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Challenging Humanitarian Intervention?

C. A. J. Coady, Ned Dobos and Sagar Sanyal (eds.) (2018) *Challenges for Humanitarian Intervention: Ethical Demand & Political Reality*. Oxford: Oxford University Press.

One effect of an increasingly interconnected world is that many of us are more aware of the harm being done to our fellow humans across the world, and for many of us this means wanting to address these situations. However, it is by no means clear what we can do about these atrocities. More than ten years since the UN more-or-less endorsed the responsibility to protect (R2P), it is not clear whether the UN and individual states have become any better at preventing atrocities, or more willing to do so. Moreover, as C.A.J. Coady notes in the introduction of this collection, the sense that ‘something must be done’ masks several dubious assumptions: first, that something *can* be done, and, second, that that *something* is (or includes) military intervention (2018: 5). This collection does much to highlight the problematic nature of these assumptions. That is not to say that the collection is entirely opposed to military intervention to prevent atrocities. Rather, as Coady argues,

‘[m]y argument and many of the chapters in this book may be seen as seeking to warn against the dangers of [moralistic] distortion and blindness [to relevant empirical, cultural, and moral facts about the world and about oneself] in the context of armed humanitarian intervention’ (2018: 6).

On the whole, it succeeds in this aim admirably. It covers a wide range of issues and questions relating to military intervention, with a specific focus on questions relating to feasibility and effectiveness, and the abuse of the language of humanitarianism to mask other aims and motives. As such, it constitutes a valuable addition to the existing literature on humanitarian intervention and R2P. It is in particular recommended reading for just war theorists who are interested in humanitarian intervention, since many of its chapters combine theoretical and empirical research. While just war theory, perhaps necessarily, relies on abstraction and generalisations, this should not lead to us ignore reality, and that makes a volume such as this one especially useful.

I am not able here to discuss all ten chapters in this collection. Instead, I will highlight some of the key themes developed throughout, and highlight some of the more interesting or noteworthy arguments.

As noted above, the chapters in this volume predominantly focus on the feasibility and effectiveness of humanitarian interventions and on the so-called ‘abuse worry.’ On the former issue, there are Stephen Zunes, Ramon Das, and Robert W. Muller and Tom Keating. On the latter, there are chapters by Marco Meyer, Ned Dobos and Chrisantha Hermanson. In addition, Richard W. Miller argues for the continuing importance of sovereignty. Janna Thompson discusses the possibility of using R2P to defend women’s rights. Aidan Hehir questions the success of R2P as a norm in international relations, and Sagar Sanyal argues that current philosophy of war should be replaced by – or at least pay more attention to – a Marxist analysis of armed conflict.

On the feasibility and effectiveness of humanitarian intervention, Zunes’ and Das’ contributions are particularly noteworthy. Zunes analyses the interventions in Kosovo and Libya – both widely perceived as justifiable if not justified – and argues that in both cases, non-violent alternatives were not considered or fully supported, and that violence escalated, rather than decreased, as a result of the interventions.

Das’ argument is that the philosophical literature dealing with humanitarian intervention often exhibits two *ideal-theoretic* assumptions (i.e., idealising assumptions). These assumptions – that there are two easily distinguishable groups of good and bad guys in the target state, and that there are clear external ‘good guys’ who are capable of carrying out a successful humanitarian intervention – are crucial in the moral arguments for intervention but often left implicit. Das’ main aim in his contribution is to question these assumptions and to argue in favour of a *non-ideal-theoretic* approach to the ethics of humanitarian intervention, that is to say, one that does not rely on these idealising assumptions. By scrutinising the cases of Rwanda and Kosovo, he hopes to show that the idealising assumptions obscure rather than illuminate and that a non-ideal-theoretic approach would entail a considerably more restrictive norm of permissible intervention than has been advocated by those who employ the ideal-theoretic approach. He raises some important points, and his distinction between the ideal-theoretic and non-ideal-theoretic approach is illuminating. On the whole, however, I am not sure how successful he is. There are two main reasons for this, one of which also has some bearing on Zunes’ chapter and some of the other critiques presented in this volume.

Das criticises the conventional narrative on Rwanda, both on the ground that it was not a clear case of a group of ‘bad guys’ attacking ‘good guys’, and

that there wasn't a clear external 'good guy' who could intervene, on account of the local interests of France, the UK and the US. He questions the internal good guys/bad guys narrative mostly because the Tutsi Rwanda Patriotic Front (RPF) pursued its own campaign of terror and violence prior to, and during, the period of most intense violence in 1994. As a result, Das suggests, Rwanda was not clearly a case in which intervention *should* have taken place.

However, it is not clear here *who* Das is arguing against. If his target is just war theorists – arguably the most ideal-theoretic among those writing on humanitarian intervention – showing that the situation was more complex than previously assumed does not necessarily make the case for intervention less obvious. According to Das, the RPF was engaging in a campaign of ethnic cleansing prior to the assassination of President Habyarimana. Moreover, he creates the impression that this period was a reasonably clear case of 'bad' and 'good' guys – the RPF and the rest of the population respectively. If anything, Das seems to be leading us to the conclusion that intervention should have taken place before 1994, given that one of his ideal-theoretic assumptions does seem to be applicable in this period. This is not to deny Das' important point that states on the UN Security Council (UNSC) were in a number of ways complicit in the ongoing rights violations, and therefore would presumably be inappropriate interveners. However, Das only considers an intervention led by the UNSC. His reasons for ignoring other modes of armed intervention are unclear. The UNSC could have, for instance, authorised an armed intervention by other actors.

There is another issue that affects Das' chapter as well as elements of Zunes' argument. The problem is that the responsibility to protect, in its 'ideal-theoretic' form, is a normative doctrine. The doctrine may be weakened by, or be modified in response to, empirical research showing that, in the past, humanitarian interventions have been ineffective. The claim that, in some situations, it may be the morally right thing to do to intervene militarily in another state's affairs can however not be *disproven* by pointing out that actual interventions in the past were unsuccessful. Das is certainly right to remind us to avoid snap judgments based on incomplete information when deciding on something as momentous as war, but if he wants to argue that the normative doctrine of humanitarian intervention needs to be considerably more restrictive, pointing out that Rwanda and Kosovo were more complex than is often assumed is merely part of what is needed.

Zunes, in his contribution, briefly hints at the issue of making normative judgments based on historical interventions. Discussing Kosovo, he suggests that the

'Yugoslav policy became a case of foreign policy by catharsis, an

assumption that, even if it does not really accomplish the stated political goals, at least it appears we are “doing something” [...]. A ground invasion would have more likely stopped the repression sooner, but it would have come at a cost seen as unacceptable by the leaders of the NATO countries’ (Zunes, 2018: 23).

This point is actually crucial, but the implications are overlooked by Zunes. As multiple scholars have argued since 1999, although there may have been a just cause, the intervention itself was fought in a deeply illegitimate way.¹ This, first, makes the intervention unjust – a war is only just if it meets the *jus ad bellum* and the *jus in bello* criteria – but, second, this severely limits the conclusions that can be drawn regarding humanitarian intervention *in general* based on cases such as Kosovo and Libya. This is because, while it is undeniably the case that the interventions in Kosovo and Libya were ineffective, it is not clear whether *any* intervention in Kosovo or Libya would have been ineffective. In other words, it is not clear whether the problem is that there *was* an intervention, or that the intervention was conducted largely from the air.

As Zunes highlights, sending troops into Kosovo was considered to be unacceptably costly, and states generally are much more likely to prefer quick, relatively low-cost (for them) wars over longer or more costly wars. But this is an issue of political will, and moreover an issue that just war theory – as well as existing international humanitarian law (IHL) – is already, in principle, well-equipped to condemn. Both IHL and just war theory require, for instance, that combatants take reasonable precautions to avoid collateral damage, as well as that they only cause necessary harm.² Of course, what counts as a reasonable precaution is up for debate, but states can clearly be considered to fail in their moral and legal responsibilities if they refuse to consider any alternatives at all and especially if they do not take seriously the increasingly clear evidence that intervening from the air is not likely to be as effective as alternatives which require boots on the ground. But that doesn’t mean that intervention is off the table completely – it means they have to consider a range of options (which surely includes, but is not limited to, non-intervention).

In brief, it is not clear whether Zunes and Das are arguing against the normative doctrine of humanitarian intervention or against certain types of intervention, or whether they are purely interested in analysing interventions (or the lack of interventions), and in their contributions, these different aims sometimes appear to run together. Thus, although these chapters do a good

¹ See for instance Wheeler (2000: ch.8); McMahan (2010); Pattison (2014).

² In IHL, the clearest expression of this requirement is to be found in the First Additional Protocol to the Geneva Conventions (1977), Article 57, though Article 57 only relates to specific attacks, not the decision to go to war. In relation to just war theory, see for instance Walzer (2006: 155). With regards to unnecessary harm, see for instance Lazar (2012).

job of summarising and contributing to the debates about the efficacy and feasibility of past humanitarian interventions, they leave the reader somewhat dissatisfied because they lack a clear resolution or a sense of the alternatives to intervention.

Three contributions to this volume address the common ‘abuse worry’ to R2P. In their excellent chapters, Ned Dobos and Chrisantha Hermanson analyse the idea that R2P can be abused by those wishing to advance their own (non-humanitarian) aims. Dobos’ aim is to defuse some of the worries about ‘abusive’ interventions, whereas Hermanson offers us a detailed analysis of the different ways in which states can fail to meet the right intention requirement. In a similar vein to Dobos, she concludes that a non-humanitarian intention does not necessarily make an intervention *ad bellum* unjust. Marco Meyer, on the other hand, argues that *even if* interventions are generally undertaken with humanitarian intentions, we still need to worry about implementing R2P. Implementing a doctrine like R2P, he argues, can make states leery of each other – what he calls the leeriness objection to R2P. The source of this leeriness is the tension in international relations between international order and justice. R2P creates tensions when states cannot trust that other states are acting for the right reasons, and so pursuing justice could weaken the willingness of states to adhere to the rules that ensure the stability of the international order. Although there is scope for reasonable disagreement on some of Meyer’s basic assumptions – his characterisation of the international realm is broadly realist, which, though widely accepted, is not exactly the only available approach – his argument presents probably the most sophisticated normative-theoretical, as opposed to pragmatic, critique of R2P in this volume.

The final chapter, by Sagar Sanyal, argues that philosophers of war – just war theorists in particular – should move away from analytic philosophy of war, and consider the material and political foundations of war. Sanyal offers us a clear, if somewhat cursory, overview of the standard Marxist account of the interplay between imperialism and war, which could serve as a basis for a materialist philosophy of war. He has not yet developed such an account beyond highlighting the important relationship between capitalism, imperialism, and war, though his discussion should give just war theorists not familiar with these ideas something to think about.

Sanyal’s critique of mainstream just war theory is somewhat less clear, however. I will discuss it here in some detail, as certain elements of his critique can also be found in other influential critiques of just war theory. There seem to be several overlapping concerns: first, and with specific reference to humanitarian intervention and R2P, he is concerned that the leading Western

states are inappropriate potential interveners and that just war theorists fail to appreciate this or can even be considered complicit ‘ivory tower ideologues for “our side”’ (Sanyal, 2018: 202). As I mentioned above, it is no doubt important for just war theorists to consider the reality of the world around us. To that extent, Sanyal’s warning is fair, but on its own it is of course not a devastating critique – the normative doctrine of humanitarian intervention does not require that interventions are undertaken by the US or NATO. However, this is not the entirety of his critique, because the second important point he raises is that (at least under capitalism) states will always continue to behave in ways that make them inappropriate interveners, as well as generally very likely to resort to war. Just war theorists, Sanyal charges, are not able to do anything about this: ‘Their strategy for reducing unjust war is to convince powerful people to be nicer,’ which (under capitalism) is unlikely to have any effect at all (2018: 207).³

Sanyal’s third worry is that the idealist foundations of just war theory serve to limit the problem-set with which we concern ourselves. This is problematic for two reasons: it gives just war theorists the (incorrect) idea that the foundations of their discipline are politically neutral, and it limits just war theorists to considering juridical issues only. Questions relating to the causes of war, for instance, are ‘relegated’ to the social sciences. However, the focus on juridical issues is not neutral, because it fails to seriously hold to account the very authorities who cause war. He also suggests that the association between just war theorists and the establishment serves to further limit the scope of just war theory and leads just war theorists to uncritically accept ‘the declarations of intent of their state spokespersons: the war is for freedom and democracy, as just a cause as you’ll ever find!’ (Sanyal, 2018: 206). This, it should be noted, strikes me as a severe mischaracterisation of the work of many just war theorists, who, moreover, on the whole agree that ‘freedom and democracy’ are not, on their own, even *the kinds of things* that can be considered just causes. Though there is certainly debate in the literature on this question, I do not think that many have moved significantly away from the basic premise that a war only has a just cause when it is a response to some injury (*injuria*) either to one’s own state, an ally, or – in the case of a humanitarian intervention – a group of people who cannot defend themselves. Just because some proponents of the Bush Doctrine defend it using language borrowed from the just war tradition, this does not make them just war theorists (although it should certainly give us cause to reflect on the effects our work may have in practice).

Finally, he argues, just war theory deals unfairly with alternative positions, in particular pacifism. He criticises just war theorists for misrepresenting pacifist

³ This is of course not a new objection to just war theorists and international lawyers. Recall, for instance, Immanuel Kant, who refers to Grotius, Pufendorff and Vattel as ‘tiresome comforters’ (Kant, 2006: 79).

movements, many of which were actually anti-imperialist, often Marxist. The latter may be a fair point, though of course it should also be recognised that, first, just war theorists can and do distinguish between many different kinds of pacifism and, second, that a movement which opposes imperialist war but supports, even encourages, certain kinds of anti-imperialist war does effectively have a theory of just war (i.e. a theory regarding whether or not, and under what conditions, wars can be just) – it simply disagrees with the ‘mainstream’ on what counts as a just cause, legitimate authority, and appropriate means.

My main worry regarding Sanyal’s critique has to do with his characterisation of just war theory and the conclusions he draws from this. I have no reason to believe my points will convince Sanyal or anyone (Marxist, anarchist, or otherwise) who rejects reform in favour of revolution. Let me, however, address the same people that Sanyal seeks to address – the ‘dissident’ just war theorists who are critical of their own governments. Sanyal believes that, as the philosophical interest in R2P is waning, these dissidents find themselves at a crossroads. He urges us to not return to the mainstream analytic approach to war to find new problems to concern ourselves with, for ‘the problem-set and philosophical framework of the analytic approach is an ideological strait-jacket [...] because it keeps [us] to safe questions that won’t discomfit [our] masters’ (Sanyal, 2018: 200). However, Sanyal presents us here with a false choice based on an overly-quick characterisation of contemporary just war theory – we must accept a Marxist (or similar) approach to the philosophy of war or remain beholden to simply doing what ‘our masters’ want. I have already highlighted some of Sanyal’s unwarranted generalisations in my outline of his argument above, but in addition let me note here that it is not true that all just war theorists (and international lawyers) can do is to ingratiate themselves to the establishment and hope to make powerful people nicer. Sanyal significantly downplays the effect that international law can have on states’ conduct. It may be that IHL has been less effective than international law in other areas, but then, as an international community, we’ve only really been trying to legally regulate armed conflict since the end of the 19th century – not a very long time at all.⁴

Crucially, however, if it is the case that states will continue to wage war (so long as capitalism persists, in any case), it does not seem inappropriate at all to want to figure out ways in which we can reduce the number of wars that are waged, and to limit the destructiveness of those wars that do happen. It is this sense that war is a practically inevitable occurrence, but that we may be

4 Usually, the first genuine attempt to restrain war by legal means is considered to be the St Petersburg declaration of 1868, renouncing the use of exploding bullets. Another important first step in this direction was the foundation of the Red Cross a few years earlier, in 1863. The next important development were the Hague Conventions of 1899 and 1907. Many of the principles agreed upon during those conventions are still considered part of IHL.

able to reduce the dangers wars present that has been an essential motivating consideration for just war theorists from the very start – St Augustine has a similar view.⁵ Rather than comforting our masters, this strikes me as a deeply compassionate view, which is concerned exactly with the people Sanyal claims are largely ignored by just war theorists – those who have to fight wars and suffer their effects. It is true that states routinely break the rules and behave unethically, but this is exactly why many just war theorists are interested in the reform of international institutions and the possibility of international courts and tribunals, or the campaigns against nuclear weapons, landmines, or so-called ‘killer robots.’

We may not be able to rid the world of war simply by creating and finetuning IHL, or teaching members of the military about ethics, but I see no grounds in Sanyal’s critique for abandoning these efforts completely. He does not offer an alternative way in which the destructiveness of war could be controlled until that time when war is no longer inevitable. In effect, while just war theory may be idealist in the sense that it reasons from the abstract to the concrete, it is also realistic, precisely because it seeks to respond to the world as it is, rather than theorise about how it might be. And, crucially, as an academic community, we do not have to choose. While some of us – international lawyers and just war theorists – prefer to work on alleviating the situation we find ourselves in, others prefer to work on understanding how the situation itself can be changed. Contrary to what Sanyal suggests, these two approaches should be considered as essentially complementary (ideological disagreements notwithstanding), not in opposition.

To conclude, in spite of the number of criticisms I raised, I would like to reiterate that this book is a valuable and thought-provoking contribution to the literature on humanitarian intervention and R2P. Though not all the chapters may quite reach the high bars their authors set for themselves, they nevertheless serve to highlight important issues which many of those writing on humanitarian intervention from a just war perspective tend to overlook.

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5 Though Augustine, of course, attributes the inevitability of war largely to a combination of human sinfulness and Divine Will. For a helpful discussion of Augustine’s just war theory see Mattox (2006).

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