

Book Reviews

Rethinking Humanitarian Intervention: A Fresh Legal Approach Based on Fundamental Ethical Principles in International Law and World Religions. By Brian D. Lepard. University Park: Pennsylvania State University Press, 2002. xix + 496 pages, including notes, glossary, selected bibliography, index.

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Rethinking Humanitarian Intervention takes the reader on a journey through the intricacies and legalities involved in humanitarian intervention, which Brian Lepard defines as “the use of military force to protect the victims of human rights violations” (xi). His most noteworthy accomplishment is his application of a newly created methodology to view the often erratic and controversial issues associated with humanitarian intervention. He attempts to apply this “fresh legal approach,” as the title of the book so aptly reflects, in exploring complex issues in international law such as state sovereignty versus the use of force, the moral and ethical obligation of intervention where egregious human rights violations occur, the role and decision-making process of the United Nations Security Council, and problems of consent and impartiality in humanitarian intervention, to name a few.¹

Historically, one of the main obstacles to humanitarian intervention is the concept of sovereignty, which prohibits the external use of force by states within the borders of another autonomous state. The principles of international law, which ostensibly regulate humanitarian intervention, have further come into question in the aftermath of the September 11, 2001, attacks on the United States. Subsequent military interventions in Afghanistan (2001) and Iraq (2003) by the United States, without explicit UN Security Council authorization, have taken the debate to another level. On another front, the actions of non-state actors, such as transnational terrorist networks and vigilante groups that transcend state affiliation

and commit serious human rights abuses in multiple states, raise further questions about the applicability of international law which only governs state action or inaction. Moreover, in a world where religion is so frequently being distorted and defiled to serve misguided political and ideological goals, there is an increased need for further elucidation of how moral teachings from the Sacred Scriptures of the world's religious traditions can apply to the advancement of human rights and conflict resolution. It is with this backdrop in mind that Lepard's book makes a timely, if not overdue, entrance onto the scene, despite being written before the September 11 attacks. Its relevance may be even more significant in a post-September 11 world.

Lepard's approach centers on "the identification and interpretation of legal norms relevant to humanitarian intervention . . . based on fundamental ethical principles . . . that can be understood as endorsed by contemporary international law. . . ." (33). He identifies what he calls his "preeminent ethical principle" as "the unity of all human beings as equally dignified members of one human family, who in turn can, within a framework of unity, develop and take pride in individual, national, ethnic, or religious identities" (33-34). He refers to this principle throughout the book as the principle of "unity in diversity." His approach consists of the identification and application of relevant ethical principles gleaned from international law and consistent with and supported by "passages from the revered moral texts of seven world religions. . . ." (34). Because of the limited scale of his review, he admittedly selects these world religions (Christianity, the Bahá'í Faith, Islam, Judaism, Buddhism, Hinduism, and Confucianism and Chinese "folk religions") based on a survey he cites which ranks the top seven most widespread faiths globally (42).

Lepard's second chapter is where he makes a most creative and significant case to further the discourse in the field, selecting those relevant ethical principles that apply to humanitarian intervention and international law. The two criteria that he bases his selection on are (1) the endorsement of the principles by the UN Charter and international

human rights and humanitarian law and (2) those principles that are "logically related to the preeminent ethical principle of unity in diversity" (39). Although Lepard discloses that he was "raised as a Bahá'í to believe that all religions teach the same eternal spiritual truths" (xii), no bias is evident as he does a masterful job of even-handedly applying religious texts from the world's major religions that support international legal norms. What he does not address, however, are those religious interpretations of scriptures that may indeed counter his argument or how divergent exegeses within religious traditions may completely undercut his entire premise of "unity in diversity."

Lepard classifies the principles by the extent to which they are related directly to "unity in diversity." He identifies them based on his determination of their level of importance: (1) essential ("highest"), (2) compelling ("high"), and (3) fundamental ("significant") ethical principles (58), respectively. He then gives most attention to a list of the "essential ethical principles" which include most of the rights contained in the Universal Declaration of Human Rights (1948), such as the right to life and physical security, the right to subsistence, the right to freedom of speech, expression, and religion, and the right to protection from illegitimate uses of force.

He spends a significant amount of time proposing new methodologies "for identifying and interpreting norms of international law relevant to humanitarian intervention . . . to help reconcile potentially conflicting legal norms under the UN Charter" (146). This provides the framework with which he addresses meticulously, over the next several chapters, a series of controversial dilemmas in humanitarian intervention. One particularly engaging argument in chapter 4 is his analysis of what constitutes a "threat to" or "breach of" peace as defined in the UN Charter. He further applies this framework to other complex dilemmas in humanitarian intervention surrounding consent, impartiality, the use of force, obligations to intervene, command and composition of multinational forces, and the Security Council's decision-making process. At the end of each of these analyses, Lepard makes recommendations for change based

on the congruence of the moral and ethical principles with international legal norms. As I am not trained as a lawyer, I find myself unable to comment on his technical legal analysis throughout the book. However, I did find myself in awe at the manner in which he painstakingly debates the legal issues then identifies and applies relevant moral and ethical principles to each and every one of them.

Lepard's book succeeds in more ways than one. Aside from his creation of an ambitious methodology, or "fresh legal approach," he constructs a new lens to view humanitarian intervention and international law. He also is highly effective in demonstrating that global adherence to the rule of law, by states and their citizens, is a prerequisite and necessary step to achieving world peace. In this vein, Lepard successfully demonstrates the limited role of humanitarian intervention by proving, through numerous case studies during the 1990s, that while the use of force "can mitigate some of the worst violations, it cannot remedy their root causes, which are to be found in human minds and hearts" (255). Only time will tell if scholars will adopt or at least debate, as he hopes, his proposals in subsequent examinations on the subject.

In terms of the book's impact on the practical and policy aspects of humanitarian intervention, I wish Lepard had provided more substance for policy makers to take away from the book, for example, specific recommendations on how his approach could impact the political considerations and interests of individual states with regard to intervention. Leaders and policy makers will be hard pressed to find practical applications to the existing structure in which they work. While Lepard is clearly suggesting that policy makers change their thinking altogether, he does not necessarily conceive of a bridge to get there.

As someone who works to formulate and make policy recommendations to government officials in the human rights arena, I found myself wishing *Rethinking Humanitarian Intervention* provided the reader with more concrete, identifiable policy options. At this transitional period in history, it is not sufficient to admonish political leaders and policy makers to take seriously and apply moral and ethical principles to humani-

tarian intervention, or any other issue for that matter. What is needed is direct advice and counsel on how to translate theory into practice at the political level. To Lepard's credit, this is not the primary focus of the book, and he does indeed suggest some overarching recommendations that warrant attention by policy makers, particularly his recommendations in chapter 11 on humanitarian intervention not authorized by the UN Security Council. For the most part, however, it is left to policy makers to sift through the ambiguity of his recommendations.

In his final chapter, Lepard posits that it is quite possible that some legal professionals could accept his legal methodology and conclusions. He conjectures that policy makers "might" accept the fundamental ethical principles that his approach identifies and likewise "might" consider these principles in formulating policy on humanitarian intervention. In acknowledging that the latter will be a difficult task yet most vital to have any practical impact, Lepard puts forth the conclusion, "unless and until government leaders accept and pursue fundamental ethical principles in their policies, the prospects for consensus . . . will be dim" (374). Rather than concluding with a sense of pessimism, perhaps he could have provided a more explicit set of policy tools for ways political leaders and policy makers could practically pursue this line of thinking. Maybe this focus could constitute the basis of a future scholarly endeavor by Lepard; a follow-up many in the international policy community would most likely welcome and consider with great interest.

I recommend this book to those scholars working in the fields of international human rights and humanitarian law, international relations, political science, and comparative religion. The book's originality alone makes it worth the read, not to mention its successful fusion of religion and law.

NOTE

1. It should be noted that humanitarian intervention does not resolve deep-rooted, protracted social and political conflicts. It can only ameliorate the suf-

fering and killing of individuals temporarily and very rarely addresses the root causes of violence. Resolving deep-rooted conflicts requires a committed and sustained effort by both state and non-state actors.