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Appealing to the Realist Nature of the Problem: An Attempt to Find Common Ground

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Abstract

Whenever I teach my undergraduate course on human rights, I inevitably have one student who argues that state sovereignty trumps all and that states should act in their “national interest” in regards to issues where human rights and sovereignty clash. They usually continue the argument by stipulating that “human rights” are not defensible unless they are universally accepted, meaning contained in a universally ratified document (and they use the term “universal” literally), because all authority resides in the state. Thus, it is always an interesting discussion when we turn to the issue of migration, and more specifically, refugees.

Keywords

Human rights, War on terror, Humanitarian aid, Non-governmental organizations, Military

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Appealing to the Realist Nature of the Problem: An Attempt to Find Common Ground

by Eric K. Leonard

Whenever I teach my undergraduate course on human rights, I inevitably have one student who argues that state sovereignty trumps all and that states should act in their “national interest” in regards to issues where human rights and sovereignty clash. They usually continue the argument by stipulating that “human rights” are not defensible unless they are universally accepted, meaning contained in a universally ratified document (and they use the term “universal” literally), because all authority resides in the state. Thus, it is always an interesting discussion when we turn to the issue of migration, and more specifically, refugees. As the focal piece for this month’s roundtable, “Still knocking, as the doors close,” points out, the number of refugees continues to climb along with the number of individuals under the care of the [United Nations High Commissioner for Refugees \(UNHCR\)](#), while the reaction of many nation-states to these increasing numbers has been to restrict the flow of migrants and tighten restrictions on these population flows. The question that I must always pose to my students is how to deal with this ever deepening issue, and more pointedly, where does responsibility reside in regards to protection?

The obvious argument of my state sovereignty focused student is that responsibility does not exist unless the state in question is a party to some international convention; and even then international law remains so ambiguous and lacking real means of enforcement, most states can simply ignore the “law” if it is not in their national interest. In other words, they take a classic realist approach to the problem. Therefore, despite the fact that there exists a widely accepted legal basis for protection of refugees, the [1951 Convention Relating to the Status of Refugees and its 1967 Protocol](#), it remains questionable for some whether any state responsibility to protect exists. As a result, the argument in favor of such acts as the [European Union’s “returns directive”](#) remains dependent on the notion that state sovereignty continues its preeminence in the global affairs arena.

Adding another layer to this discussion is the [distinction that exists between a refugee and a migrant](#). According to the 1951 Convention, a refugee is defined as any person who holds a:

well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

This differs from a migrant who typically moves in order improve their socioeconomic status. However, does such a distinction matter when examining the human rights violations of individuals? It appears clear to me that although the violations of refugees may be more intense in nature, this does not dissipate the fact that socioeconomic migrants also often lack the basic human rights that are legally codified in international legal statute—such as the [Universal](#)

[Declaration of Human Rights](#) and the [International Covenant on Economic, Social and Cultural Rights](#). Thus, I believe that our discussion should extend to both refugees and migrants; however, this also makes the ability to counter the state sovereignty focused student's argument that much more difficult .

So where does responsibility reside? Do states have a responsibility to accept refugees and migrants whose human rights were being violated by their home state? My realist student would unequivocally argue no—but instead of engaging this student in the typical argument of sovereign rights versus cosmopolitanism, I believe it is more constructive to take a different tact. Yes, I could espouse the argument that the cosmopolitan basis of our humanity leads to a responsibility to protect the world's refugees and migrants because of the human rights violations perpetrated against them. In fact, I have supported the cosmopolitan perspective and its non-state centric approach in previous roundtable entries as they pertain to such issues as [the power of the Human Rights Council](#) and [humanitarian intervention](#) . However, the problem with approaching any of the world's problems within this argumentative framework is that the parties engaging in dialogue tend to talk past one another. If I begin my classroom discussions by espousing a definition of cosmopolitanism and the moral imperative to act, it is guaranteed that all of my realist students will simply shut down. They will find little value in this argument and fail to recognize a need to act on human rights issues such as refugee flows and mass migration. But if we refocus the topic to include a discussion of national interest, now I have their attention.

So how does the responsibility to protect affect the United States' or any other countries' national interest? [The most obvious impact is financial, but the literature often cites concerns of national security, xenophobia, impact on scarce resources, among others.](#) This is not say that there are no positive influences on host states, but again, such rhetoric often times fails to pierce the ideological positioning of my students. This financial burden provides an alternative rationale for action that is couched in a language that realists can understand. It provides them an impetus to act in situations of conflict and economic degradation. In fact, this was the rationale that ultimately caused President Clinton to act in Haiti during the 1990s. It was not for democratization or the promotion of his “[engagement and enlargement” policy](#) that caused a U.S. response to the crisis— [it was refugee flows and the impact this had on our national interest](#) . Such an approach tends to invoke an interesting response—my realist students begin to pay attention and the core of their argument, state sovereignty, begins to fade. They may see this issue as a responsibility to their own citizens or to their national interest, but they also understand the need to address the problem at its source. So are they now clamoring for intervention in war torn nations around the world in order to rectify the refugee problem? No. But they are aware of the complexity of the problem and the need to view all issues, even those of a seemingly liberal, global governance-laden human rights perspective, from all angles. And they begin to realize that the protection of human rights, on a universal scale, may actually be in their national interest. As a result, in a small way and in a small classroom setting, I have allowed the cosmopolitan global governance liberals to converse with the sovereignty-based realists—a small act that can hopefully be exported to a larger stage.

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