

RESPONSE TO “ENDING TYRANNY IN IRAQ”

Humanitarian Imperialism

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Fernando Tesón offers two “humanitarian rationales” for the war in Iraq. The first, which he calls the “narrow” rationale, is that the war was fought to overthrow a tyrant. The second, “grand,” rationale is that it was fought as part of a strategy for defending the United States by establishing democratic regimes in the Middle East and throughout the world—peacefully, if possible, but by force if necessary.¹ Both rationales strain the traditional understanding of humanitarian intervention. The first is narrow only in relation to the second, for it broadens the traditional understanding, which it also in effect rewrites. The second treats establishing democracy in other countries as a means to defending the security of the United States. A war fought primarily for our own sake and only incidentally for the sake of the people of Iraq has even less claim to be justified as a humanitarian intervention.

THE NARROW RATIONALE

Regarding the first (“narrow”) rationale, let me grant for the sake of argument that whatever *motivated* the president and his advisors to invade Iraq, an immediate *intention* of the invasion was to overthrow the government of Saddam Hussein. Does that make the war a humanitarian intervention? Behind Tesón’s claim that it does is the premise that the intention to overthrow a

tyrant is a humanitarian intention and that any war waged with that intention counts as a humanitarian intervention, provided that it also intends to replace the tyrannical government with a democratic one. It does not matter whether the target government is committing the atrocities—massacre, deportation, and other “crimes against humanity”—usually thought necessary to trigger an intervention. Those who define humanitarian intervention to include ending “tyranny” may assume that any regime to which this term applies is not merely illegitimate and oppressive, but also one that commits such crimes. Be that as it may, to call a war waged to overthrow a tyranny a humanitarian intervention is to focus on the character of the regime to be overthrown, not on thwarting specific crimes against humanity or rescuing the victims of those crimes.²

This argument significantly revises the traditional understanding of humanitarian

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¹ Fernando R. Tesón, “Ending Tyranny in Iraq,” *Ethics & International Affairs* 19, no. 2 (2005), pp. 1–20. All in-text citation references are to this article.

² Tesón suggests that humanitarian intervention is called for in cases of “severe” tyranny, which he defines as involving *past* or present atrocities as well as “pervasive and serious forms of oppression” (p. 15). This still puts the emphasis on the character of the regime, of which its crimes are evidence, not on rescuing the victims of those crimes.

intervention. That understanding is a conservative one: intervention is called for by the specific crimes committed (or permitted) by a regime, not the character of that regime. A humanitarian intervention aims to rescue the potential victims of massacre or some other crime against humanity by thwarting the violence against them. Intervention is justified on humanitarian grounds when its intention is to end continuing atrocities or prevent future ones. In the latter case, there must be evidence that a massacre or other such crime is in preparation and that its commission is imminent. In that case, humanitarian intervention involves a preemptive use of military force. What it aims to preempt is the humanitarian catastrophe toward which events in a country appear, on the evidence, to be moving rapidly. Thus, the rationale of preemptive humanitarian intervention is not that it is a justified response to past wrongs but that it seeks to forestall future violence. The humanitarian intervention that should have happened in Rwanda, but did not, illustrates preemption in this context. Had the United Nations provided additional forces when the head of its mission in Rwanda, General Roméo Dallaire, requested them in April 1994, many people would have been saved from murder, mutilation, and expropriation. But the requirement of imminent catastrophe is irrelevant if, following Tesón, we identify militarily imposed democratic regime change as humanitarian intervention. That expansive and revisionist identification merges humanitarian intervention understood as the use of armed force to suppress or prevent crimes against humanity with what is sometimes called “reform intervention” (and might better be called “revolutionary intervention”), and it extends the label “humanitarian” to cover this larger class of interventions.

Underlying the principle of humanitarian intervention is the assumption that other states are disposed *not* to intervene on behalf of the victims of a murderous government. The principle tells them that, sovereignty notwithstanding, they have a right and possibly even a duty to intervene. They are to act beneficently, at some cost to themselves, for the sake of the many who would not otherwise be protected from violence perpetrated or tolerated by their own rulers. There will always be disagreement about how awful a state’s crimes must be before it loses its immunity to armed intervention. Traditionally, the bar has been set relatively high, for two reasons. The first is respect for domestic autonomy; but the more vicious and massive its crimes, the weaker a state’s claim to protection under the nonintervention rule. The second is that only the gravest crimes can justify the high costs of military action. To be prudent is to recognize that any war, no matter how just, brings injury and injustice in its wake. Prudence may therefore counsel against war even when the moral case is compelling. Given the room these principles allow for interpretation and judgment in their application to particular situations, the threshold for intervention cannot be precisely specified. But in the traditional understanding, genocide is clearly above that threshold and ordinary oppression below it, and intervention must be aimed at halting current or preventing imminent violence, not removing an oppressive regime whose violence falls below the threshold.³

Tesón’s argument revises the traditional concept of humanitarian intervention in

³ The traditional understanding underlies the argument of Ken Roth’s “War in Iraq: Not a Humanitarian Intervention,” Human Rights Watch World Report 2004; available at hrw.org/wr2k4/3.htm.

another way as well. Like the ideas of state sovereignty and nonintervention, the idea of humanitarian intervention makes sense only if we understand the international order to be a normative system based on the coexistence of independent states, each enjoying rights of political sovereignty and territorial integrity defined by international law and an underlying morality of states. This does not mean that sovereignty is absolute, that the interests of states trump all moral considerations, or that governments are not obligated to respect human rights. It does mean that civil societies and the international order have a moral foundation and that moral criticism must take account of civil and international laws and institutions.

In this context, the idea of humanitarian intervention works as a carefully circumscribed exception to the nonintervention rule, which is assumed to be morally justified over a wide range of circumstances. The moral logic of humanitarian intervention is that it denies governments the right to assert their sovereignty as a cover for grave crimes against their own people. States are required by morality and international law to respect basic human rights, which they will understand and honor in diverse ways. But if they fail egregiously to respect such rights, using or permitting violence against those whose rights they should be protecting, then other states may intervene coercively to thwart that violence. Humanitarian intervention, then, is one of the practices that together constitute the international order. It does not make sense if we understand that order to be a global one based not on principles of coexistence among independent states but solely and directly on universal principles of morality and human rights, unmediated by the institutions of civil society and international law. In this global order, only morally legitimate states have rights, and interna-

tional politics gives way to transnational or supranational modes of global governance. The idea of a postinternational global order may be fact or it may be fancy. In either case, to the degree that principles of universal legitimacy are the criterion of order, the expression “humanitarian intervention” is out of place. It belongs to the world of interstate relations, as a modification of that world. One state can “intervene” in the internal affairs of another only if there are rules that distinguish internal from external. In a world without sovereignty there is no rule of nonintervention to which exception can be made, and therefore no room for intervention.

THE GRAND RATIONALE

What about Tesón’s second, “grand,” rationale for the war—that forcibly ending tyranny in Iraq is part of the grand strategy for defending the United States by “ridding the world of tyrants” (p. 19)? Even more than the first, this justification distorts the concept of humanitarian intervention as that concept is properly understood. It does so in at least two ways.

First, it shifts the focus of debate from concern for the interests—the rights, security, and well-being—of those who are to be rescued from violence to concern for the interests of the intervening state and its citizens. Unlike humanitarian intervention, which aims to protect *other people*, the American strategy of “spreading democracy” is aimed at protecting *us*. As Tesón acknowledges in justifying the war in Iraq as part of the grand strategy of democratic interventionism, the United States did not overthrow Iraq’s government for the sake of those suffering under it. Deposing Saddam Hussein, he suggests, was our *intention*, but rescuing his victims was not our primary

motive. Had the war been motivated primarily by a concern for the rights and well-being of the people of Iraq, it is unlikely that the United States would have spent hundreds of billions of dollars on it, with additional hundreds of billions projected for the next few years. Nor would American forces have fought with such a rough disregard for the lives, property, and dignity of individual Iraqis. The bombing campaign, the use of indiscriminate firepower in populated areas, the failure to provide security in the wake of the invasion, and the abuse of prisoners in Abu Ghraib all suggest a war driven by something other than humanitarian motives. Tesón's account of the war glosses over these material and moral costs.

Second, the grand rationale shifts the focus of debate from protecting human rights within a decentralized international system to replacing that system with one that is centrally managed by the United States. An American understanding of universal principles defines the new system and American power enforces it. Instead of the balance of power constrained by international law, we have the exercise of hegemonic power unconstrained by international law.⁴ Tesón questions the authority of the Security Council to regulate intervention on the grounds that it is sometimes ineffective, that the veto power is morally arbitrary, that certain states enjoy disproportionate power in its deliberations, and that among its members are illegitimate states that have no business voting on, much less vetoing, measures to liberate people from tyranny (p. 17). But what is the alternative? Instead of reforming the United Nations, Tesón implies, we are to depend on the moral rectitude, beneficent motives, and managerial competence of the United States.

Tesón suggests that to insist that the Security Council must authorize the use of force

in circumstances other than self-defense is to display a misplaced value for legal forms and procedures (pp. 17–18). This argument, which is radical in its implications if not its intent, leaves us without international institutions, for institutions *are* forms and procedures. To dismiss the authority of a procedure because it sometimes fails to produce morally correct results is to miss the point of having it. That dismissal signals a confusion of legal authority with moral legitimacy. Questions about authority are questions about whether a rule (or a procedure, office, or institution) is legally valid—that is, whether it is authentic within a larger system of rules. Questions about moral legitimacy are questions about whether a rule or institution is morally justified. If authority depends immediately on legitimacy, the distinction between them disappears. There is no room for law apart from morality. But this erasure of legal authority undercuts the point of having laws at all, which is that they are a remedy for the uncertainty of morality in the absence of agreement on the meaning of moral rules in particular cases. Any procedure for resolving moral disagreements must sometimes yield outcomes that differ from those that are morally defensible. Democratic deliberation is itself a procedure, which means that it may yield morally doubtful outcomes—unless we define any outcome of a democratic procedure as “moral.”

Because it is concerned with the security of the United States and not the victims of atrocity, and because it sets the moral claims of the United States to manage world affairs above the authority of international law in

⁴ For an analysis of the president's national security strategy that makes these and other relevant points, see David C. Hendrickson, “Preserving the Imbalance of Power,” *Ethics & International Affairs* 17, no. 1 (2003), pp. 157–62.

general and the United Nations in particular, Tesón's "grand rationale" for the war in Iraq as part of a larger strategy for overthrowing tyrants and spreading democracy takes us pretty far away from anything recognizable as humanitarian intervention. For this reason, I want to suggest that the real context of his essay is not the debate over humanitarian intervention but the debate over empire.

Like those who have defended past imperial projects and who defend American supremacy today, Tesón uses lofty rhetoric: America's "vision" is to protect "the world's vulnerable," who are the "rightful beneficiaries of the new global order." He invokes the "idealistic, transformative, liberating impulse" of "the American Republic" (pp. 19, 20), an impulse he traces back to Woodrow Wilson but no further, thus omitting the "liberation" of Cuba and some other questionable examples of American idealism. It is also worth pointing out that although Tesón's narrow rationale for the war in Iraq turns on its *intention* (to depose a tyrant), his grand rationale invokes the *motives* of the United States as an idealistic, benign, and liberating global power. In these and other ways, we can read Tesón's defense of war in Iraq and beyond for the sake of humanity as a contribution to the literature of empire.

In the old literature of empire, humanitarianism was invoked to justify the supposed responsibility of an imperial power operating at the margins of the civilized world to uphold the standards of civilized morality by suppressing cannibalism, human sacrifice, and other barbaric practices. In today's rhetoric of empire, it is the barbarity of tyranny and terrorism that threaten these standards and that must be countered, in the name of humanity, by the exercise of imperial power. In the old litera-

ture of empire, colonial rule was rationalized as providing backward peoples the benefits of civilization: public order, public health, modern communications, economic development, and eventually constitutional rule. The new literature of empire rationalizes intervention in similar terms. Most of the old justifications for empire are close to the surface in current understandings of America's mission.⁵

It is not part of the traditional understanding of humanitarian intervention that a democratic state should pursue a grand strategy of remaking tyrannical regimes according to its own vision of democratic legitimacy. Humanitarian intervention is concerned with rescuing particular victims of violence here and now, not with achieving universal liberty in the long run. It is remedial, not revolutionary. Aiming to reshape the world according to the prescriptions of a universal morality marks a policy that is revolutionary as well as imperial. It is revolutionary in aiming to destroy governments that do not meet its test of legitimacy, and in flouting and undermining international laws and institutions that stand in the way of its democratic mission. When the government that pursues such policies wields hegemonic power, to redefine humanitarian intervention as regime change is to rationalize a world order in which "sovereignty"—the highest, most independent, supreme rule, which the Romans called *imperium*—is exercised by that government alone. It provides an ideological rationale for American empire.

Those who defend a foreign policy based on democratic interventionism will no doubt bridle at being called imperialists.

⁵ Jedediah Purdy considers these parallels in "Liberal Empire: Assessing the Arguments," *Ethics & International Affairs* 17, no. 2 (2003), pp. 35–47.

They believe that the United States exercises its power for morally legitimate reasons—to promote freedom and democracy everywhere—and that to call that exercise imperial is to disparage it with innuendo. Perhaps little is gained by pinning that label on them. But there are parallels worth considering between American foreign policy today and the foreign policies it pursued during its more openly imperial past, as well as between American foreign policy and the foreign policies of other states that have from time to time claimed exceptional rights for themselves in the name of world order. One of the marks of an imperial policy is that the hegemonic state claims exemption from rules it expects other countries to observe. The president's official statements of national security policy do precisely this when they articulate a doctrine that involves preventive war, military preponderance, and unilateral interpretation by the United States of its obligations under the United Nations Charter and other parts of international law.⁶

There are, then, both practical and theoretical reasons for distinguishing humanitarian intervention, viewed as a carefully defined exception to a prevailing norm of

nonintervention, from an ill-defined humanitarianism offered as a rationale for revolutionary war and imperial policy. The former, I have argued, signals the continued existence of a pluralist international order constituted by the practices of sovereignty and nonintervention. The latter signals the emergence of a global order based on ideological uniformity and central management by a hegemonic power able to enforce that uniformity—an imperial world. In such a world, one power asserts its right to use military force, on its own authority, not only in self-defense—both international law and common moral sense recognize that right—but to defend the rights and serve the welfare of people everywhere. There is, in effect, a world government, and the United States is that government. If this is not empire, it is at least the locus for a debate on the meaning of empire. That debate is the proper context of Fernando Tesón's defense of the war in Iraq.

⁶ "The National Security Strategy of the United States of America" (September 2002); available at www.whitehouse.gov/nsc/nss.pdf.