Protection of Human Rights or State Sovereignty: Which Way to Go?

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The festering Syrian conflict has wrought havoc on human rights while the world looks on. The world's inaction in the face of shocking violence ostensibly forfeits any hope for the future of the protection of human rights. Since its eruption in 2011, the conflict in Syria has claimed more than half a million lives (Laub, 2017). By two years after the start of violence, almost half of Syria's 22 million citizens had left their homes and homeland (Tabler, 2013) to seek refuge outside their nation's borders. The plight of Syrian refugees is writ large on the teeming camps, which dot borderlands in Jordan, Lebanon, and Turkey, that house them. Meanwhile, hundreds of thousands of refugees risked their lives and those of their loved ones on their journey across the Mediterranean, hoping to find safety in Europe. Just in 2015, a million refugees made their way into parts of southern and western Europe, especially Germany (Niazi, 2016), while millions more remain in camps, nursing their dreams of getting there one day.

Xenophobic Backlash in Europe

The attempted and actual migration of Syrian refuges into Europe has resulted in a surge of alt-right populist movements, the combustible, immigrant-loathing rhetoric of which has inflamed popular sentiments and caused even mainstream European political parties to lurch rightward. In this hostile environment, European governments have felt compelled to slam their doors shut on incoming refugees. In fact, the toughening of immigration policy on the continent has grown into a measure of leadership. Government leaders are now in competition with each other to show who has most effectively shut their doors on immigrants. The Syrian calamity has thus revealed the underside of Europe and its long-simmering xenophobia. Across the Atlantic, the United States' President Trump has barred Syrian refugees from entering the country (Singhvi and Parlapiano, 2017), and the United States Supreme Court has partially validated the president's executive order (Liptak, 2017). Anti-immigration sentiments, doused with austerity programs in Europe and belt-tightening in the United States, have turned European and American governments and their citizens inward. Additionally, economic downturn caused cuts in US military spending, which in turn led to scaling back of any overseas military initiatives that did not have direct bearing on the United States' strategic interests. Any residual concern in Europe or the United States for human rights was dampened by the urgency of addressing the most immediate needs at home. The daily grind of survival took precedence over protecting rights in far off places, let alone committing blood and treasure on behalf of the rights of others in distant lands. All this has built into a level of humanitarian uninterest and "unconcern" that calls to mind parallels from pre-war Europe.

Geopolitics Divides the International Community

The surge of popular indifference to human rights violations and senseless violence in Syria has numbed the international community <u>that</u> stands divided on how to construe the Syrian conflict and how to combat the concomitant refugee crisis. Geopolitical interests are at the root of this division, which foreshadow the plight of millions of refugees. Many would think that if there were ever a humanitarian disaster that could get the international community to speak with one voice, it would be calamity in Syria. Instead, the international community stands frozen in paralysis about how to find a unified voice on Syria, let alone what to do about it. The consequences of this failure to pre-empt and prevent the Syrian disaster are widespread, which has left scholars of human rights melancholic about the future of human rights protection.

Aidan Hehir and Robert Murray (2017), in their edited volume *Protecting Human Rights in the 21st Century*, have voiced this melancholy but with a tinge of hope for the state of human rights protection in the world. They have marshaled wide-ranging arguments about the future of the protection and management of human rights, which in equal parts excite optimism and pessimism. They then set out to steer an alternative path, away from both pessimism and optimism. They call pessimists 'fatalists,' who are resigned to the fate of the faltering human rights regime.[1] On the other hand, they tag optimists 'deniers,' who refuse to see the obvious: a worldwide slide in human rights protection. The work's editors embed the debate on humanitarian intervention within its classical context of liberalism, and build it up to its contemporary iteration to explain the worsening of human rights conditions worldwide. They argue that it is not just the "in-humanitarian non-intervention" in Syria that has begat the mammoth refugee disaster. They assert that the botched "humanitarian intervention" in Libya[2] also has contributed to intervention fatigue. Even though the Libyan leader Muammar Gaddafi was not a poster-child for human rights protection, his violent ouster turned the country into a slaughterhouse of human rights. In post-Gaddafi Libya, regional warlords, religious extremists, hordes of IS (Islamic State) terrorists, and warring factions within the Western-backed government in Tripoli are all guilty of egregious human rights violations.[3]

If intervention and non-intervention are both productive of humanitarian disasters, what, then, is the way out? The instinctive response is order and stability within the safe borders of sovereign states. Volume contributors, however, see in this default position a backward march or a retreat to "order-oriented geopolitics." They lament prioritizing 'order' over human rights protection, which in their view often leads to more and outrageous rights violations committed by errant states in the name of stability. When the state becomes the abuser of human rights, volume contributors ask, who can and should protect human rights? The authors disagree with letting states off the hook for committing rights abuses in the name of order, which they fear will likely institutionalize the same sort of "order-oriented geopolitics" that marked the decades-long cold war. With this line of thinking, they move the debate over interventionism and non-interventionism to embrace a new paradigm called "responsibility to protect" (R2P) in an effort to address whose responsibility it is to protect the right-bearing individual members of society when their own states are guilty of violating their rights.

R2P Changes Everything, or So It Was Thought

In 2005, the world leaders' summit at the United Nations came close to answering the question of who (if not states) ought to bear responsibility for protecting and maintaining human rights. The summit presented the notion of a "responsibility to protect" and drafted a document

that is widely known by its acronym, R2P, stating that if states violate the human rights of their citizens, it becomes the responsibility of other global actors to protect the human rights of those individuals. With its adoption, R2P changed the very concept of state from being an embodiment of 'absolute sovereignty' to a possessor of 'relative sovereignty.' In absolute sovereignty, the state's right to national security overrides the protection of the rights of its citizens. The concept of 'relative security,' on the other hand, expands the state's responsibilities from those pertaining to national security to include 'human security' and the protection of human rights. The transformative nature of R2P had some hailing it effusively as "the most significant adjustment to sovereignty in 360 years" (Axworthy and Rock, 2009, p.69). Others spotted in it an international Magna Carta (Slaughter, 2011). Critics, on the contrary, dismissed this gush of enthusing as 'hubris' (Kersten, 2015) that "irresponsibly increased expectations" (Hehir, 2017; Gallagher, 2015) that the world's players would rise to the occasion and protect the rights of citizens in distant states. Still others saw R2P as empty of substance, which can be evident, as Hehir (2017) notes, from the fact that states known to violate the rights of their citizens, such as Bahrain, Qatar, Sudan, and North Korea, affirmed it just as warmly as France, the United Kingdom, and the United States. Critics of R2P are not necessarily its rejectionists. They are, rather, skeptics who would like to see it "change the world" but are not so <u>sanguine</u> about it (Hehir, 2017; Gallagher, 2012).

Clanging Ideologies and Interventionism

Those who are opposed to humanitarian intervention are averse to the very idea of international regulation and protection of human rights since it, in their view, likely opens the pathway to interventionism. Sovereignty, for them, is 'absolute,' and they want "little scope for the trans-state enforcement of human rights" (Hehir, 2017). This position is akin to that of realists in international relations theory, who are absolutists on the primacy of state sovereignty. Interestingly, Hehir (2017) has traced the absolutism of state sovereignty to classical liberalism, which, in all irony, is not that far from that of realists' absolutist position. Walzer (2011) documents that traditional liberals, who argue against interventionism, invoke John Stuart Mill's famous exhortation against intervening in the affairs of a sovereign state. Realism and classical liberalism thus share an antipathy towards interventionism, which in their respective views violates state sovereignty. According to Jackson (2000), this aversion to interventionism found favor with the pluralists in the tradition of the English school of thought on international relations. More importantly, this aversion to humanitarian intervention flows in contradistinction to the vociferous advocacy of "liberal internationalism" for a muscular foreign policy, particularly since the tragic events of 9/11.

Interestingly, liberal internationalists parted ways with classical liberalism and its caution against interventionism only to end up in bed with neo-conservatism, which champions the spread of democracy and state-building as part of human rights protection. Advocacy for democracy and state building in places like Iraq and Afghanistan, however, turned out to be counterproductive, resulting in the rise of IS terrorists in Iraq and a seemingly endless war in Afghanistan, which is the longest-running combat the United States has ever waged. Liberal internationalism, volume contributors argue, overdosed on successful interventions in the 1990s, an era that was billed as the "age of enforcement." Humanitarian intervention towards the close of the 20th century birthed independence for East Timor, South Sudan, and Kosovo. It was the dizzying success of such interventionist efforts that made liberal internationalism bolder in its

push for democracy and state building in the 21st century, which respectively saw Afghanistan, Iraq, and Libya invaded in 2001, 2003, and 2011. Nevertheless, humanitarian interventions at the turn of the century failed to replicate the successes of those undertaken in the 1990s. The rather unflattering outcomes of 21st century efforts injected a modicum of humility into neo-conservatism and liberal internationalism for future such initiatives. The real casualty of these bungled attempts, however, is the humanitarian concern, which, volume editors report, is flagging worldwide. In the case of Syria, flagging concern seems to have grown into antipathy towards humanitarian intervention, even where it is arguably most justifiable.

Finding a Way Forward

If R2P is not viable, and a return to order-oriented geopolitics risks rights violations, what is the third way out? The edited volume offers a three-part analysis to address this question and provide a solution that will sidestep the either/or dilemma of clinging to R2P or espousing 'order' over 'rights.' The analysis has been divided into three broad sections in the volume: The first section revisits some of the assumptions that underlie humanitarian intervention and recasts liberal internationalism by which the protection of human rights has long been understood and practiced, especially since the 1990s, when the Cold War ended after the collapse of the Soviet Union. This section contains four theoretically grounded essays that seek to rethink fundamental principles such as the concepts of 'rights,' 'humanity,' 'power,' 'constitutionalism,' and 'global constitutionalism.' This section also offers conceptual clarity on human rights, their basis in law, and a shared concern that supposedly crosscuts geographical, cultural, and national distinctions. The second section examines the very idea of 'protection' and particularly the idea of 'protection of civilians' (POC), which is often presented as a more viable alternative to R2P. This section consists of additional four essays that delve into major ideas underlying human rights. This section particularly makes a distinction between the ideas of R2P and the 'protection of citizens' (POC), providing a robust critique of past and present instances of intervention and non-intervention, analyzing their respective outcomes and implications. Based on this analysis, the section builds up to an alternative to humanitarian intervention in R2P. The third section is entirely devoted to an analysis of the R2P as a concept. It critically examines its strengths and weaknesses and strives to chart a way forward to more viable alternatives. In this section, R2P is compared and contrasted with POC. There is a measure of evidence that seems to favor POC over R2P, as the former is more palatable for states that feel alarmed by interventionism. Overall, this section conducts a thorough discussion of R2P, along with its prospects and its perils. The volume concludes with a thoughtful epilogue by co-editor Robert Murray (2017).

Way Forward is Potholed with Disagreements

The concerns that emerge from the conceptual, empirical, and policy discussions of humanitarian intervention, R2P, and POC are multifarious. Of these, the most important include power imbalance between the west and the rising rest; determining who is or who should be the "rights enforcer(s)," and/or in whom should authority and responsibility for the enforcement be vested; cross-cultural differences over notions of 'rights protection' and 'state sovereignty; a shared reluctance in the rising powers of BRICS (Brazil, Russia, India, China, and South Africa) to assume enforcement responsibilities; and a selective bias in rights enforcement. Volume contributors argue that power imbalance between western and non-western nations hinders efforts to reach a consensus regarding the enforcement of human rights. This imbalance becomes

an even bigger impediment when rights violators are non-western nations, and enforcers of rights the western ones. Second, there is a disagreement as to who should enforce rights. The P5 nations (Britain, China, France, Russia, United States) at the United Nations' Security Council dominate the decision-making on enforcement, but their deliberations are stalled if there is no nation or nations willing to commit diplomatic and military resources to the enforcement of rights. Third, according to volume contributors, cross-cultural differences in regard to defining and interpreting 'rights' and 'state sovereignty' further impede the enforcement of rights. Non-western nations tend to be more guarding of state sovereignty than of rights enforcement. Fourth, say contributing authors, the emerging multipolar world further dilutes the human rights regime.

The multipolar world arose from the disintegration of the bipolar world (with the fall of the Soviet Union in the 1990s), leading to the diffusion of world power across multiple poles and, at first, the development of a unipolar world in which the United States was the ascendant power. Critics (see *e.g*., Carafano, 2015) allege that the unipolar power of the U.S. began to shrink under President Barrack Obama (2008-2016), who disengaged the United States from the world, especially from rights enforcement. President Obama's lack of response to the breach of his self-drawn "redline" on the use of chemical weapons by the Assad regime in Syria, along with his only reluctantly committing the United States to the supposedly humanitarian intervention in Libya, earned him epithets such as "weak on defense" (Dwyer, 2012) and critiques that he was content to "lead from behind" (Carafano, 2015), ultimately permitting Trump to campaign on the promise of "enforcing Obama's redline in Syria" (Lake, 2017). Under President Trump, however, United States' retreat from the world is even bolder—from mocking NATO to threats of pulling out of NAFTA to actually pulling out of the Paris Climate Accord of 2015—although the U.S.'s retreat is not unilateral, as the contributors to this work demonstrate.

The shift in the balance of power among global players from a unipolar to multipolar world is also being fueled by the resistance on the part of new players in the multipolar world, especially BRICS, to accept a uniform definition of rights and their enforcement. These powers are particularly skeptical of humanitarian intervention, and more wedded to state sovereignty. They are more willing to embrace the idea of protection of civilians (POC) than humanitarian intervention or R2P. POC entails United Nations' peacekeeping missions, which states suspected of committing atrocities against their own citizens host—supposedly voluntarily—as Congo and Sierra Leone have recently done. Several nations of BRICS happily contribute to these missions. Of all P5 nations, China, for instance, has been the largest contributor of peacekeeping troops (Fung, 2016). Since peacekeeping missions are subject to the consent of host states, they are taken to be respectful of (or, minimally, the least violative of) state sovereignty, as compared to any humanitarian intervention under R2P, which prioritizes rights enforcement over state sovereignty.

Fifth, the contributing authors say, the selective enforcement of human rights (*i.e*., the inconsistent application of rights enforcement based generally on other—unstated—political agendas and objectives) has also fueled humanitarian unconcern. The determination of when and where to enforce human rights comes with its own selectivity biases. As such, the selective enforcement of human rights has been used as an implicit means of protecting allies, advancing strategic interests, and extending geopolitical reach. For instance, human rights violations by allies such as Brazil have been overlooked, while those of Venezuela's flagged. Additionally, P5 nations have been reluctant to enforce rights in nations outside the radius of their strategic interests. A singular case in point is the Rwandan massacre of 1994, during which the Rwandans became the victims of the world's malignant neglect and in which almost a million members of

the Tutsi minority and their Hutu supporters were butchered in a fratricidal war (Niazi, 2002). In this way, geopolitically important nations such as oil-rich Iraq and Libya become tempting targets for humanitarian intervention, while geopolitically light-weights such as Syria are left alone to collapse under the weight of their own tyranny, with millions suffering as a consequence.

Although each essay in this edited volume is a stand-alone masterpiece that engages with statecraft across nations, regions, and the world, the most persuasive of them, however, are the ones that further pessimist arguments, (*i.e.*, asserting that humanitarian intervention has no future). The chapters describing the arguments of the pessimists' rivals, (*i.e.*, those that the volume editors call 'deniers' or 'optimists') offer a mixed case of hope and despair about rights protection and rights enforcement, although, in their analyses, hope seems to fade faster, and despair appears to loom larger. Between pessimism and denialism, the volume's editors strive to chart a 'third way' but end up in a critique of R2P, its merits and demerits, and its overall feasibility. Even in volume editors' analyses, especially in Robert Murray's (2017) epilogue, the weight of evidence seems to be against R2P and its future prospects. While POC is shown to be more viable than R2R, it is hard to see errant states, (*i.e.*, those committing atrocities against their own citizens), voluntarily letting United Nations peacekeepers come in and restrain them. Additionally, POC can take on a nefarious form. A case in point is Russian military presence in Syria as a POC mission, with the consent of the Assad regime. But Russians in Syria are only protecting the Assad regime (Parlett, 2017) by helping it kill its enemies, (*i.e.*, citizens protesting its atrocities). One promising way that rights enforcement can yield positive results is to take geopolitics out of humanitarian intervention. It is, indeed, an ideal aspiration, the realization of which is even more idealistic.

The critique presented here is by no means meant to detract from the otherwise superb job that volume editors and contributors have done to highlight the prospects and perils of one of the most important issue of our time—the enforcement of human rights around the globe. Each essay in the collection is well-argued, well-presented, and highly readable. Each represents the rigor of research, conceptual clarity, theoretical grounding, and empirical density, besides being elegantly written in an impeccable style that grips the reader. The volume is indeed a memorable work on theory and practice of human rights that will remain a must-read for all those concerned with rights for years to come.

'Europeanization' of Turkey: Judging its Human Rights Regime

While *Protecting Human Rights in the 21st Century* offers a generalized, big-picture analysis of rights protection and rights enforcement, it does not address specific cases of human rights-challenged states, a void that Gozde Yilmaz (2017) fills with her highly sophisticated read on *Minority Rights in Turkey: A Battlefield of Europeanization*. Her study presents an insider's view of the state of human rights in Turkey that intersects with her doctoral training in Germany and research in Europe. Yilmaz takes on shifting Turkish policies towards its ethnic and religious minorities, especially Kurds and Alvis, and explores their internal and external tropes. As Turkey has long been a European Union candidate state, according to one school of thought, its minority rights record has steadily improved because of prodding by the European Union. The European Union wants to see European Union candidate states in Eastern Europe and countries that straddle Europe and Asia, like Turkey, conform to the norms and values that are central to democratic Europe, such as respect for basic human rights. Another view is that candidate states have been mainstreaming their minority policies because of their internal dynamics to the

exclusion of external influence. The shift in minority policies, according to this view, is either driven by the high cost of discriminatory policies that fragment societies and rupture inter-personal relations in society, or it is engineered by the obvious benefits of expanding and respecting the human rights regime by undoing discriminatory policies. The third view, which Yilmaz productively constructs, is one of convergence of internal and external incentives, the synergy of which accelerates policy change in the desired direction.

Yilmaz discusses the case of Turkey in great detail not only to inform and educate a reader who is unfamiliar with the state of minorities in Turkey but also to explain internal and external dynamics, which she calls 'pull' and 'push' factors. Pull, according to her, constitutes a top-down influence that trickles down from the European Union to candidate states in order to influence their minority policies and to bring them up to European standards. Push, on the other hand, is a bottom-up evaluation of a minority policy in candidate states, which questions its failure and replaces   it with one borrowed from overseas, including European Union states. Focusing on the case of Turkey, Yilmaz situates her analysis in two sets of regimes in the country since its transition from an empire to a republic in the 1920s. One set of regimes were cast in what Yilmaz calls the 'hyper-secular' tradition, which was forged under the founder of Turkey, Ata Turk (Turkish for the father of Turks). This tradition has enjoyed the longest ascendancy and has continued well into the turn of the century. The second set of regimes began with the climbing of AJK (the Turkish initials of the ruling Justice and Development Party in Ankara), which came into power in 2004 and which strove to steer the ship of the state away from its hyper-secular tradition and closer to its 'glorious' Islamic imperial past, enshrined in the 500-year Ottoman Empire. Ironically, the hyper-secular liberal regimes, steeped in hyper-nationalism, were more restrictive of minority rights than their contemporary Islamic counterparts. The AJK regime became more enthusiastic, at least initially, about joining the European Union and liberalizing its policies on minority rights than previous regimes had been. Even when the AJK regime became frustrated in its ambition to join the European Union, it continued to liberalize and expand minority rights, as these measures proved advantageous to the party. One of the most important advantages that Yilmaz has recounted is the electoral one. Set against the secularist plurality of the country, the AJK turned to ethnic and religious minorities, non-secular traditional and nationalist communities, and the religious sector of society as its voting base. This coalition propelled the AJK into power and kept it there, election after election. To further strengthen its electoral base, the AJK government went on to liberalize the restrictive minority rights. For the first time, the Kurdish minority was allowed to speak the Kurdish language as a medium of communication and instruction. On the surface, this may seem an ordinary gesture, but it was not. For a community that could not read even Islamic scriptures (including Quran) in its own language for almost a century, letting it speak and write its own language was a monumental step forward. (In contrast, the preceding hyper-secular governments in Ankara had enforced the Turkish language as a unifying bedrock to dissolve all subnational linguistic identities into an overarching 'we-are-all-Turks-and-Turks-only' melting pot.)

Temporally, Yilmaz has focused her analysis on 2004-2010 to explore shifts in Turkish policies on minorities. She has deployed three theoretical models to inform her analysis. Of these, the most appealing is the 'pull and push' model. The other two she described as 'Drawing Lessons,' and 'Social Learning.' It appears that neither of these models independently explains the evolving policy changes in regard to expanding minority rights. She distributes the time frame of policy changes into three temporal markers and ingeniously stretches each model to explain policy shifts in temporal bits and pieces. No matter how ingenious the exercise, however,

she does not seem satisfied by its results. So she crafts a convergent frame—made up of these three models—to explain evolution in Turkish minority policies. One cannot but empathize with her in overstretching these models to fit her empirical evidence. As *Minority Rights in Turkey* is her dissertation developed into a book, she had to endure the academic tyranny of finding validity for marginal, even no-name theories, which hardly come across better than educated guesses. This burden slightly takes away the edge of her otherwise superb analysis of evolving Turkish policy on minority rights. This apparent weakness of the study, though, lends itself into an opportunity for her next book, which she should devote to a historical analysis of the evolving minority policies in Turkey by periodizing them into the following stages of Turkey's history: its imperial past, its republican age, and contemporary Islamic-secular heterodoxy. One major omission in her current analysis is the internal dynamics of shifting policies, such as the struggle of ethnic and religious minorities themselves, and the major phenomena in the 'near-abroad' of the virtual breakup of the Iraqi and Syrian regimes, leaving the Kurdish minority liberated, autonomous, and on its way to becoming an independent nation. In her future analysis, she may address these dynamics and their possible impact on shifts in Turkish policies on minority rights.

Conclusion

The arrival of *Protecting Human Rights in the 21ˢᵗ Century* and *Minority Rights in Turkey* could not be timed better. The simultaneous worldwide rise in the violation of human rights and the contemporary slide in humanitarian concern add to the urgency of the message that these two volumes articulate for the protection and enforcement of human rights. In particular, these works serve as a wake-up call on world governments and world leaders to help arrest the erosion of the human rights regime, an erosion that is inextricably linked to growing human suffering. The concept of human security, *i.e.*, freedom from fear and want for every human on this planet, is a fortifying antidote to the crumbling human rights regime. This concept has the potential to become the currency of the future realm of human rights, which requires nation-states to expand their responsibility to protect their citizenry, and not just as the guardians of 'state sovereignty.' More importantly, human security requires an economically just world. If the planet remains divided between the affluent and the impoverished, human security will be no more than a daydream. Unfortunately, concern for global economic justice or a just world rarely enters into mainstream human rights debates. A first and fertile step towards the making of a just world will be for Europe to accept Turkey into the European Union, for which it has already waited too long.

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[1] The human rights regime incorporates the galvanized efforts of the international community to promote and guard human rights, primarily by codifying human rights and protecting them through the legislation of treaties and institutions, and through the delineation of norms to which all states are expected to adhere or face intervention.

[2] In 2011, a UN security council resolution authorized the use of force in Libya to protect civilians from Muammar Gaddafi's lethal response to anti-government protest. In March of 2011, a multi-state, NATO-led coalition implemented a military intervention that ultimately led to the killing and capture of Gaddafi in October of that year. Currently, however, foreign forces remain in Libya, and the country's civil war has embroiled international forces in "mission creep" and ongoing violence.

[3] Some critics assert that the current instability in Libya is not the direct result of humanitarian intervention but are instead tied to subsequent failures of the international community after the intervention.

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