The Question of Intervention

John Stuart Mill &
the Responsibility
to Protect

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The Castle Lectures
in Ethics, Politics, and Economics
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The Castle Lectures were endowed by Mr. John K. Castle. They honor his ancestor the Reverend James Pierpont, one of Yale’s original founders. Given by established public figures, Castle Lectures are intended to promote reflection on the moral foundations of society and government and to enhance understanding of ethical issues facing individuals in our complex modern society.
For
Konrad Doyle Jurek
and his generation
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Sovereignty in its traditional state-centered form is being challenged throughout the international system. The events in Libya in 2011 and Syria in 2012 severely tested the balance between an emerging global norm of protecting people from violence and a traditional norm of states insisting on absolute sovereignty. This is an extremely consequential contest, with the winners as yet undecided.

At least two great powers, Russia and China, are suffering buyer's remorse for having bought into the global principle of the “responsibility to protect” peoples from massacres. They retreated from the principle after that responsibility was invoked to authorize regime change in countries such as Libya. Their remorse occurred just a few short years after they and every other member state of the United Nations unanimously endorsed the same principle at the World Summit in 2005, and then overwhelmingly reaffirmed it in 2009.

In a seemingly related process over the past twenty years, following the end of the Cold War, new nation states have been carved from old sovereign territories. In Yugoslavia in the 1990s there were the births, midwifed by NATO, of Slovenia, Croatia, Bosnia, Macedonia, and then, taking more than a decade, Kosovo. In seeming retort encouraged by Russia, there occurred the separations of Abkhazia and South Ossetia from Georgia. Most recently, South Sudan seceded from Sudan, and other states in Africa (Somalia, Congo, and Sudan again with Darfur) are experiencing separatist strains.
On top of those trends, the United Nations has shifted from its Cold War commitment to sovereign inviolability to a new intrusiveness in settling civil wars, called peacebuilding. And, reacting to the threats of international terrorism, states claim a right to preventive intervention.

What is at stake for sovereign nations and the world in how they understand the “responsibility to protect”—known as “R2P” by the activists and, in self-conscious distinction, “RtoP” by the United Nations? What should we make of the new wave of secessions? Is the enhanced UN role a determining factor in the new willingness to intervene?

To answer these questions, it is important to recognize that both sovereign countries and the organized international community have answered the most fundamental questions of state sovereignty—Who rules? What principles rule?—in evolving ways.

In the nineteenth century, European states, the US, and a few other powerful states such as Japan constructed high walls about their sovereign domestic jurisdiction. No foreign interference was allowed. Governments treated their subjects poorly or well solely according to local whims, laws, and constitutions. Other political societies in Africa, East and South Asia, and Latin America had very low sovereign walls. The great powers ruled them as colonies or intervened at will to impose foreign rules and foreign interests, whether it was protecting foreigners, collecting debts, or enforcing Christian morality.

Two of the great global governance achievements of the twentieth century revolutionized those norms. The first great milestone was recognition of the principle of sovereign equality: self-determination for all peoples, East and West, North and South. The second was the articulation of human rights: rights that should be accorded to all human beings.

Many of these achievements were routinely disregarded in
the Cold War, when the US and USSR repeatedly and unilaterally intervened to protect their perceived national interests and promote their ideologies throughout the world. But in the 1990s, sparked by both the opportunities emerging for global cooperation at the end of the Cold War and the disgraceful failures of strong countries to protect the most vulnerable peoples from genocide and other gross violations of basic human rights in Rwanda and the Balkans—and specifically the failure of the UN to protect Kosovars from war crimes and ethnic cleansing—humanitarian activists proposed the new Responsibility to Protect doctrine. RtoP was designed to fill a doctrinal governance gap between legal national sovereignty and ethical global humanity. Related sentiments of global responsibility and the new sense of international interdependence led to the recognition of new nations, the enhanced UN role in settling civil wars, and cross-border policing against terrorists.

In order to understand RtoP and the other new claimed responsibilities, we must begin by returning to an old and still difficult question in international politics: the question of intervention. To intervene or not to intervene? This is the question that animates this inquiry.

This book builds on the classic 1859 discussion of the ethics of nonintervention and intervention, J. S. Mill’s “A Few Words on Non-Intervention,” which is the genuine locus classicus of the modern debate. Mill is the place to start, for it would be foolish to pass up the opportunity to stand on the shoulders of so eminent a philosopher, who both developed modern utilitarianism and engaged in the practical political disputes of modern liberalism, and whose thought traces through just about all later disputes on when to intervene. Indeed, no one makes the case better than he for the nonintervention norm and why it should sometimes be overridden or disregarded.
Following Mill, I thus stress, more than has been conventional, the consequentialist character of the ethics of both non-intervention and intervention. It makes a difference whether we think that an intervention will do more good than harm or vice versa, and some of the factors that determine the outcome are matters of strategy and institutional choice. I also engage in a one-sided debate with Mill as I explore the significance of the many historical examples he employs to support his argument. Do they actually support his conclusions? Could they, given what he knew or should have known? Given what we now think we know? I will try to outline what I argue are better standards for intervention and nonintervention. My conclusion will be that, persuasive as the moral logic of his argument for liberal intervention sometimes is, the facts of the particular cases he cites actually tend to favor a bias toward nonintervention—that is, against overriding or disregarding nonintervention in the many circumstances he envisaged. That said, enough of his argument survives to warrant a firm rejection of strict noninterventionism and to suggest new standards for prudent and limited intervention, including a guarded defense of the new doctrine of Responsibility to Protect.

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The Question of Intervention
INTRODUCTION

There is a country in Europe . . . whose foreign policy is to let other nations alone. . . . Any attempt it makes to exert influence over them, even by persuasion, is rather in the service of others, than itself: to mediate in the quarrels which break out between foreign states, to arrest obstinate civil wars, to reconcile belligerents, to intercede for mild treatment of the vanquished, or finally, to procure the abandonment of some national crime and scandal to humanity such as the slave trade.

—J. S. Mill, “A Few Words on Non-Intervention”

The question of intervention has been a significant and disturbing issue for anyone sharing a commitment to both universal human dignity and national self-determination. This disturbing quality is evident when we compare the lengthening list of interferences with the opening description of a policy to “let other nations alone.” On the one hand, liberals, who are committed to the promotion of human rights, have provided

some of the strongest reasons to abide by a strict form of the nonintervention doctrine. It was only with the security of national borders, liberals such as Immanuel Kant and John Stuart Mill thought, that peoples could work out the capacity to govern themselves as free citizens. On the other hand, when applied in different contexts, those very same principles of universal human dignity have provided justifications for overriding or disregarding the principle of nonintervention.

In explaining this dual logic, I present an interpretive summary of Mill’s famous argument for and against intervention, presented most clearly in his “A Few Words on Non-Intervention.” Here, Mill illustrates what makes his “few words” both so attractive yet so alarming. We should be drawn to Mill’s arguments because he was among the first to address the conundrums of modern intervention. The modern conscience simultaneously tries to adhere to three contradictory principles: first, the cosmopolitan, humanitarian commitment to assistance that protects basic human dignity and welfare, irrespective of international borders; second, respect for the significance of communitarian, national self-determination; and, third, accommodation to the reality of international anarchy, or the absence of reliable world government, that puts a premium on the pursuit of national security. Understanding yet rejecting ideal solutions, Mill’s practical balancing of these three principles is what makes his arguments so distinctive, so attractive, and so disturbing.

We need to begin with a working definition of intervention in international politics. In international law, “intervention” is not just any interference. Foreign ideas, foreign culture, and foreign commerce can interfere in otherwise purely domestic social relations. According to Lassa Oppenheim, the influential late-nineteenth-century international legal scholar, intervention is the “dictatorial interference” in the political independence and
territorial integrity of a sovereign state.¹ No single treaty has codified principles underlying this prohibition, and customary international law, while condemning intervention, contains numerous but contested exceptions.² Relevant principles in the “just war” tradition have been proposed by scholars, by politicians, and by citizens who have sought to provide good reasons why one should generally abide by these conventional principles of classic international law and good reasons why one should, on some occasions, breach those principles.³

