The Return of Moral Equivalence

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Abstract

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During the latter stages of the Cold War, one school of ethical analysis, ultimately labeled as "moral equivalence" by the late Jeane Kirkpatrick, measured Western liberal democracies against utopian standards in a radical critique which redefined the political discourse, erasing distinctions between the Soviet Union and its satellites on the one hand and the United States and its allies on the other. In short, the world was divided into two "morally equivalent" spheres, each led by a superpower which perpetrated equally reprehensible deeds in its struggle for global supremacy (although somehow those of the U.S., by dint of its greater openness as a society, generally received greater scrutiny). As a result, according to those who subscribed to this vision, the "free world" had no moral standing to criticize the abuses occurring behind the "Iron Curtain."

One would have assumed that the collapse of the "Iron Curtain" had consigned this doctrine to history's dustbin, but it has enjoyed something of a revival in the 21 st century. This time, the doctrine has been renewed among those who hold romantic notions of "Third Worldism," represented by any regime which has attracted critical scrutiny of the Western-dominated international system, rather than with the fantasies of scientific Marxism incarnate in the USSR. Thus Professor Mahmood Mamdani, in drawing similarities between Iraq and Darfur, asks:

The estimate of the number of civilians killed over the past three years is roughly similar. The killers are mostly paramilitaries, closely linked to the official military, which is said to be their main source of arms. The victims too are by and by largely identified as members of groups, rather than targeted as individuals. But the violence in the two places is named differently. In Iraq, it is said to be cycle of insurgency and counter-insurgency; in Darfur, it is called genocide. Why the difference? Who does the naming? Who is being named? What difference does it make? (§1).

Throughout the essay, the inexorable "logic" of moral equivalence resonates as the argument artfully directs attention away from an obvious evil—the catastrophic humanitarian disaster in Darfur which is *intended as such*, whether one chooses to call it "genocide" or not—in order to refocus it on a series of less obvious supposed evils which the author views as a greater threat to his world view: America, the West, and the normative worldview of which they are the bearers.

The argument, thus woven, can barely withstand rigorous scrutiny— rhetorical, ethical, or political. Mamdani claims that because of the failure of the United States and Britain to intervene to stop the massive violence during the conflict in the Democratic Republic of the Congo, they cannot do so in Darfur. But this type of "reasoning" is one which no parent in his or her right mind countenances. To buttress his argument, Mamdani also invokes the "authority" of the president of Nigeria and the former chief prosecutor of South Africa's Truth and Reconciliation Commission, both of whom declined to qualify the violence in the western region of Sudan as "genocide." While an international tribunal will ultimately decide if the legal standard for genocide applies, the good professor would do well to remember that adage from classical philosophy that the argument from authority is the weakest of all arguments.

While, as I noted last year in my review essay, one ought to be sensitive to "the power relations embedded within the narratives and discourses of global human rights and within the very foundations of international law itself," one must also acknowledge the growing recognition of the "responsibility to protect" those civilians at risk. The International Commission on Intervention and State Sovereignty (ICISS) argued the following in its report to the United Nations:

[I]ntervention for human protection purposes, including military intervention in extreme cases, is supportable when major harm to civilians is occurring or imminently apprehended, and the state in question is unable or unwilling to end the harm, or is itself the perpetrator (ICISS, §2.25).

Without a doubt the war in Iraq has certainly undermined the political credibility of countries like the United States, the United Kingdom, and their allies, to invoke the same principle in other theatres like Darfur, much less to construct a consensus for collective action, especially because the war was partially justified as an exercise in humanitarian intervention to free citizens from the abuse they suffered at the hands of a despotic regime. And, of course, the strain on the resources of America and its coalition partners also renders it *operationally* difficult for them to shoulder any great proportion of the burden for any action should they manage to persuade others of the urgency of the situation. However, these are *practical* concerns which do not detract from the *moral* and *juridical* norm which sanctions the right of third parties to intervene to save strangers. As I noted in another review essay published last year by *Human Rights & Human Welfare*, this right " was neither developed in isolation by the high-profile ICISS, nor has it been merely a construct of Western liberalism." Rather, it can be found in sources as disparate as the Organization of the Islamic Conference's call for outside intervention in Kosovo, the Constitutive Act of the African Union, and the pronouncements of former United Nations Secretary-General Kofi Annan.

The general principle derived from all of this is that the "responsibility to protect" enshrined in the ICISS report ultimately comes down to an empirical determination: is the "state in question" unable or unwilling to protect its own citizens? In the end, the fate of Darfur will, in all likelihood, be determined by whether a sufficient number of powerful states are persuaded both of Sudan's failure and unwillingness to protect the Darfuris. It is unfortunate that this humanitarian crisis should arise at a historical moment when the credibility of the U.S. and other Western countries is perhaps most diminished, as is their ability to build consensus for robust action against the genocide, mass murder, "complex situation," or however one wishes to name the mounting casualties and expanding conflict. It is, moreover, downright tragic that still others, whatever their reasons, have chosen to recycle the absurdity of "moral equivalence" in order to avoid holding regimes like the one in Khartoum to account for failing in the responsibility that is, in the final analysis, their only valid *raison d'être* as members of international society.

J. Peter Pham, Director of the Nelson Institute for International and Public Affairs at James Madison University, served as an international diplomat in Liberia, Sierra Leone, and Guinea, from 2001 through 2002. His research interest is the intersection of international relations,

international law, political theory, and ethics, with particular concentrations on implications for United States foreign policy and African states as well as for religion and global politics. Among other works, Dr. Pham is the author of two recent books on African politics, Liberia: Portrait of a Failed State (Reed Press, 2004) and Child Soldiers, Adult Interests: The Global Dimensions of the Sierra Leonean Tragedy (Nova Science Publishers, 2005), as well as a chapter on "African Constitutionalism: Forging New Models for Multi-ethnic Governance and Self-Determination" in Africa: Mapping New Boundaries in International Law, edited by Jeremy I. Levitt (Hart Publishing, forthcoming 2007). He is also a member of the editorial board of Human Rights & Human Welfare.