history has been used to conquer other countries, to take power, to project military might, and that's why we outlawed the use of war for national policy in the UN Charter. In recent cases for example, the use of force in Iraq by the United States, many people saw as an attempt by powerful states to control a country they didn't like and that had a lot of oil. Once you start opening up this prohibition on the use of force I think we have to be very concerned that it will be abused by those who will say, well we're just invading Iraq because Saddam Hussein is a tyrant and that example of Iraq is I'm sure what Mr. D'Escoto was thinking of is a very serious concern.

Why is it acceptable to call for intervention in Africa and maybe not in Europe and other places?

Well, it's particularly worrying, African states, many of them are in a tough moment in their history in terms of nation building and there are many issues to work out in terms of how they'll build governmental structures for them and there has been a good deal of violence - much of it probably from colonial times when people had to take up arms to fight for their freedom - so there is still a tendency to use violence, people are very desperate to get powers, to access to resources. In this kind of situation I think it's been exactly the wrong answer. To call for outside military intervention in Africa, in these countries that are experiencing these upheavals in nation building. First of all it just exacerbates this idea that using military force is ok. It gives rebels a sense, or people who are unhappy with their government a sense of permission that they can take up arms to fight for what they want. It's ok, it's an R2P, and it's in this document from the UN. That's a very serious concern of mine. On the other hand, we don't have any examples where outside military intervention has worked. We don't have examples where military intervention in these kinds of complex, state building, human rights, and crisis situations has been positive. Outside military intervention in Sierra Leone and Liberia, exacerbated conflicts that led to ten, twelve years of civil war following the interventions so it's a particular tragedy that people are calling for and have been using outside military intervention in African crises.

Wouldn't a lot of people site those two examples successful examples of military intervention since both of those states now are in the relative path to recovery?

Well they're looking at a very odd set of qualifications for success many years of civil war, many, many people killed and maimed. These are both countries that are still very fragile. Weak economies. Was this necessary. Wasn't there are away that that country could have developed and worked out its problems as we see Kenya is today. Ghana has had problems, they have had military coups, they did not have a civil war, they did not have outside intervention, so to encourage non violent ways of working out problems has led to success. I don't count what happened after the interventions in Sierra Leone and Liberia as a success at all.

Now moving to two current African countries with problems, Somalia and Zimbabwe and we could also include DRC. What do you see then as the prescription to resolving these issues when people like Robert Mugabe continue to repress the people?

Let's talk about Somalia for a moment. Because Somalia has had such terrible suffering for so long, much of it caused by outside military intervention. In 2006 the US encouraged Ethiopia to invade Somalia and bring down the government that was there, the de facto government. It wasn't a great government, but it was a government. Trash was being collected. There was some order. We didn't have this state of piracy off the shores. We didn't have aid workers being killed. It wasn't a great situation but it is so much worse since Ethiopia invaded with the quasi permission of the UN and the full support of the US. That was recipe for disaster and it's still playing itself out. Fortunately there hasn't been a similar kind of situation in Zimbabwe. Zimbabwe is a tragic situation. Mr. Mugabe should not be the leader of that country. But it's not for outsiders to determine that. It's in a struggle with local leaders with Zimbabweans for how to rule their own country. They're getting assistance from their neighbors who are mediating with South African leaders who have been very helpful with bringing that situation forward. That tragic situation to be the site of outside military interventionist that some have called for, throwing it into an all out civil war...how will that help? It will only make it worse. That brings us to the place in Africa where we hear most often from the west that we shouldn't have intervention. And that place is Sudan and if anyone knows the facts of Sudan, why there has been violence and killing in Darfur they would hesitate to say that there should be a major outside military intervention in that country. This was a conflict that began over land rights, over water rights, there was an idea that people in Darfur could get as good of a relationship for as good of a deal with Khartoum as the people in Southern Sudan got and they took up arms. They were encouraged perhaps by the Kosovo rebels who got the help of NATO or others who have said "yes let's use military force to help these people fight." At any rate there are some 21 militia groups in Darfur fighting against the central government. How do we help that situation by sending a military force? There is a military force there, we've sent one. Too small, not enough equipment, very concerned about having enough water.

This is the situation where all of the world's resources in terms of mediation skill, negotiation skill, should be front and center until a cease fire is worked out and we can really help in a way that actually works.

Now moving onto the Persian Gulf episode that I mentioned earlier, you have come out as a strong advocate against any military intervention in Iraq and Iran...why do you stand where you do on that issue?

Well, first of all I am an international lawyer and I understand the rules that the world has developed over 350 years, we finally have a rule against using military force, asking that peace prevail.

There is not right under the UN Charter or international law for outside powers to use military force against Iran today. That's the number one...even if there

was some right, I guess this would be about bombing...Nuclear weapons sites, or presumed sites. It would be ineffective. All military experts say that we would do very little to slow down a nuclear program that Iran might have through bombing.

International also says that if military force is going to do more harm than good or not accomplish the military objective than it is unlawful to resort to it. Let me add a third reason why military force would be the wrong answer with respect to Iran. We have a vibrant movement in Iran right now following the elections. Once again people have taken to the streets to protest against a government that they don't like. If outsiders start bombing their country, then the same thing will happen when we started to comb over Kosovo. People who are against Slobodan Milosevic in Serbia turned back to him because their country was being bombed. That will happen in Iran and that will slow down if not kill the movement for democracy, for human rights in Iran and I would rue the day that any western country would take that step.

I think it would be great if you could try to summarize what the alternative to R2P is.

When we're talking about Responsibility to Protect it's certainly the case that we all can do more for situations of human rights violations and we should. But we should do what works and what works is negotiation, diplomacy...we've had some wonderful diplomats who have gone to situations of crisis and made them better. Kofi Annan in Kenya in recent years. Sergio de Mello who went to Mozambique and helped stop a civil war there, using peaceful means, remembering that at the heart of the UN charter is the responsibility to peace.

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