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# **The Responsibility to Protect as Humanitarian Negotiation: A Space for the ‘Politics of Humanity’?**

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**Abstract:** This article first situates the Responsibility to Protect (RtoP) in relation to humanitarianism and the ‘politics of humanity’ through which common humanity is understood, negotiated and defended in response to ‘crises of humanity’. It outlines the humanitarian negotiations at stake, connected with the mass atrocity crimes within the RtoP’s remit. Second, it argues that, like other claims made ‘in the name of humanity’, the power relations implicit in attempts to create, delimit and safeguard ‘humanitarian space’ need to be unpacked. Third, it assesses the RtoP’s potential to become a success with regard to the fulfilment of the humanitarian aspirations it represents, concluding that its inability to escape its political nature should be seen as a strength, not a weakness, but that the relationship between a humanitarian project like the RtoP and the notion of humanity will always be a dynamic, unpredictable and risky one, dependent on judicious political judgement.

**Keywords:** Responsibility to Protect; Humanitarianism; Humanitarian Space; Humanity; Crisis of Humanity; Politics of Humanity.

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## Introduction

The relationship between the Responsibility to Protect (RtoP) and ideas of common humanity is important and complex, yet often neglected.<sup>1</sup> This article argues that we should understand the RtoP as a particular humanitarian project, located within a broad understanding of humanitarianism as a constantly contested ‘politics of humanity’ that seeks to construct and defend our notions of common humanity in response to inhumanity and human suffering.<sup>2</sup> As with other humanitarian projects and practices, we need to be aware of the negotiations that include and exclude particular groups and certain kinds of suffering. The RtoP is also an attempt to create ‘humanitarian space’, to borrow and expand upon a trope prevalent in the humanitarian aid world, i.e. a space of consensus beyond politics in which the category of common humanity can be defended against the most egregious attacks on its integrity. Yet the success of such attempts always involves politics and power, and entails responsibilities of governance. The RtoP, like other universalizing claims made ‘in the name of humanity’, raises the stakes of such negotiations. Yet the contribution of the RtoP itself to the kinds of humanitarian spaces it envisages may well be relatively modest, absent a fundamental reordering of international politics. As such, it is best seen as a conversation starter, an opening for humanitarian politics, and an invitation for responsible politicians and states to exercise good judgement.

Unpacking how the ‘politics of humanity’ plays out in relation to the Responsibility to Protect affords us an interesting glimpse into the interplay of power, politics and ethics that will continue to shape the fortunes of the concept. To be clear, the aim is not to question the benefit of an international politics that upholds ideas of common humanity and devotes blood and treasure to protecting them, but rather to locate that common humanity, in both relevant

senses of the condition of being human and of the quality of being humane, as an object of political struggle, rather than a stable underlying basis for action.<sup>3</sup>

This article will first situate the RtoP within humanitarianism, the broader conceptual category through which common humanity is understood, negotiated and defended. In doing so, it will set out the particular humanitarian negotiations involved in the RtoP, namely those connected with the four mass atrocity crimes within its scope: genocide, war crimes, crimes against humanity and ethnic cleansing. Second, it will argue that, as with other claims made ‘in the name of humanity’, both well-intentioned and otherwise, the power relations implicit in attempts to create, delimit and safeguard ‘humanitarian space’, whether on battlefields or at the heart of the international body politic, need to be unpacked. Third, it will assess the potential of the RtoP to become a success with regard to the fulfilment of the humanitarian aspirations it represents, arguing that the key lies in maintaining a certain degree of humility while embracing the ‘politics of humanity’ involved in a more dynamic understanding of common humanity.

### **The RtoP as Humanitarian Negotiation<sup>4</sup>**

This first section sets out an understanding of humanitarianism as an essentially contested ‘politics of humanity’ that negotiates our reactions and responses to moments of ‘crisis of humanity’. I will locate the RtoP within this broad definition of humanitarianism as one particular humanitarian project among others, which engenders its own kinds of humanitarian negotiations, its own patterns of inclusion and exclusion regarding the framing of human suffering and of common humanity itself. The next section will then extend this analysis by examining the politics of the claims for ‘humanitarian space’ made by proponents of RtoP.

The RtoP relates, directly or indirectly, to a long list of practices, institutions and policy agendas within international politics. One might cite for instance peacekeeping, statebuilding, development, international criminal law, international humanitarian law, or human rights, among others. But here the focus will be on humanitarianism, since, it is argued, this will reveal most about the relationship between the RtoP and common humanity.

The notion of humanitarianism used throughout this article includes, but is not limited to, those practices formally described as ‘humanitarian’, such as humanitarian relief or aid, international humanitarian law and the far more controversial (military) humanitarian intervention. Indeed it encompasses or overlaps with all of the activities listed above. Humanitarianism on this account is seen as a broad conceptual category, essential to liberal politics but permanently contested both within and beyond liberalism, and perhaps even possible without it. It takes the form of an ongoing ‘politics of humanity’ through which notions of common humanity, human suffering and human solidarity are challenged and negotiated through encounters with similarly shifting notions of ‘inhumanity’, especially during what I call ‘crises of humanity’.

‘Crises of humanity’, intentionally distinguished from the often sanitizing language of ‘humanitarian crisis’, are moments where our notions of what constitute common humanity and of the moral and material requirements for its defence are challenged and, in many instances, reformulated. They can hinge upon particular episodes or mass atrocities, or represent more diffuse changes in moral understanding, such as those which occurred through the various phases of abolitionism, first of the slave trade, then of slavery itself – both unfortunately still works in progress (Rorty, 1989, 1998; Kaufmann and Pape, 1999; Hochschild, 2005; Hunt, 2007; Bass, 2008). The result of these political negotiations are various practices and concepts that one might consequently describe as humanitarian, in the sense of stemming from a concern to protect a vision of common humanity and an associated

baseline of solidarity in response to cruelty and human suffering. So human rights and international development, say, are two kinds of humanitarian practice, two different ways in which the ‘humanitarian impulse’ has been institutionalized within international politics.<sup>5</sup>

This definition of humanitarianism allows us to analyze the RtoP within the ambit of humanitarian action. This move is not uncontroversial, since adopting the typical humanitarian relief professional’s working definition of humanitarianism - as the neutral, impartial, independent provision of relief in the service of humanity - would clearly exclude it, as many in the aid world have done. This last point is often obscured within International Relations scholarship by the central place in discussions about humanitarianism of military humanitarian intervention, despite the latter being a practice most professional humanitarians do not include within the acceptable scope of humanitarian activities (Ramsbotham and Woodhouse, 1996; Orbinski, 1999; Bellamy, 2003).

The starting point here is that the concept of the RtoP stands as one of the dominant humanitarian artefacts of our era. Though discussion of the RtoP is much less prominent within the international relief world, it has colonized much of the debates within international politics, and international society, about how to ‘save strangers’, which before the RtoP tended to fall under the category of ‘humanitarian intervention’ and its potential emergence as a norm of international society (Wheeler, 2000). Though skeptical of some of the directions the discourse around the RtoP has taken, Chris Brown remarks that:

it is clear that the notion of Responsibility to Protect has been mainstreamed into the UN system to such an extent that it has driven out other vocabularies for describing the appropriate ways of reacting to gross violations of human rights or mass atrocity crimes. Those supporting or calling for intervention in such circumstances will, in future, be obliged to employ this rhetoric; the language of humanitarian intervention is no longer be [sic] employable by those wishing to save strangers. (Brown, 2013, p. 440)

As such, the ways in which the RtoP enables or circumscribes particular kinds of humanitarian action will often be crucial to the ways in which common humanity is understood and defended.

This necessarily creates risks as well as opportunities. For instance, Hilary Charlesworth notes that: ‘The principle also depends on gendered accounts of the value of military intervention in international affairs that limit the possible responses to atrocities.’ (Charlesworth, 2010, p. 233) Defenders of the RtoP might counter that this represents a misunderstanding of the breadth of the concept, a leap to (a narrow reading of) Pillar Three of the RtoP that bypasses the broader range of responses possible under Pillars One and Two. However, Charlesworth points out that the four RtoP crimes ‘are a very limited subset of inhuman behaviour’ which, for instance, ‘excludes structural forms of discrimination and violence against women in both public and private areas from its purview, factors that account for greater, systemic, harms to women’s lives’ (Charlesworth, 2010, p. 243). This echoes concerns that, even within ostensibly liberal or humanitarian practices, women are still not seen as human (MacKinnon, 2006).

This is not to say that the four crimes do not warrant concerted policy action, or do not cover kinds of mass atrocities that, for instance, disproportionately affect women. Indeed this article takes the position that the four crimes represent a reasonable compromise between extremity of suffering and legal specificity, for reasons that will be elaborated upon in the third section. Rather, the point is made to illustrate the fact that discursive trade-offs are inevitable as particular ideas enter the policy lexicon. There are specificities to what ‘responsibility’ and ‘protection’ may come to imply in the international arena that are potentially beneficial to the causes addressed, should the concept’s influence increase. But these can also potentially damage the chances of other notions of equally (or even more) pervasive inhuman practices getting space on a crowded policy agenda. There are also risks

associated with any narrowing of the scope of humanitarian politics that then fails to achieve its aims, having crowded out other perspectives.

This is not a trivial objection, given the mixed record attributed to the RtoP by many who share its core concerns and aims, let alone its perennial critics. Furthermore, the stakes for discursive crowding-out are higher when one is dealing in putative universals such as common humanity. So to return to the key point here, the RtoP needs to be seen as part of a broader set of humanitarian negotiations, to do with the ownership and framing of humanitarian concerns within key policy arenas, which in turn have repercussions for the ownership and framing of notions of ‘common humanity’.

As alluded to above, the RtoP has arguably largely won out, at least discursively. This could be seen as a positive development, given that the preceding discourse around humanitarian intervention invited dichotomized arguments, with a concomitant narrowing of options, to a much greater extent. It also resulted in the unsatisfactory (to some) stalemate of NATO’s intervention in Kosovo being judged as ‘illegal but legitimate’ (IICK, 2000). But Charlesworth’s critique is illustrative of a more general characteristic of humanitarian politics, from which the RtoP is by no means exempt. This is the fact that conceptions of humanity - in both its senses, that of being human and of acting humanely – tend to reflect humanitarians’ sense of their own humanity rather more than that of those on the receiving end of their benevolence. This leads us to the question of power inherent in invocations of ‘humanity’, notably the power to claim humanitarian space, one of the key rhetorical devices deployed by professional humanitarians, and a useful lens through which to analyze the RtoP.

## **The RtoP and Humanitarian Space**

In this section I will unpack the relationship between the RtoP, claims to act in the name of humanity, and the notion of humanitarian space. I will broaden out our understanding of the latter beyond its current location within the practice of humanitarian aid, where claims for humanitarian space are largely made by putatively apolitical actors against more powerful, explicitly political actors. In doing so, I will examine the consequences of claims for humanitarian space made by the most powerful political actors within the institutional heartlands of great power politics.

The trope of humanitarian space is predominantly deployed by professional humanitarians as a way of underlining their perceived need for autonomy and independence from the kinds of actors, such as states, which precisely lie at the heart of the RtoP, both on the battlefield and, arguably, off it, in their self-assigned role as gatekeepers of humanitarian values (Hopgood, 2006, 2008, 2009). But in reality, as I have argued elsewhere, there exists a spectrum of understandings, explicit and implicit, of what humanitarian space can mean within international politics, and it is too useful a concept to leave to the professional humanitarians.<sup>6</sup> At one end of the spectrum is the view expressed by many of the latter that humanitarian space is about the preservation of the ability to deliver independent, impartial, neutral relief (Grombach Wagner, 2005; Hopgood, 2008). At the other end lies the account outlined by Thomas Weiss and Jarat Chopra in 1995 of a humanitarian space delinked from territorial constraints and which ‘transcends sovereign boundaries’, a viewpoint that blended with other ideas such as Francis Deng’s ‘sovereignty as responsibility’ in the initial formulation of the RtoP – a process in which Weiss himself played a key role (Weiss and Chopra, 1995, p. 88; ICISS, 2001).

As such, the RtoP represents the culmination of a particular view of an arguably highly political humanitarian space, characterized by a sovereignty contingent on (humanitarian) responsibility and in which the UNSC is the ultimate arbiter.

All accounts of humanitarian space, whether they evoke humanitarian corridors, safe areas or the more expansive ‘humanitarian umbrella’ of something like the RtoP, share the ambition to create a zone of protection and safety for the preservation of basic human dignity, though they differ on how best to achieve it. For some it is best won with moral authority and a hard-won reputation for scrupulous independence. For others protection is best delivered with ‘the hard edge of the R2P stick’ (Weiss, 2012, p. 13). Perhaps surprisingly, though, another characteristic shared by the different varieties of humanitarian space is an unsuccessful attempt to distance themselves from the political and from the supposed taint of ‘politics’. In the case of professional humanitarians, actors who often see themselves as apolitical are trying to establish and ringfence a space away from politics where they can go about their business of saving lives. In the case of the RtoP, more avowedly political actors try to establish a stable consensus that can then be ‘parked’ and take the prevention of mass atrocity crimes away from the brute facts of great power politics.

In fact, both views are mistaken. Professional humanitarians are engaged in a particular political project, often of tremendous importance for some of the most vulnerable people on the planet, to try to preserve the notion that common humanity entitles all to a minimum of human dignity, in contexts in which that notion is often exactly what is under attack. They may not be belligerents in the material sense, but they are certainly fighting on an ideological battlefield. It is unclear why the operational principle of ‘neutrality’, while undoubtedly useful in many contexts, should always trump the notion that ‘humanitarian politics’ should be a goal rather than a dirty secret. Meanwhile, as Brown has demonstrated, the current landscape of international politics is not one in which the agenda represented by the RtoP can possibly be seen as beyond politics (Brown, 2013). The scenarios with which the RtoP is designed to engage, the means implied by its deployment, and the context of

international decision-making behind it are deeply imbued by the core political fractures of an increasingly post-liberal moment.

To some extent, this is a critique that one might be tempted to note before simply moving on. However, the political nature of humanitarian space has further ramifications that need to be taken into account.

First, the notion of a stable humanitarian space, something that can exist in a reliable, consistent way, is always to some extent fictitious. Recent work by Médecins Sans Frontières (MSF) has demonstrated that, even for a specialized humanitarian actor that takes its quest for independence very seriously indeed, the preservation of the space for action is the object of constant political negotiation (Magone et al., 2011). So too with the kinds of humanitarian space envisaged by advocates of the RtoP. There is, unsurprisingly, no ‘off-the-peg’ intervention scenario imaginable that might bring all key players willingly to action and maintain unanimous support (or unanimous lack of active opposition) throughout the kinds of contentious and delicate operations at stake in the RtoP. It precisely deals with the most intractable political problems of the day. The intervention in Libya provides an example of how, after an initial outbreak of consensus, the means, ends and implications of the case became controversial (Bellamy, 2011b; Chesterman, 2011; Pattison, 2011; Weiss, 2011; Welsh, 2011). Moreover, it did so in a manner that has, according to some though not all commentators, been deleterious to (the admittedly already slim) possibility of concerted engagement with Syria (Morris, 2013; Bellamy, 2014a).

Second, humanitarian spaces are sites of governance, and humanitarians are often in charge, whether they are willing to face up to the responsibilities of power or not. Didier Fassin has ably revealed the many faces of humanitarian governance, within national and international politics, noting that: ‘Humanitarianism, independently of the goodwill of the rescuers, constructs an unequal relationship between the one giving aid and the one being

aided.’ (Fassin, 2012, p. 193) David Kennedy emphasises humanitarians’ discomfort when faced with the enquiry ‘what does it feel like to rule?’ (Kennedy, 2004, p. 357). But, as the *génocidaires*-dominated refugee camps in the aftermath of the Rwandan Genocide demonstrated, such spaces can never be governance-free zones, and where the responsibilities of governance are eschewed, life can become nasty, brutish and short for particular groups all too easily (Terry, 2002). Meanwhile, the governance aspects of the RtoP have long been at the heart of the fundamental objection of those critics who see it as a ‘Trojan Horse’ for Western/liberal/US imperialism (Bellamy, 2005; Cunliffe, 2011). But as the aftermath of the intervention in Libya again demonstrates, what a ‘successful’ RtoP intervention looks like after the immediate protection action is troublingly unclear.

Just as humanitarian spaces are not neutral in terms of the political relationships and inequalities within them, nor are they neutral with respect to their consequences in time and space. Humanitarian responses to insecurity can often be sources in themselves of new forms of insecurity. Alex de Waal sees humanitarian action as a combination of ‘escapable and inescapable cruelties’ (de Waal, 2010). As David Rieff, always an acute observer of such matters, wryly notes: ‘The ease with which the rhetoric of rescue slips into the rhetoric of war is why invoking R2P should never be accepted simply as an effort to inject some humanity into an inhumane situation (the possibility of getting the facts wrong is another reason; that too has happened in the past).’ (Rieff, 2008b) In another piece he develops the point:

The harsh truth is that it is one thing for people of conscience to call for wrongs to be righted but it is quite another to fathom the consequences of such actions. Good will is not enough; nor is political will. That is because, as Iraq has taught us so painfully, the law of unintended consequences may be one of the few iron laws of international politics. And somewhere, despite all the outcry, leaders know that the same people calling for intervention may repudiate it the moment it goes wrong. (Rieff, 2008a)

There is by now a rich literature, the very literature which nurtured the sense of a ‘humanitarian identity crisis’, on the disruptive, dangerous and sometimes devastating consequences of ill-considered humanitarian action, both within the context of ‘traditional’ humanitarian assistance and military humanitarian intervention (Weiss, 1999; Rieff, 2002; Weissman, 2004; Barnett and Weiss, 2008; Barnett, 2011).

Many of these errors, whether born of ignorance or hubris, have demonstrated one of the central tensions of humanitarian action, a tension that looms large in the formation, defence and governance of humanitarian space: ultimately, as was suggested in the previous section, it is humanity that is being politically negotiated. There is no more powerful way to obscure this than to claim that an action is ‘in the name of humanity’, the core claim of all attempts to create ‘humanitarian space’.

Of course, humanitarian rhetoric can be deployed with profound cynicism, and has been eagerly seized upon by self-declared humanitarians as unlikely as Adolf Hitler or Vladimir Putin. But in cases where the interplay of self-interest and altruism is more nuanced, the invocation ‘in the name of humanity’ presents two fundamental characteristics that mean that the relationship between a humanitarian project like the RtoP and the notion of common humanity will always be a dynamic, unpredictable and risky one.

First, it is in the very nature of the crises with which the RtoP grapples that they destabilize our understandings of common humanity. This disruption occurs because the instigators of mass atrocity crimes are directly attacking the category of common humanity, and in doing so reveal that human solidarity has been insufficiently strong to prevent us reaching the brink of catastrophe, or, in all too many cases, standing by as catastrophe engulfs us.

Second, ‘in the name of humanity’, even with the best will in the world (all-too-scarce a commodity), can often come to mean ‘in the name of my humanity’, quite a different thing.

Tony Vaux has written eloquently of this kind of experience, from the perspective of an Oxfam aid worker, and there is interesting work on the self-referential nature of abolitionism in Britain (Kaufmann and Pape, 1999; Vaux, 2001).

One can acknowledge, on the one hand, that, beyond the questions of political implementation, there is quite a strong degree of consensus that no one should suffer genocide, ethnic cleansing, war crimes or crimes against humanity. But one simultaneously needs to acknowledge that the vision of the human and, crucially, of how the human should be politicized and protected by global elites, as written into particular policy tools such as the RtoP, can never fully get to grips with the significant differences in how people experience their own humanity and attacks upon it.

As such, as broad a framework as the RtoP is always likely to be a blunt instrument when it comes to respecting and protecting the more intangible dimensions of common humanity. But so too is anything, short perhaps of the kind of open ethical encounter envisaged by some critical theorists (Campbell, 1998). Such encounters might still, as Vaux's account implies, contain their own inescapable prejudices, and may still not escape the problem that the power to save lives is a power easily abused (Vaux, 2001).

Perhaps then, the best caution is not to forego action altogether, but rather to avoid the depoliticizing tendency of attempts to create humanitarian space, both physical and rhetorical, and embrace the 'politics of humanity' and the potential role of artefacts like the RtoP in the construction and defence of common humanity. The key here lies in acknowledging that common humanity is political, that the RtoP is political and that its success lies in embracing a positive politics of humanity that has the modesty to assume the implications of its own presumptiveness. The outstanding issue is then the question of how to gauge the usefulness of the RtoP within that struggle.

## **The RtoP as a ‘Politics of Humanity’?**

What should be the criteria for assessing the success or failure of the RtoP in relation to the protection of our understandings of common humanity? Several points spring to mind here. First, reading the tea leaves of UNSC resolutions and counting the number of times ‘responsibility’ or ‘protect’ are mentioned is of course a highly imperfect metric, since, as Alex Bellamy has argued, ‘RtoP’s ultimate test is not the number of resolutions that endorse it, but the number of graveyards that stand empty because tragedy was averted’ (Bellamy, 2011a, p. 196). Bellamy has recently elaborated on this view in a detailed book-length defence of the RtoP (Bellamy, 2014b).

This approach is admirably commonsensical, reflecting as it does the realities of the complex political environments within which the RtoP exists. But it does raise two methodological problems. First, establishing the causality behind events that do not take place, along with the hypothesized seriousness of said event, is obviously challenging. Furthermore, it is also likely that candidates for successful Pillar Three RtoP interventions will often risk subsequent characterization as trigger-happy over-reactions or imperial overstretch. The evolution of the discourse as intervention in Libya turned to regime change, mentioned in the previous section, may be instructive here.

Second, in the pre-RtoP era in which ‘humanitarian intervention’ was the dominant discourse, intervention sometimes happened and sometimes did not in relation to what could now be described as ‘RtoP situations’, as a result of a large number of determining factors to do with the interplay of perceived national interests and countervailing interests by political competitors, the supply of political will, the degree of public pressure etc. Where an RtoP intervention does take place, how can one ever know that it would not have taken place anyway using a different justificatory framework. Did the intervention in Libya happen

because of the RtoP, or just happen to take place in the era of the RtoP? Justin Morris, for one, argues that the RtoP's role here has widely been exaggerated, although Bellamy, once again, makes a spirited defence of its importance (Morris, 2013, p. 1265; Bellamy, 2014b).

Furthermore, it may prove to be the case that RtoP discourse is best deployed not in the UNSC chamber, but in smoke-filled rooms, as negotiators attempt to diffuse escalating situations. Bellamy highlights its utility in this respect and its ability to open up humanitarian space (Bellamy, 2014c). What previous track record of the RtoP is then necessary to make measures such as Pillar Three interventions credible threats will be hard to determine with precision, but it may well be the case that such instances could prove its most important contributions, since once we get to the implementation of Pillar Three interventions, the richness of the RtoP in terms of providing a useful or relevant guide to action arguably dwindles. For instance, Alex de Waal argues that discussions around possible humanitarian or RtoP interventions in Darfur tended to completely neglect those measures that might actually have usefully contributed to the security situation in Darfur (de Waal, 2009). There is of course a danger of the discourse focusing on the build-up to a UNSC resolution without due consideration to the aftermath. Whether it comes to Pillar One, Pillar Two or Pillar Three action, the RtoP does not provide many new ideas or insights into the intricacies of particular conflict situations. What it does provide is a discursive context that can potentially lend authority to skillful politicians who do possess these valuable commodities (though unfortunately it might also do so for their more blundering counterparts).

But with the notion of smoke-filled rooms, which speaks to the preventative dimensions of the RtoP on which many of its defenders would have us focus, the problem of assessing contribution, or at least demonstrating contribution convincingly to humanitarianism's global spectatorship, is multiplied. It may be the case that the RtoP's greatest successes might not look that dissimilar to failures, given that at stake are the most

intractable and violent situations we confront. This should not necessarily deter us from action, although only hubris would leave us comforted by this insight, for returning to the broader context of humanitarianism and to that inveterate phrasemaker David Rieff, humanitarian action is always in some sense an ‘emblem of failure’, though he personally considers the RtoP a failure too far, and advocates a much narrower reading of humanitarianism than that articulated in this article (Rieff, 2002, p. 304). But the point is that mass atrocities averted may still involve a number of serious atrocities or under Pillar Three interventions, ‘collateral damage’, which will often be enough for humanitarians everywhere, and quite reasonably, to decry the situation as a humanitarian failure, if they are not, less reasonably, already denouncing the selectivity behind the intervention.

Those essentially unavoidable limitations aside, let us consider the possible advantages of the RtoP as a humanitarian meta-narrative, that is, as a particular version of the ‘politics of humanity’.

It is a truism to remark that the RtoP did not introduce new binding international law. Two points are useful to make though in terms of seeing this as a limitation of the concept in terms of upholding a notion of common humanity. First, should the RtoP untether itself from the delusions of what Brown terms its ‘anti-political’ bent, it is clearly a political vocabulary that offers both the benefits and limitations of being entwined with the political and legal processes of the UNSC (Brown, 2013). As Adrian Gallagher reminds us, paragraph 139 of the World Summit Outcome document binds any RtoP intervention tightly to UNSC procedure (Gallagher, 2012, p. 355). Simon Chesterman argues that ‘the significance of RtoP was never, in a strict sense, legal. Rather it was political - and, importantly, *rhetorical*.’ (Chesterman, 2011, p. 281)

Second, despite the importance of having binding pieces of international law such as the Genocide Convention, both symbolically and practically, the record of what we might

broadly term humanitarian laws (as opposed to the specific body of International Humanitarian Law) has often been sadly mixed in terms of preventing mass atrocity crimes or ending impunity. Of course, differentiation between types of mass atrocity crimes remains important to eventual post-facto criminal proceedings, and there are important reasons for understanding and differentiating between the different ways humans have invented to be cruel to each other, especially at a legal level.

But it is not clear that this kind of differentiation has been particularly helpful in the key fora of international politics in terms of galvanizing great powers to act to prevent or halt mass atrocities. One key advantage of grouping genocide, crimes against humanity, ethnic cleansing and war crimes together is that it discourages frequently unproductive debates about whether what is taking place in an ongoing situation constitutes, say, genocide or ethnic cleansing. Gareth Evans speaks to this productive overlap when he argues that: “‘Crimes against humanity’ is broad enough conceptually to embrace certainly genocide and ethnic cleansing’ within the four RtoP crimes (Evans, 2009).

The RtoP thus provides a discursive context in which to frame humanitarian responses that can plausibly invoke a lower, more practical, threshold of evidence than that implied by the need, say, to prove intent to the standard of a criminal court, something that can hopefully, in appropriate cases, come later on as part of legal proceedings. There seems no particular reason why the tools used to render certain actions illegal should overlap completely with those designed to prevent or halt them.<sup>7</sup>

There is general agreement that one of the key triggers of action in Libya was the dehumanizing rhetoric employed by the regime and especially Gaddafi, with references for example to ‘cockroaches’ and ‘rats’ that were chillingly reminiscent of the build-up to earlier mass atrocities such as the Rwandan Genocide or the Holocaust. By virtue of grouping together four crimes all related to attacks on the notion of a common humanity and a

concomitant moral minimum, RtoP discourse embraces the often unclear (at the time) process through which dehumanization takes place without further need for a differentiation between mass atrocity crimes that is only likely to be possible after the event. It allows dehumanizing narratives and practices to serve as a powerful signal that a state might indeed be ‘manifestly failing’ to protect its inhabitants, in a manner that can be strongly articulated in key policy contexts such as the UNSC in time to do something about it, i.e. without the requirement of a full post-facto criminal-style investigation. This does not necessarily make it more likely that states will act in response. But it makes it less likely that discursive dead-ends and stalling mechanisms such as ‘we’re not sure this is a genocide yet’, and the prevarications and dissembling moves that accompanied the Rwandan Genocide, become possible and credible reasons to avoid engaging in mass atrocity prevention, if it is evident that something that falls within the package of the four crimes is taking place. All the more so if the case can be further supported with reference to something like Gallagher’s five indicators of a ‘manifest failing’ (Gallagher, 2014). Chesterman argues that ‘the true significance of RtoP is not in creating new rights or obligations to do “the right thing”; rather, it is in making it harder to do the wrong thing or nothing at all’ (Chesterman, 2011, p. 282).

Of course, there is the risk of RtoP rhetoric merely becoming a new type of verbal hand-wringing. But while critics such as Rieff are right to be sceptical about how often humanitarian concerns will alter states’ projects, and about how dangerous oxymoronic tropes such as ‘humanitarian war’ can be, the problem will remain of how to table mass atrocity crimes on the international policy agenda, and of which ways of formulating the problem are more or less likely to lead to marginal (in terms of great power’s core interests) issues having an effect and yielding concrete action.

For Brown, the key to this latter is that the internalization of humanitarian concerns within states’ interests and identities has been an important factor where humanitarian

intervention has taken place, and for the RtoP to be successful it will need to contribute to states' identities and interests 'encompassing a concern for the victims of crimes against humanity' (Brown, 2013, p. 442). In this sense, although he probably retains more optimism about the trajectory of the RtoP than Brown, Bellamy's notion of it as 'habit-forming' seems useful and relevant (Bellamy, 2013). Low-key innovations such as the national RtoP focal points may help in this sense.

It should be clear that failing to become a silver bullet should not be grounds for burying the RtoP. Granted, the record so far in terms of generating clear, coherent and concerted action to prevent or halt mass atrocities has been mixed. However, even a sober critic like Aidan Hehir concedes that, for all its (in his view) lack of impact it has become harder discursively for states to deploy moral relativism or absolute sovereign prerogative in international fora (Hehir, 2011, p. 1342). This surely represents a positive shift, in humanitarian terms, in the underlying framings of international political discourse, even if the RtoP has failed to usher in a brave new world of humanitarian politics. Cognitive dissonance between the words and deeds of the 'international community' is of course to be lamented. Yet if one does not take the position that international relations are governed by immutable forces, then cognitive dissonance could be the harbinger of modest progress rather than a certain marker of hollow failure. The benchmarking of certain moral baselines in international political discourse makes dismissive arguments about 'faraway places of which we know nothing' harder to find discursive space for.

In moving beyond words to serious added-value in terms of action to prevent or halt mass atrocities, perhaps, as Brown suggests, we need to start from the national level. Is the RtoP likely to bring an end to the selectivity and inconsistency of responses to 'crises of humanity' that critics so decry? Perhaps that is a misplaced hope, for while it may be possible for the RtoP to form the habits of key actors, to generate a steady increase of safeguarding

action under Pillars One and Two, and to lock Pillar Three action to the mechanisms of the UNSC, the most likely thing to actually bring a successful Pillar Three intervention to fruition remains the willingness of the leaders of key states to engage in a certain amount of interpretation and to exercise what Brown terms ‘practical judgement’ to cajole peers and build a coalition around the need for action (Brown, 2003, 2010). Interestingly, Bellamy’s recent defence of the RtoP picks up strongly on this focus on practical judgement (Bellamy, 2014b). In the final analysis, a successful future for the RtoP depends on statespeople bringing their own humanity into their politics, while acknowledging the politics underlying their account of humanity.

## **Conclusion**

This article has argued that the relationship between the RtoP and common humanity can only be understood if we problematize both sides of the equation. Seeing humanity as dynamic, political, and contingent is as necessary for those who would defend it as it so unfortunately is for those who attack it through dehumanizing and inhuman practices at moments of ‘crisis of humanity’. As such, locating the RtoP within the ‘politics of humanity’ allows us to better understand the political characteristics and consequences of the claims for ‘humanitarian space’ made by those employing the rhetoric of RtoP. Rather than attempting to use the RtoP to move beyond politics, its advocates should see it as a framework in which humanitarian politics can be conducted, while acknowledging its limitations in terms of fully understanding the humanity of others and how best to honour that humanity. It cannot escape the oscillation between singularity and diversity captured by Catherine Lu: ‘Human beings are united by a common human condition marked by vulnerability to suffering. In this sense,

humanity is one. Yet human individuals are also unique centres of consciousness, purpose and agency. In this sense, humanity is many.’ (Lu, 2006, p. 9)

Of course, the marketplace for human misery is a crowded one. It is hard to be optimistic about the potential of the RtoP, squarely aimed at the most egregious ways humans have found to institutionalize horror, to miraculously rescue enough of the humanity squandered through cruelty to declare it a success. But nor should it be seen, yet, as a complete failure. It represents, at least within the kind of policy sphere that spawned it, an improvement on the terms of the debates that preceded it, a useful conversation starter, and a spur to the more ‘humane’ of the world’s powerful. What it does not offer is an antidote to the politics of inhumanity. The politics of today, along with the tyrants of tomorrow, make this too much to hope for.

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## Notes

<sup>1</sup> The terms ‘humanity’ and ‘common humanity’ are rarely problematized in the policy and academic literature that explicitly invokes them (Annan, 2000, p. 48; ICISS, 2001, p. VII; United Nations, 2005; Wheeler, 2005; Hilpold, 2012).

<sup>2</sup> Although former UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator John Holmes has recently also used the ‘the politics of humanity’ as the title of his diplomatic memoir, it should become clear that the meaning here is both more specific and far-reaching (Holmes, 2013).

<sup>3</sup> Throughout this article I use ‘humanity’ and ‘common humanity’ interchangeably. In both cases I am referring to both related senses of the term unless specified otherwise, since at the heart of humanitarian encounters lies both the recognition (or declaration) of a shared

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condition, that of being human, and the desire to respond to a threat against that condition in a humane manner.

<sup>4</sup> I have borrowed the phrase ‘humanitarian negotiation’ from an excellent volume on Médecins Sans Frontières’ work, but here use it in a slightly more theoretical sense (Magone, Neuman, and Weissman, 2011).

<sup>5</sup> The phrase ‘humanitarian impulse’, frequently employed in the literature, is itself revealing, hinting at a concept that is somehow fundamental and irrepressible yet still deeply contingent.

<sup>6</sup> For an interesting set of perspectives on humanitarian space see a recently published volume including contributions by two key figures in the debates on the RtoP, Thomas G. Weiss and Alex J. Bellamy (Acuto, 2014; Bellamy, 2014c; Weiss, 2014).

<sup>7</sup> To continue slightly further along this line of argumentation, I would thus be sceptical of the value of proposals such as those of Aidan Hehir to create new legal entities in terms of their likelihood of hastening effective action (Hehir, 2012).

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