

HUMAN RIGHTS AND GREAT POWER POLITICS

A SOCIAL SCIENTIST'S VIEW

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Abstract

In his famous essay, "On Perpetual Peace" (1795/1987), Kant argued that peace, freedom, and human progress were dependent on the existence of a plurality of politically competing units of independent states. In his 5th "preliminary article" he wrote: "No state may intervene violently in the constitution and the government of another state." The concept of Human Rights applies, however — taking it literally according to our common understanding today — to all human beings irrespective of their national or cultural belonging, or their position in the hierarchical setting of the political world system. As social scientists we must investigate the different meanings and functions this complex idea assumes under the condition of a unipolar world order, dominated militarily and politically by one single hyperpower. This contribution investigates the universalist approach to Human Rights in political reality. It argues that the inherent universalism of Human Rights is used to instrumentalise them for strengthening the hegemonic relations of modernising strata within states and their populations both in Western and non-Western societies. That argument is by no means to be confounded with the apologetic arguments of some states (e.g., the PRC) that Human Rights are Western ideas and not applicable to non-western societies. Nevertheless, it asks for the roots of those purposeful misunderstandings. By its instrumentalisation, the concept of Human Rights may be damaged also for those suffering under its absence. Finally, this essay pleads for a policy of strict non-intervention in military terms to re-evaluate Human Rights and return their dignity as the fundamental charter of human-kind. Democratic transition needs to be protected against the very denial of democracy, which is forcing on other political units the prejudices of the more powerful states.

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The Political World System

Setting the Problem

The five countries of the Warsaw pact which invaded Czechoslovakia (Romania abstained) in 1968 to end the “Prague Spring” justified their intervention by formulating the thesis of the limited sovereignty of socialist countries, the famous and ill-famed “Brezhnev-doctrine.” Since the fate of “socialism” was apparently at stake, most Communist parties in the West agreed, as did tacitly the Western powers, although Western and Eastern public opinion did not.

In 1989, Ayatollah Ruhollah Khomeini sentenced Salman Rushdie, a British citizen, to death for his book, *Satanic Verses*. He justified this intervention into the jurisdiction of another nation by his qualification as the leader of Muslim believers of the entire world.¹ As the dignity of Islam seemed at stake, most Muslims from West Africa and London to Indonesia and China (cf. Gladney 1996, 1 ff.) agreed and would have been glad to earn five million dollars and a place in heaven at the same time. This time, neither the governments nor the media of the secularised West agreed. On the contrary, Western powers suggested that the *fatwah* violated all norms of international law.

In 1999, NATO attacked Yugoslavia without any legal basis — if there is any in international “law” or if there is international law at all — for nearly three months with terrorist bombing raids destroying most of the civil infrastructure. The West justified its aggression by maintaining that considerations of Human Rights and the protection of minorities are posited hierarchically above the acknowledged norms of territorial integrity and non-intervention in an interdependent world. Public opinion in the West, that is, the mass media and probably most of their audiences, agreed; however, public opinion in the rest of the world did not.

If the *Rome Statute* of the International Criminal Court (A/CONF.183/9 [July 17, 1998] - cf. later on) — against which the United States together with Iraq and China, etc. had voted — would be in force, this aggression would have been a classical case of Art. 5 (1 d) (“crime of aggression”) and Art. 8 (2 b v) (“attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives”).

Thus, although presumably nearly all of humanity will agree with the global character of politics, economics, and culture, various formulations of a “Brezhnev-, Clinton-, Santiago- or Khomeini-doctrine” meet agreement ordinarily only among those who support specific conceptions of the world-to-be by intervening agents. However, let us consider the fundamentals of the question.

Basic Considerations

Despite surprising weaknesses in his argument, Anthony Giddens (1987) provides a double approach to modern societies which is worthwhile to continue. National societies coincide with nation-states with respect to boundaries and — to a substantial degree also — to structures; therefore, the state structure must be considered more systematically and more deeply concerning its impact on the analysis of modern societies. Also, these states are elements of the political world system, and a modern society cannot be explored simply by a purely “endogenous approach.” Both propositions are of fundamental importance to our argument.

Interventions cannot be seen simply as isolated acts or as a series of isolated acts. They are constitutive features of the state system and the political world system.

Before scrutinising what intervention really means, we have to distinguish carefully *two quite different* problems. The first one concerns political rhetoric and its choice between alternative patterns for one's own claim of power, domination, and superiority. This is the level of critical analysis and empirical/historical exploration of political reality. To avoid being trapped in naive or consciously displayed ideology, it is indispensable to concentrate on this level before diving into the more philosophical problems of universalism and generalised norms. I am operating at this particular level in my contribution here. The second question is a politico-moral one and concerns the very basis of social interaction. If all of us belong to a unity of morally equal individuals, we cannot but expect from each other to behave humanely by deferring to the same dignity of other human beings.

In fact, and without falling into the trap of biologism (and worse, "sociobiology"), we have to acknowledge that the only factual basis we may use for creating equality and egalitarianism is our common and shared belonging to the single species and genus of *homo sapiens*. This should not obscure the fact, however, that taking this position on universal dignity in equality is — in itself — a social and political decision. Nevertheless, it is a strongly plausible one, as Rawls (1979) did demonstrate so convincingly. It is especially the intellectual tool of "the veil of ignorance" which presupposes universal equality. If a single human being must decide the starting point without knowing precisely where to start, then the only reasonable decision is to opt for equality.

Under these assumptions we are entitled to demand respect and dignity from the other players in our world and to enforce this claim under what may be considered to constitute some sort of *global social contract*. However, I will argue that ordinarily — and in historical circumstances as they were and are — this does *not* give us a moral right to intervene in other societies. Without pretending to have a valid answer, I want to raise the following question: Under which circumstances would an intervention of one (or more) sovereign entity(ies) in the internal problems of another sovereign entity be justified based on our own standards of moral conduct? When may we consider it politically legitimised?

As contemporary global players are increasingly dependent from public opinion in their own countries as well as elsewhere, they have to justify their interventions in their struggle for superiority. Although it is quite easily understandable that they will invoke this global social contract if it seems useful to them, it remains nevertheless, mostly ideology in a very primitive meaning of that concept.

The Emergence of the Political World System

Intervention, as distinguished from mere (political) gangsterism, has its foundation in the emergence of a political world system which is constituted by a plurality of sovereign political actors who are linked by mutually acknowledging these sovereignties and by reference to a shared and standardised set of actions and relations. This system is a rather recent structure. For a better understanding of the issue at stake we must note its historical roots.

Crown prince Wladislaw (IV) Wasa of Poland undertook a long-anticipated journey to Western Europe and Italy during 1624 and 1625 — in the midst of the 30-

year-war by contemporary historical accounts. However, this catastrophic event cannot be found in the narrations left by those who escorted him — for information we must consult the footnotes of the editor (Schweinitz 1989). What we can learn from these rather boring and highly repetitive texts is that the relations between political units of the time — one hesitates to speak of states — were very irregular and highly influenced by personal idiosyncrasies and sympathies among small ruling groups. Indeed, there was no European political system apart from the families of rulers.

However, at the end of the 30-year war, there was an event of utmost importance for the future history of Europe — and we may conclude — the world. The peace of Westphalia was a world congress, which set into place the working principles of future politics and created a *political world system* with supposedly binding rules for the involved forces.

If we look at the minute details of this famous peace treaty, we may well become disillusioned by a host of the most trivial provisions of the treaty dealing almost entirely with such questions as: how to indemnify this petty prince and that unimportant aristocrat for damages suffered in the war; or what are the obligations of the emperor to pay a certain sum of money to Madam X and Margrave Y, and the like? Historical transitions are sometimes dressed in rather shabby clothes. Nevertheless, the text is evidence of an attitude change among the involved political actors.²

Anyway, this emergence of a world system did not mean that any of the “world” powers was able to dictate its will to the others. They had neither the technical means nor the density of the communication system to provide contemporaries actually with the picture of one world, nor was there a valid challenge to emphasise a specific worldview in contrast to another, competing, and even threatening one.

The following age of the Atlantic Revolutions saw a slow change of this condition. The French Revolution, for instance, challenged this picture, and various *ancien régimes* from Great Britain to Tsarist Russia became rapidly aware of it. The challenge was not so much by power politics as by a new claim for legitimacy. Of course, there were such influential advocates of the Old Order as Burke (1790/1987) and his sophisms. He maintained, for instance, that the British nation had decided its fate once and for all times by restoring the monarchy and, therefore, had no longer any right to political self-determination. This is a curious reminder of the arguments by Serbian lawyers at the beginning of the 1990s, that the Yugoslav nations had “consummated” their right of self-determination and, therefore, could not opt for it again.

People’s sovereignty, in practice, was based in nations. Theoretically, however, it appealed to humanity, at least to enlightened humanity. The ancient powers grasped the meaning of this claim perhaps better than the emerging revolutionary forces, entangled as they were in petty politics, mutual jealousies, and internal fights. Only a few of them were ready to contain themselves to their respective nations. It is fascinating to see how the *bête noir* of all reactionaries, Robbespierre (1967), fought desperately against the war-minded spirits of some political allies — and lost. Two decades later, when Napoleon had failed in his longing for world supremacy, the great powers of the time united in the Holy Alliance to avoid revolutionary changes for all times. In its eagerness to secure this aim, the Alliance expressly established a *rule of mutual intervention* in case of revolutionary ambitions and disorder, or what they considered them to be. The “Metternich-doctrine”

— as we shall aptly call this forerunner of Brezhnev, Khomeini, and Clinton — was the first convened rule of intervention looking for the respectability of so-called international law. It was clearly directed against movements longing for social and political emancipation.

By doing so, the state parties to this contract consciously affirmed the need for a structured system with acknowledged rules of interstate-behaviour. These rules — a mixture of existing rules of conduct and ideological projects of former times reported in a classical form and language by Grotius (1976) — were called “international law.” The international system and its actors had received the text for their roles. It was concretised in several steps, especially in treaties concerning warfare. At this time, Human Rights were never invoked in international disputes, as the states and governments were busy warding off internal claims of new groups invoking Human Rights as their predilected tool of political advancement.

Although Metternich personally failed in 1848, the Central European revolutions were crashed ultimately by intervention, that is, with the help of the Tsarist army. The Metternich doctrine, thus, proved operationally even after Metternich had departed from active politics.

Russia justified the long series of wars against the Ottoman Empire by referring to its duty to protect Christians oppressed by the Turks. This claim lacked seriousness, even at that time, but the rhetoric drawn from a protective function for certain population groups ranges next to the contemporary rhetoric of Human Rights protection.

World War I saw the first propaganda efforts to use Human Rights against respective enemies, although among the forerunners was Hearst’s 1898 Cuban war against Spain. World war propaganda was phrased differently and yet similarly on both sides: While the entente fought against “barbarians” who did not respect international law (Germany’s attack on neutral Belgium), Austrian social democrats at the start of the war selected reactionary Russia as their target for justifying their chauvinistic enthusiasm in support of the war. We can read similar justifications of a “clash of civilisation” in German nationalist writings two decades earlier, when the writer spoke of “the preparations for the great struggle of Western culture against the attack of the East, if this eventually would become unavoidable” (Menger 1891, 44).

Finally, Wilson’s famous 14 points centred on national self-determination (at least in the minds of those who would profit from it) and constituted the battle horse of entente propaganda. The League of Nations was meant to structure the new world order in the post-war period. While it was devised according to the needs of the victors, its claim to incorporate international law and some kind of Human Rights experienced some autonomous development — it went, let me say, “out of control” and can, therefore, be considered the first attempt to transform Human Rights into legal instruments on the international stage, especially in the realm of protecting minorities (Permanent International Court of Justice). In this sense, the often denigrated League of Nations constituted, indeed, the first approach to a structured international system based on some idea of law and not exclusively on domination by strong states.

The United Nations, with its affiliated organisations and fifty years of a bipolar world, provided the pattern closest to a structured system with obligatory rules of conduct relating to a base built of Human Rights. I neither want to idealise the

Cold War nor would I maintain that this system was working well, or working at all. I only want to say that there was an agreement on basic principles — and, therefore, a discourse on Human Rights, which had its own merits — and that there were many sectional understandings whose workings should not be underestimated. The latter is partly obscured by the UN's prominent symbolic place and the fact that it worked worst among different institutions in the U. N. realm at this time.

A Unipolar World Today: The “Big Stick” — Intervention

The current legal framework, based on the Treaty of Westphalia, is insufficient to deal with the increasingly transnational nature of economic transactions. This insufficiency is created because the regulatory framework emanating from the Treaty of Westphalia naturally reflects the policy perspectives of each sovereign nation acting primarily in its own national interests. Nevertheless, up to the present there has been no political instrument fitting to maintain peace and Human Rights, which would not be abused automatically by great powers. The world system of sovereign nation states may be an evil. However, of all political evils we are facing in today's world, it seems to be the least threatening one to those who want to live in peace.

A Significant Case: Negotiations to Institute an International Court of Criminal Justice

Another source of change in global relations is the people's increasing willingness to assert the primacy of human dignity of individuals and to cherish it as a common universal value (Owada 1995). The current international system does not appropriately account for a pluralistic approach to values. A moral conviction of justice, unsupported by a universal acceptance of values invoked by the international community as a whole, could undermine the cause of strengthening international order.

A most significant case for judging the structure of the contemporary world and the hypocrisy of those who invoke most vociferously the right to intervene elsewhere, was the process of negotiation leading to the 1998 Conference of Rome — the attempted institution of an International Court of Criminal Justice (ICCJ). The United States plainly refused to accept the centrepiece of the institution — the independent prosecutor and his/her right to act autonomously against suspected criminals. The US ambassador did not hide his concern about possibly targeting U.S. citizens, and especially soldiers, while on missions of intervention in other states. Only later, and realising the catastrophic effect of his attitude on world public opinion, did he try to soften this devastating impression by veiling it with concerns about a failure of the conference. He suggested that the rule would make the treaty unacceptable to states like China.

“We fear that governments whose citizens make up at least two thirds of the world's population will find the emerging text of the treaty unacceptable,” said the US ambassador on July 15th, 1998.³ A US committee of lawyers critical to the stance of its government commented aptly: “The US is saying our way or no way” — as we are used to hear meanwhile nearly always in negotiations between the USA and other states (www.lchr.org/lchr/media/rome715.htm). Therefore, the long and thoughtful argumentation of the same association seems a bit naive if appealing to supposed long-term interests of the USA (The Case for US Support — www.lchr.org/feature/50th/uspos.htm).

The *Rome Statute* would be a step toward a global social contract, and its preamble — not by chance — expressly emphasised that “nothing in this Statute shall be taken as authorising any State Party to intervene in an armed conflict or in the internal affairs of any State.” It may well be that this provision was one of the reasons for the U.S.A. to vote against the text.

Kosovo — an Ethnic Conflict?

The “humanitarian intervention” in Yugoslavia caused the most serious humanitarian catastrophe in Europe since World War II. Asymmetric warfare led to ethnic cleansing directed against the Kosovars to trouble the aggressor who could not to be damaged otherwise and then, after capitulation of Yugoslavia (surprisingly, it was not really a defeat, and it is not clear up to now why the Yugoslav regime did give in so completely) to reverse ethnic cleansing, this time directed against Kosovo Serbs by Albanians under the shield of the occupation forces. Intervention, thus, caused what it pretended to inhibit. The real motivation, of course, was not the protection of Albanians. The Western powers wanted to demonstrate their political will and military possibilities to enforce their design. Since ethnic rights and national self-determination have a special dignity since the end of the Cold War (cf. Rizman 1993 and 1999), not surprisingly this was a welcome pretext for Western aggression. War had its chance (Luttwak 1999).

Human Rights as Morally Binding Rules

There is no space to discuss the thorny problem of how to implement universal rules in a politically fragmented world, except for only one important hint for further debates.

Discussing the question of intervention resembles the philosophical debate about anarchism (cf. Dahl 1989, 38 ff.). Nation states, to this very moment, may be considered the most fortunate — or at least the least unfortunate — compromise of the necessities of large scale organisation with the postulates of personal and social self-determination as the “deep structure” of what we call democracy. It is a question of legitimacy and how this legitimacy is constructed.

Nation states are the only large-scale political units not only based on accidentally shared common interests, but also built on a communitarian dimension. They dispose of a shared and — by most people’s feelings — socio-political identity. It is often said — although I would judge this as misleading — that they dispose of a common “culture.” As we know, the commonalities of culture are more numerous between those belonging to the same socio-economic strata of different societies/nations than between those belonging to different strata within the same nation. Nevertheless, the evocation of culture demonstrates the very importance of these common feelings and “the desire to live with one another” (*le désir de vivre ensemble*; Renan 1882/1992). Instead of speaking of culture I would prefer to label this common *worlds of belonging* (Reiterer 1998). It is this that gives a kind of legitimacy to regulations of social behaviour of which supra-national units can only dream. International organisations lack this legitimacy because until now they are not part of a comprehensive social contract expressed in these worlds of belonging. I think that is the main cause why — in the eyes of most human beings — they are not entitled to enforce decisions that have no unanimous support (including those

that might be negatively affected by the enforced measures). Only common and unanimous support, which would constitute a new world-wide mental hegemony, would bring about the global social contract mentioned above and would dispose of the legitimacy needed for interventionist operations.

The most basic presupposition of self-determination — at personal and state levels — is the possibility to determine one's own future. All other criteria for a democracy are of secondary importance. Therefore, it is an ominous sign for democracy that the states of the European East cultivate what we may rightly call a political culture of dependency — in fact, it is a sign of Third World status.

Indeed, this may be the same debate on anarchy at the level of international relations. Although most people will agree that there are huge differences which must not be overlooked in order not to produce false analogies between individuals and social systems/collectives. Thus, we should try to avoid a mystification of this debate and reject the polar alternatives between Thomas Hobbes and Max Stirner or Lew Tolstoy. We also must reject being trapped in a Hegelian myth of the state as our better self. Transferral to a fictitious world state or — to use the predilected phrasing of zealous defenders of Western domination and great power politics — to the “international community” — is the very philosophical basis for those claiming a right to intervene.

Conclusions

We have not discussed the merits of anarchism in this place. However, one of its fundamental failures is not to see that Human Rights are architecture of hierarchically ordered postulates. Not all norms are equally valid in different circumstances. If there is a norm of equality of human beings, then, obviously, there has to be an institution, which guarantees that this equality cannot be avoided easily. To miss this decisive point is to miss the concept of society as a network of relations between human beings regulated by norms, which are enforced by social pressure. What will this say for a policy longing for emancipation, self-determination, and Human Rights?

A unipolar world — regardless of the officially recognised and professed creeds and values of its hegemony — is most inapt for supporting Human Rights on a global scale. Unipolarity means that the hegemonic power is able to affirm its interests unrestrained by competing powers, and especially by competing blueprints of values and structures of the world system. Thus, invoking Human Rights for enforcing its political targets will serve as a thinly veiled ideology of power politics and material interests.

Intervention is the weapon against the weaker ones and serves to strengthen or build up dominance. As this bid for hegemony has to be justified, there is always a legitimising discourse concentrating on generally accepted principles and goals, like Human Rights, Protection of Minorities, and the like. Most often this disguise cannot distract from the real objectives of the intervening powers. Sometimes, however, the climate of public opinion is sharpened by atrocities and horrible events to a degree that most observers will take the justification at its literal meaning, at least for some time. Then, intervention will be a political success at the “home front.”

There is only one valid presupposition of a right to intervene: a balanced system of nearly equal powers, which would hinder any one to abuse Human Rights

as a pretext for egotistical ambitions. However, we are farther away from such a political structure than before in history. Therefore, in any realistic situation, intervention cannot be justified morally and has not the slightest political legitimacy in today's world. The only case — which would be debatable, and it appears entirely unrealistic — would occur if the only hyperpower would abstain principally from participating in interventionist operations. It is logically impossible that a participating superpower will not abuse such occasions for its own petty interests. And it is likewise totally unlikely that a superpower will free itself and not participate in such operations, and more so since its satellites are always begging for intervention. Hence, so-called “humanitarian interventions” are almost always cynical propaganda tricks of the superpower and its allies to impose their policies.

Notes:

1. Interestingly enough, Salman Rushdie tried to justify in 1999 NATO's war against Serbia and abused Peter Handke in exceedingly crude terms as this writer did take another stance on that issue.
2. For an official English version in the 18-century-language cf. <http://www.tufts.edu/departments/fletcher/multi/texts/historical/westphalia.txt>
3. Statement by David Sheffer on July 15, 1998, www.lchr.org/lchr/icc/rome/scheffer.htm.

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