

The defining event for the United Nations at its worst was surely international indifference in Rwanda in 1994. The world bore silent, very silent, testimony as 800,000 people were butchered in less than three months. This was not a matter of lack of awareness of what was going on, but of apathy. Nor was it lack of capacity, for just 5,000 professional troops with the right equipment, command and mandate could have done the job. No, it was a failure of civic courage at the highest and most solemn level of international responsibility.

Today, in Darfur, we are in the midst of dishonouring, yet again, the pledge of "never again".

According to the U.N. High-Level Panel on Threats, Challenges and Change: "The maintenance of world peace and security depends importantly on there being a common global understanding, and acceptance, of when the application of force is both legal and legitimate." Behind the headlines on the deeply divisive Iraq war was the larger question of the changing nature of threats in the modern world, the inadequacy of existing norms and laws in addressing them, and thus the need for new rules of the game'.

The intervention of the North Atlantic Treaty Organisation (NATO) in Kosovo in 1999 highlighted a triple policy dilemma of complicity, paralysis and illegality. To respect sovereignty all the time is to risk being complicit in humanitarian tragedies sometimes. To argue that the U.N. Security Council must give its consent to international intervention for humanitarian purposes is to risk policy paralysis by handing over the agenda either to the passivity and apathy of the Council as a whole, or to the most obstructionist member of the Council, including any one of the five permanent members determined to use the veto clause. To use force without U.N. authorisation is to violate international law and undermine world order.

The use of force, both domestically and internationally, must be tamed and brought under the restraining discipline of the rule of law. We need urgently a new institutional framework that can marry prudent anticipatory self-defence against imminent threats to the centuries-old dream of a world where force is put to the service of law that protects the innocent without shielding the criminals.

Significant gaps exist in the legal and institutional framework to combat today's real threats. If international institutions cannot cope with them, states will do so themselves. If prevention is strategically necessary and morally justified but not legally permitted, then the existing framework of laws and rules - not the anticipatory military action - is defective.

Given the changing nature and victims of armed conflict, the need for clarity, consistency and reliability in the use of armed force for civilian protection now lies at the heart of the U.N.'s credibility. Without a new consensus and clarity, its performance will be measured against contradictory standards, exposing it to charges of ineffectiveness from some and irrelevance from others. This will increase the probability of unauthorised interventions, and further erode the Security Council's primacy as the protector of peace and security.

The International Commission on Intervention and State Sovereignty (ICISS) published its landmark report "The Responsibility to Protect" with exceptionally bad timing in December 2001. The world was preoccupied with the war on terror. But the report has gained currency in the

meantime. Its main conclusions find their way into the High Level Panel's report, including five legitimacy criteria: seriousness of threat, proper purpose, last resort, proportional means and balance of consequences.

During the worldwide consultations that the ICISS had, I was struck by four facts. There is a strong consensus that sovereignty is not an absolute barrier to international intervention in extreme circumstances in order to exercise the responsibility to protect. There is an equally strong consensus that Security Council authorisation for intervention is preferable to all other alternatives. Yet in practice very few insist that Security Council authorisation is necessary in all cases. Finally, despite this, there is considerable concern to avoid discrediting the U.N. or undermining respect for an international order based on rules and law rather than power and wealth.

Our ability and means to act beyond our borders, even in the most distant spots, have increased tremendously. This has produced a corresponding increase in demands and expectations "to do something."

The concept of the responsibility to protect takes away the last remaining excuses for us to sit back and do nothing when confronted with atrocities. In the real world today, our choice is not between intervention and non-intervention, but between ad hoc or rules-based, unilateral or multilateral, and consensual or deeply divisive intervention.

The challenge is neither to deny the reality of intervention nor to denounce it, but to manage it for the better. Establishing agreed principles to guide the use of force will make it more difficult to appropriate the humanitarian label to self-serving interventions, while making the Security Council more responsive to the security needs of civilians

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