

Humanitarian Action in a New Barbarian Age

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If the hope for human progress and for a better world can be said to rest on anything, it rests on the great documents of international law that have been promulgated since the end of the Second World War. These include, first and foremost, the United Nations Charter and the Universal Declaration of Human Rights. But while these documents offer a global vision of what the world might become if humanity is lucky, they remain more hope than reality. In contrast, the corpus of international humanitarian law, that is, the rules governing armed conflict, have actually proved its utility again and again over the course of the past half-century. The four Geneva Conventions and their Additional Protocols, the Genocide Convention, and, more recently, such initiatives as the Rome Treaty banning landmines, are no mere pious sentiments. They have saved innumerable human lives. Think, for example, of the fact that since the adoption of the international treaty that banned the use of poison gas as a weapon of war, gas, so ubiquitous in the trenches of the Western Front during World War I, has probably only been used a handful of times since. Norms, it seems, can sometimes influence realities.

That said, it would be a misreading of history, and, perhaps, a culpable exercise in self-flattery as well, to make a fetish of the law and imagine that realities will invariably or inevitably migrate toward norms. Despite the more grandiose claims of human rights activists, as well as of distinguished philosophers such as Jürgen Habermas, the record is more mixed: Over the course of the past half-century, there are examples where they have and examples where they have not. The full legal emancipation of African Americans in the US civil rights movement of the 1950s, 1960s, and 1970s is an example of a law-based reform or, to put it differently, a normative transformation that did end up transforming American social reality even though at least a significant minority and possibly even a majority of Americans were against such decisions as *Brown v. Board of Education* when they were first handed down. And yet, in contrast, normative changes related to the status and treatment of children encapsulated in the UN Convention on the Rights of the Child have had limited impact outside the developed world despite the best efforts of many dedicated activists and political figures.

In other words, the record is mixed. Those who believe that human progress is inevitable often describe this as a matter of “two steps forward, one step back,” as the former head of Human Rights

Watch, Aryeh Neier, did in his history of the human rights movement. This is not to say that no progress has been made or that it is unreasonable to expect that more will be made in the future. To the contrary, even among those of us for whom the Classical Greek vision of history as cyclical seems to conform better to the realities of our sad world than the Christian, Marxist, or, indeed, liberal expectation that progress in the moral order of the world is as bound to take place as progress in scientific understanding, would hardly want to do away with the notion of progress altogether. As the great liberal realist, Raymond Aron, once put it, “if one is not [an advocate of progress], what is left?” Humanity, he added, had no hope for survival “outside of reason and science.”¹

Aron’s conclusion in large measure amounted to insisting that one had to be optimistic in spite of what one knew—“despite the twentieth century, I remain an advocate of progress,” was the way he put it. This is not to be confused with the more self-congratulatory fables that have captured the imagination of far too many decent people in the contemporary world, and that revolve around the notion that a “revolution of moral concern”—the phrase is that of the Canadian writer and erstwhile politician, Michael Ignatieff—began in the aftermath of World War II, gave rise to the United Nations system as well as to the transformation of both the concept of state sovereignty and the reach of international law. For those who believe in its reality, this revolution has no downside, no tragic element to it (unlike all previous revolutions in human history, whether economic, like the Industrial Revolution, or political, like the American Revolution). Instead, it promises to usher in a better world in which the worst human cruelties and historical tragedies—another World War I, Shoah, or Gulag Archipelago—will not be permitted to unfold and whose perpetrators will not enjoy the impunity that they have throughout most, if not all, of human history.

Aron was not an optimist. Nor, lest it be forgotten, were the founders of the United Nations. To the contrary, many of them had been soldiers and all of them anguished observers of the most terrible war the world had ever known. They were idealists, not utopians, and steely idealists at that. But if an Eleanor Roosevelt or a Gladwyn Jebb viewed the nascent world body as a means of preventing the kind of descent into the inferno that the Nazi experience had revealed to be a constant human possibility rather than as a means of inducing any ideal world order, their successors gradually became more optimistic. A document like Secretary General Boutros Boutros-Ghali’s 1991 “An Agenda for Peace” described a world that really might be perfectible. And the final documents that accompanied the decade-long extravaganzas of UN conferences of the 1990s, culminating in the formulation of the so-called Millennium Development Goals, had a similarly utopian tinge to them. Poverty would be halved by a date certain; States that abused their own populations would be forced to desist because the Westphalian order, with its culture of impunity,

was fading and we were entering the age of rights. War would be limited in scope, with limitations on what weapons could be employed when and where, steadily expanding protections for noncombatants, property, and cultural and religious sites growing in scope.

This would happen, activists often argued, because of the transformation and expansion of legal norms and the campaigning of civil society groups. The context for the change would be the UN, which was viewed (and, indeed, for all its faults continues to be viewed in this way by many people throughout the world) as the sole legitimate authority for international rules that could apply to all of humankind. The fact that the UN was an institution without much real power and that the term civil society is so nebulous as to be more a sociopolitical Rorschach blot for campaigners and activists than a term that has any real specific gravity passed largely unnoticed during the 1990s—that “silly season” of the inflated expectations. (Otherwise, why is Human Rights Watch, which has no democratic accountability, viewed as an emblematic institution of civil society while the US National Rifle Association, with four million members, is viewed as something else?)

Instead, there was the very real expectation that the world was becoming a more civilized place. Again, why the same decade that witnessed the Balkan catastrophe and the Rwandan genocide could interpret itself as a period of enormous promise is a question for psychiatrists, not political analysts. But that optimism was real. And the creation of the International Criminal Court, which was heralded as the first institution that promised to genuinely promise an end to impunity for war criminals, served as the capstone for these generous and well-intended expectations of decent people around the world.

As Undersecretary General for Peacekeeping, Kofi Annan had presided over the two worst failures of the United Nations during the first post–Cold War decade. But as Secretary General, Annan not only acknowledged the UN’s failures—however belatedly, and, in the case of Rwanda, not until 2004 on the eve of the tenth anniversary of the genocide, and then only quite ambivalently—but made the UN Secretariat a bully pulpit for this “revolution of moral concern” and for individual human rights as finally “trumping” state sovereignty. Annan’s UN was a place in which international law, above all international humanitarian law—that is, the laws of war—was viewed as the essential component for building a more decent world order. And in speech after speech and document after document, UN officials from the Secretary General himself on down emphasized the need for States to comply with the obligations they had under the various international treaties and conventions to which they had signed on. The problem, UN officials repeated, was no longer one of first principles; the transformation of the normative environment had seen to that. Rather, the question was now one of making these norms binding—in short, of enforcement.

In retrospect, this approach begged at least as many questions as it answered. To begin with, there was the uncomfortable matter of why, if the norms were so terrific, the reality of the world was so dire? But at least that objection could be answered by saying that just as it had taken a great deal of time and struggle and false starts to get the norms right, so it would take a long period before effective modalities of enforcement were arrived at. And activists could point to studies ranging from the report on UN peacekeeping by the former Algerian foreign minister, Lakhdar Brahimi, to the Canadian government-sponsored document on humanitarian intervention, “The Responsibility to Protect,” as examples of serious efforts to think about implementing the new norms and of, in effect, institutionalizing and reifying that “revolution of moral concern.”

More difficult was the issue of what possible motivation could impel States to act out of essentially altruistic motives, which, however much they had been weakened by the realities of globalization, were still the fundamental constitutive elements of world order. That is, why would great powers intervene to prevent genocide in places of little economic or geostrategic significance to themselves except very rarely and inconsistently? One did not have to be a Kissingerian realist, or the reincarnation of Lord Palmerston, to conclude that States had never behaved in this way in the past. For all of history until the post–World War II era, the conduct of States had largely been determined by interests, rather than ideals. The question was what, if anything, had changed? Was Ignatieff’s idealist template of the human rights revolution of the second half of the twentieth century really that compelling? Or, as the British diplomat Robert Cooper argues in an influential book, *The Breaking of Nations: Order and Chaos in the Twenty-First Century*, did the fact that a successful global economy required a rules-based order really imply a commitment to a human rights rule as well?

On the face of things, that appeared unlikely. Africa, where most of the crises that might require so-called humanitarian intervention were occurring, was by the turn of the millennium almost irrelevant to the world economy except for certain key resources like oil that could be extracted even during civil wars and famines. At a generous estimate, it accounted for some 3 percent of world trade. The Balkans, East Timor, Haiti: they were similarly marginal in geoeconomic terms. This reality, which is as undeniable as its elaboration is unpalatable, tends to confirm Ignatieff’s thesis, not Cooper’s. At the very least, it threw the debate back into the context of morality. And if the 1990s had proved anything, it was that where morality was concerned the so-called international community was highly selective in its commitments. The British might decide to do something about their ex-colony, Sierra Leone, but even the highly interventionist Blair government was at pains to point out that its deployment was not to be construed as the first of many. There would be no British

troops sent to Zimbabwe on human rights grounds although the tyranny of Robert Mugabe was almost as destructive to its own people as the Revolutionary United Front had been in Sierra Leone (the Mugabe government simply used hunger and internal displacement as its principle weapons, rather than the mutilations that were the monstrous hallmark of the Revolutionary United Front). The Clinton administration made the same point after the United States–led war in Kosovo in 1999.

Of course, had the great powers been willing to give the UN a standing force and the authority to deploy it, as the UN's own Sir Brian Urquhart had once suggested, the dilemma might not have been so acute. But the great powers found a weak UN exactly to their liking, while, in much of the developing world, the critique of absolute state sovereignty that Kofi Annan had pursued was viewed as a way of legitimizing neocolonialism rather than guaranteeing or helping to secure people's human rights. Inevitably, instead of being narrowed, the gap between the new norms of international humanitarian law and realities on the ground began to widen. The fact that some humanitarian interventions, notably the one in Kosovo, were undertaken without UN approval only increased skepticism in the developing world about possible hidden agendas in the revolution of moral concern.

Perhaps, had the September 11 attacks not taken place, some consensus might have been arrived at. Possible, but not likely. While the attacks on the World Trade Center and the Pentagon did transform the landscape of international relations, many of the contradictions between norms and realities that September 11 put in such sharp relief were already part of the geostrategic landscape. It is just that, like icebergs in the North Atlantic, they lay largely submerged and out of view.

So many factors militated against norms becoming reality. First and foremost, the UN had no real power to set the agenda anywhere except where the great powers had no great interest in setting one themselves. Thus, before September 11, the UN view on Tajikistan carried some weight, but once the US decided to invade Afghanistan the UN was relegated to the sidelines. Second, there was no appetite in the rich world for the kind of redistributive justice that would have begun to address the underlying inequities that were at the root of so many so-called humanitarian or human rights crises. The refusal of the European Union nations to radically overhaul their policies of massively subsidizing their own agricultural sector was one illustration of this. The comparative failure of the debt relief movement to sway Washington in any truly significant way was another. Third, despite what Third World intellectuals might imagine, there was no appetite in Western Europe, Japan, or the United States, to “recolonize” the world. The logic of Secretary General Annan's speeches might sometimes seem to imply endless wars of altruism, but neither Washington nor Brussels was prepared to make any such commitment or to facilitate and subsidize a UN force that would.

The September 11 attacks only exacerbated these trends. But they exacerbated them to a remarkable degree. Confronted by terrorism, whether or not it was appropriate to call the necessary response to it a “war” as the Bush administration did, it was the politics of that most profound and essential interest—existential security—that was at the fore of policymakers’ calculations, not elective wars in the name of humanitarianism and human rights. At the same time, much as had been the case during the Cold War, States threatened by terrorism were not only immediately engaged in curtailing domestic civil liberties but tended to be more willing to overlook human rights violations, even on a massive scale, by States that might play a strategic role in the antiterrorist campaign.

The American government’s volte-face on Uzbekistan—surely one of the most abusive regimes on the face of the earth—because the Karimov dictatorship had facilitated US operations during the invasion of Afghanistan was a case in point. In fairness, human rights concerns have always been ignored—as much if not more so in Europe as in the United States—when major commercial interests were at stake, as the case of China has demonstrated all too vividly. It is true that, during the so-called Arab Spring, the French government proved itself to be willing to take the lead in the international intervention to overthrow the Gaddafi dictatorship in Libya, with which it had strong commercial ties. But the Western response to the Arab Spring generally is something of an outlier, and are best understood as Western governments believing change in the Arab Middle East is inevitable and, for once, attempting to help shape events rather than react to them.

Senior UN officials are perfectly well aware of these trends. But since it has little real power (to use Joseph Nye’s categories, it has no hard power and only a small amount of soft power), and since its legitimacy is derived so importantly from its commitment to the primacy of international law, the world organization was hard-pressed to shift gears to somehow respond to or at least accommodate these new realities. Perhaps, had it done so, it would have destroyed its own *raison d’être*. But by not adjusting, the UN found itself wrong-footed by the new world disorder that the rise of Islamic terrorism and the international response to that terrorism had brought into being. In effect, it believed it could remain a noncombatant in that struggle. But neither the terrorists, nor, for that matter, the Bush administration were prepared to concede the UN the right to maintain such a stance.

Sergio Vieira de Mello was without question the most brilliant UN diplomat of his generation, a throwback, in terms of charisma, dedication, intelligence, and drive, to such figures as Folke Bernadotte and Brian Urquhart. But when he reluctantly accepted Secretary General Annan’s plea to becoming the UN’s special representative in Baghdad after the overthrow of Saddam Hussein, de Mello never seems to have imagined that the anti-US insurgents and terrorists would view the UN as aligned with the US invasion. In a sense, he was right: Institutionally, the UN had opposed the war.

As de Mello saw it, he was trying to help the Iraqi people, not serve the US occupation authorities. As the UN report on his death concluded, neither de Mello nor his colleagues seem to have fully taken in the fact that to the Iraqi guerrillas, the UN was just as much the enemy as the US was. And de Mello was not so much wrong—what else could he have done? To have hunkered down in a bunker, as the Americans did, would have been to betray everything the UN and he personally stood for—as overtaken by a colder world. Faithful to his ideals, he died for his belief in the UN, which, whether one shares it or not, ennoble his sacrifice. But it is by no means clear that those ideals can be held on to.

The ways in which the United States has turned the international order on its head in the aftermath of September 11 are obvious. By eschewing any serious commitment to the multilateralism that lies at the heart of international law, the future of any viable world system, however embryonic, in any usable time frame, is open to question. But terrorism also throws that future into question. For terrorism, by definition, challenges the state's monopoly on force, which must lie at the heart of any international system worthy of the name. It also deforms, if it does not negate entirely, the soldier-civilian distinction that lies at the heart of international humanitarian law. To be sure, that distinction was already under threat from the revolution in military technology of the last decade. A guerrilla force cannot fight a modern army equipped with night vision equipment (this has deprived guerrilla forces of their strongest traditional advantage, the night), thermal imaging, GPS, smart weapons, drones, and satellites. Or, rather, it cannot fight such an army while obeying the laws of war. To the contrary, it must employ perfidy, pretending until the moment it attacks that its fighters are noncombatants, and it must employ terror, because while it cannot hope to challenge a modern army on the battlefield, it can hope to demoralize that modern army's citizens back home.

The idea that guerrilla forces would simply bow to the superior technology of modern armies from developed countries is as utopian as the expectation that war itself has been superseded. An American judge once remarked famously that the US Constitution was not a suicide pact. By the same token, for the guerrilla fighter, neither are the laws of war. And from Gaza to Iraq, the force of that reality is becoming pOf course, where this leaves an international system (a sounder concept than international community) that is law-based is very much an open question. And it is hard not to feel that, notwithstanding the Arab Spring, and the success of democratization in Burma, that a new barbarian age is upon us. One of the first victims of that age was Sergio Vieira de Mello. He will, of course, not be the last.