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CONTROLLING STATE CRIME AND THE POSSIBILITY OF CREATING MORE VICTIMS

Jeffrey Ian Ross and Peter Grabosky

Introduction

Doing good and helping those who appear to need our assistance are widely accepted universal values held by many people, cultures, nations, states, and international bodies. Almost important is the sage warning that the road to hell is paved with good intentions, if indeed such actions are paved with good intentions.

This idea, expressed as unintended, unanticipated, and unforeseen consequences (hereafter *unintended consequences*) can be traced back to English economist Adam Smith's writings on consequentialism (1759/2010), and has been more recently developed by American Sociologist Robert K. Merton's in his oft-cited seminal essay, "Unintended consequences of purposeful social action" (1936).

Indeed, providing assistance happens in many domains, from the doctor who prescribes a medication to a patient, to a priest or minister who provides spiritual guidance to a member of his/her congregation, to the politician who helps a constituent deal with the unresponsive government bureaucracy, to the country that sends soldiers to a war zone to maintain a fragile peace.

This chapter, however, is narrower in focus and specifically examines the unintended effects that can occur when countries attempt to control, minimize and/or eliminate state crime victimization in other states.¹ Thus, the discussion is limited to interventions that are done in the international arena and ignores those that happen domestically.² Additionally, this chapter is focused not on the issue of controls per se, but on the intended and unintended consequences of additional victimization of already vulnerable populations. In addition to clarifying numerous terms and reviewing the literature on this topic, we offer several examples where state intervention and controls have resulted in additional victimization. Unfortunately, many are not recognized as such. We conclude by recommending a more thorough analysis of this quandary than currently exists in the policy world.

Literature review

Although Adam Smith was the first to mention the concept, Merton suggested that there are three primary unintended consequences: a positive unexpected benefit, a negative unexpected benefit that occurs after a positive one is achieved, and a perverse action, which is not what was hoped for in the beginning. He posited five basic causes of unintended consequences: ignorance, error, immediate interest, basic values, and self-defeating prophecy.

Since then, a handful of social scientists, from James Samuel Coleman to Anthony Giddens, have traced the implications of unintended consequences. In recent years, some social scientists have addressed the issue of counterproductive interventions in various domains of public policy (e.g., Marx 1981; Sieber 1981; Boudon 1982; Robertson 1989; Sunstein 1990; Grabosky 1995; Dornier 1997; Tenner 1997; Rothe and Ross 2010). Likewise, some criminologists have looked at the problem of unintended consequences in the context of crime prevention (e.g., Grabosky 1996; McCord 2003), while others have examined unintended consequences with respect to state crime. Indeed, numerous articles have examined this process in selected crimes committed by governments.

One of the most direct applications of this concept to state crime was the article by Ross and Rothe (2008), who tackled the issue by "identifying the government's most typical reactions to attempts of control," "understand[ing] this process and plac[ing] this phenomenon into a larger context" (p. 196). They limit their discussion to "US reactions and attempts to control the controllers, as well as the subsequent potential victimization that can occur." Ross and Rothe identify seven ways that states purposefully or accidentally continue to victimize their citizens after attempts to control have been introduced (i.e., censure, scapegoating or obfuscation, retaliation, defiance/resistance, plausible deniability or improving the agency's ability to hide and/or explain away crimes, relying on self-righteousness, redirection/misdirection, and fear mongering). This model was also used to explain the U.S. reaction in the case of Bradley Manning, a whistleblower, and Julian Assange of WikiLeaks.

On closer examination, one may note that these actions can be physical, requiring the expenditure of a great deal of resources, while others remain simple rhetorical devices involving minimal expense. Assuming that the Ross and Rothe explanation holds merit, missing from this explanation is an in-depth discussion of how some of these efforts can create more victims, and the voice of the victims themselves.

Few would quarrel with the laudable objective of controlling state crime (Ross 2000; 2000; 1995). Unfortunately, not all efforts to control state crime succeed, and some are harmful to the people who are to be "helped." The current chapter reviews the literature on this subject, some of which is grounded in rigorous empirical analysis. It then outlines some prominent examples of efforts to control state crime that have proven to be counterproductive, thus resulting in additional cases of victimization or, indeed, of revictimization.

How certain types of controls used in the international community can backfire, causing revictimization

We discuss four typical processes that may backfire when employed by states in response to state crime in other countries (Martin 2006), resulting in recognized and unrecognized victimization. These include moral suasion/negotiation, economic/trade sanctions, humanitarian intervention, and armed intervention.

Moral suasion/negotiation

Simply appealing to the leaders of a criminal state may succeed in some situations, but is often futile. Such requests may be seen by the recipient as no more than empty words, and a sign of weakness. Appeals that are perceived as hollow may embolden a criminal regime no less than strategic bombing appears to have done during World War II (Pape 1996). No amount of reasoning or appeals to the responsibilities of world citizenship appears to have discouraged the government of George W. Bush from the use of torture, nor the Democratic People's Republic of Korea from pursuing its nuclear ambitions. With respect to the latter, one has to assume that, in order to prop up its military capabilities, North Korea has restricted its spending on other parts of the economy that would alleviate food shortages. During the late 1990s, different international and regional bodies (the United Nations and the African Union), and countries (Libya) attempted to resolve the hostilities in Darfur (Nzelibe 2008, pp. 36–46). Although the government was willing to intervene, the "Darfur rebel leaders" were reluctant to concede, as they "were gambling on a greater role by western states because . . . they had observed closely how overt pressure from the United States had led the Sudanese government to make generous concessions as part of the 2004 agreement to end the four decade old civil war between the Sudanese government and the Sudan People's Liberation Army (SPLA) of southern Sudan" (p. 38). Thereafter the Sudanese government supported the Janjaweed to attack Darfur settlements. This led to "thousands of innocent civilians dead and millions displaced, it created an international outcry that had the unintended effect of initially elevating the stature of some of the rebel leaders" (pp. 44–5).

Economic/trade sanctions

One of the most popular state actions to express displeasure with other countries is the use of some form of economic/trade sanction on target governments to encourage their desistance from illegality (Farrall 2007). The United States, for example, has refused to trade with Cuba for more than half a century (Garfield and Santana, 1997). Other instances in recent years include sanctions imposed on South Africa during the latter years of the apartheid era, and on Iraq during the last decade of the Saddam Hussein regime (Garfield 2001). They have also been evident in Iran following the 1979 revolution which brought Ayatollah Khomeini to power, and increasingly so following the inception of Iran's nuclear enrichment program.

Economic sanctions are by no means a panacea. As is the case with other types of intervention, they may provoke a spiteful intensification of abuses by the target government. Perhaps the most rigorous empirical study of the impact of sanctions on repression by the target state is the work of Wood (2008). His probit regression analysis of 157 countries for the years 1976–2001 found that sanctions imposed by the United States and/or the United Nations contributed significantly to state-sponsored repression. Multilateral sanctions under UN auspices produced more repression than unilateral state sanctions. Weapons embargoes, however, appeared not to be systematically related to changes in repression. Wood interpreted his findings as suggesting that repression resulted from “incumbent efforts to prevent the defection of core supporters and to stifle dissent in the face of declining economic conditions or growing opposition support” (Wood 2008, 509).

Economic sanctions may bring about other adaptive responses, by inspiring a greater degree of resourcefulness on the part of the target government. Andreas (2005) speculates that sanctions can contribute to further criminalization of the state and civil society in both the target state and its neighbors, and can foster symbiotic relations between officials and criminal organizations (Wannenburg 2008; Glenn 2001, 663–706). Toward the end of the apartheid era, South African state security reportedly engaged criminal groups to assist with “sanctions busting” and with resisting ANC insurgents (Standing 2003). The wider criminogenic effects of economic sanctions, “smart” or otherwise, cannot be ignored (Cortright and Lopez 2000, 2002a; 2002b). Sanctions busting may help to legitimate the practice of smuggling, leading to a refinement of practices and the development of skills that may be useful long after the sanctions are lifted.

Perhaps the most troubling risk arising from the imposition of economic sanctions, is that of collateral damage (Weiss et al. 1997). Shortages of food and medicine, which often result from sanctions, tend to bear most directly on children, the elderly, and the infirm (Garfield 2001). It was suggested that adverse health effects of the 1991–98 blockade of Iraq resulted in 500,000 Iraqi civilian deaths from disease and malnutrition. Attempts to mitigate the unintended consequences of economic sanctions may also be vulnerable to subversion. During the years preceding the second Iraq War (1995–2003), the UN Oil for Food program was established to allow Iraq to sell oil in return for medicine, food, and other humanitarian relief supplies. The program was plagued with irregularities, including kickbacks to Iraqi government officials (Independent Inquiry Committee into the United Nations Oil-for-Food Programme 2006). Farrall (2007, 52) has noted that sanctions can serve to provoke or prolong a war.

It is extremely difficult to use economic sanctions with precision against those government officials who are directly responsible for state criminal activity. The UN Security Council now tends to apply “smart” or “targeted” sanctions against individual offenders rather than use comprehensive sanction regimes against a country or society as a whole. Today, a typical sanction regime will target the bank accounts and travel of individuals considered to represent a threat to international peace and security. In 2012, for instance, the African Union froze the assets of

and instituted travel restrictions on leaders of the military junta in Mali (Vines 2013, 92).

Humanitarian intervention

When political conflicts occur, politicians and human rights activists frequently want to come to the assistance of the persons and groups who are threatened or injured. “The problem is that unlike the Holocaust, most contemporary atrocities take place in the context of full blown civil wars or rebellions in which rebel leaders are usually pursuing independent political objectives that might be more valuable to them than the lives of their followers” (Nzelibe 2008, 40). Intervention in the affairs of other states is a long-held practice of countries wishing to both dominate and help individuals in the world system. Although some suggest that we can probably trace the first humanitarian intervention back to 1860, when France, under Napoleon III, sent troops to Syria to protect Christian Maronites who were being systematically killed by Druze militias under the watchful eyes and support of the occupying Ottomans, others suggest that it began with the combined efforts of France, Russia, and Great Britain’s involvement in the Greek War of Independence (1924). Needless to say, since the late 1990s, selected governments have advocated and some have pursued the policy and practice of humanitarian intervention. Despite the noble intentions, many scholars have criticized humanitarian intervention as thinly veiled attempts at colonialism (e.g., Orford 2003) and imperialism (e.g., Ali 2000; Chomsky 2001; Woodward 2001).

Humanitarian intervention may be rendered ineffective by bureaucratic inertia. Failure to intervene forcefully at the onset of the Rwanda genocide undoubtedly increased the fatality rate (Cohen 2007). This mass slaughter of Tutsis by Hutus in 1994 eventually resulted in the deaths of between 500,000 and 800,000 people (Eck and Hultman 2007). UN headquarters refused to authorize the use of force, except in defense of UN personnel.

The dramatic proliferation of non-governmental aid agencies and the increasing reliance by nation-states and intergovernmental organizations on NGOs to deliver aid has also created significant difficulties. Cooley and Ron (2002) argue that the marketization of aid delivery and the growing use of competitive bidding by donor states have resulted in considerable harm. In the Democratic Republic of the Congo, the “hypercompetitive relief market” allowed the diversion of funds to suspected war criminals. In Bosnia, competition enabled some military commanders to resist oversight of prisons. Contractors have also dispensed largesse to local bureaucrats to maintain good relations. This does little to constrain a culture of corruption.³

De Waal (1998) argues that humanitarian relief can disempower victims and strengthen authoritarian regimes. Maren (1997) reports that relief aid in 1979 helped entrench the Barre regime in Somalia.

Humanitarian assistance in the form of food aid is vulnerable to diversion. De Waal (1998, 169) and Maren (1997) both report that a significant proportion of

food aid to Somalia was stolen or diverted. De Waal and Omaar (1994) notes that "Food aid has fed wars wherever it has gone." Moreover, it can be used as a tool to influence population movements, not always in the interests of those on the move. In some cases, the diversion may serve the interests of the criminal state. The Associated Press (1997) reported that a North Korean submarine which ran aground off South Korea contained a label from a can of beef that appeared to have been donated as food aid. The label read, in part, "Food for relief, in the name of Christ" and "Mennonite Churches of Va."

On occasion, those who intervene for humanitarian purposes may seek personal gratification, at the expense of those whom they purport to assist. Simm (2013) notes examples of sexual exploitation and abuse by peacekeeping forces, as well as by private military contractors and humanitarian NGO workers. Sometimes the harms inflicted by humanitarian intervention may be entirely unintentional. In 2010, a UN peacekeeper inadvertently introduced cholera to Haiti, resulting in at least 5,000 deaths (Enserink 2010).

Armed intervention

The most dramatic response to state crime is armed intervention. Although this can be undertaken by domestic insurgents and would-be revolutionaries,⁴ the most common manifestation is intervention by third-party states, either unilaterally or in coalition. The use of armed force against a state engaged in criminal conduct may appeal to one's sense of altruism, or desire for vengeance, or some combination of the two. Regardless, it is an option fraught with risk. Assuming the targeted state has the capacity, it may respond to armed intervention with revenge (Blum 2013). Maren (1997) reports that US armed intervention in Somalia helped raise the profile, and ultimately the influence, of General Aydeed.

Governments which practice torture and other sorts of human rights violations, however heinous their activities, might for various reasons (e.g., loyalty, etc.) still enjoy a modicum of popular domestic support. Regime supporters, in the face of an attacking force, may defend themselves vigorously, and with great violence. The tenacious resistance during 2012–13 of those loyal to the Assad regime in Syria is illustrative. In this scenario, the government may increase its abuse towards the local population, much as it was shown to have done by Wood (2008) in response to economic sanctions.

Criminal regimes may preside over societies that are divided along racial, ethnic, religious, or socioeconomic lines. When external intervention weakens a criminal state, it will heighten the potential for the unleashing of ferocious centrifugal forces. The resulting violence can be directed against domestic adversaries, as well as against forces of the intervening state or states. Woodward (2001, 241) observes that the empowerment of Albanian radicals after the NATO operation against Yugoslavia over Kosovo resulted not only in the abuse of ethnic minorities in Kosovo itself, but also in Kosovo Albanians turning their aggressive attentions towards neighboring Macedonia. Events during the 2003–8 Iraq War were grimly

illustrative when Sunnis, Shiites, and Kurds jockeying for political power attacked one another. Sectarian violence persists in Iraq at the time of writing. The resulting civilian casualties and displacement of persons show how response to one humanitarian catastrophe may beget others.

As with humanitarian assistance, the problem may lie, ironically, with the would-be rescuer. Armed intervention cannot always be counted upon to be implemented in a civilized, professional manner. Inappropriate training and leadership of those who intervene may result in considerable harm to the "rescued." Armed forces and others engaged in peacekeeping missions are also at risk of inflicting serious harm on the societies they seek to protect (Odello 2010).⁵ Many missions have been blighted by the indiscriminate killing of civilians. During their mission to Somalia in the early 1990s, Canadian soldiers bound and beat to death a 16-year-old boy, and fatally shot another man who fled after trying to enter a Canadian base. US occupation forces in Iraq have also been implicated in a number of intentional homicides of non-combatants.

One the most debated instances of humanitarian intervention predicated on a "humanitarian catastrophe" and having negative consequences on the local population was the 1999 (March 23–June 12) NATO aerial bombing of Yugoslavia during the Kosovo intervention (Woodward 2001; Nzalibe 2008, pp. 46–50). During this period, especially during the first two months, the resolve of the Yugoslavian army (the Serbs) was further strengthened to commit atrocities against the Kosovo population (i.e., Albanians, Roma, etc.). The intervention also led to increased displacement of the people of Kosovo as refugees, and a handful of incidents where Kosovars who had been forced to flee were mistakenly killed by NATO forces.

The nature of armed intervention is such that collateral damage is all but inevitable. Cronin (2013) notes that during the 1991 Gulf War, air strikes intended to degrade Iraqi command-and-control capabilities succeeded in destroying electric power generation facilities. The resulting disruption to water purification and sewage treatment facilities contributed to an outbreak of cholera and typhoid, doubling the infant mortality rate and leading to an estimated 100,000 civilian deaths. Even where great pains are taken to limit civilian casualties, such as the air attacks on Libya in 2012 and the campaign of drone strikes by the US in Pakistan, accidents do happen (Shane 2011). Ground operations can also have lethal consequences for civilians. On some occasions, this can entail deliberate acts by members of the intervening forces. Kahl (2007) relates a number of cases involving the premeditated murder and rape of Iraqi civilians by US forces. Rape, in particular, has been an unfortunate consequence of armed intervention. The liberation of France at the end of World War II was not without its dark side, likewise the invasion of Germany by Allied forces (Lilly 2007; Roberts 2013).

The aftermath of armed intervention may create circumstances conducive to criminality among locals. Circumstances arising from the weakening of the state can create a fertile field for criminal organizations (Mincheva and Gurr 2013). The overthrow of a criminal state may be followed by a degree of anomie among members of the public, and a shortfall in the capacity for social control by the intervening state.

This can lead to "survival crime" by individuals, as well as to the formation of predatory criminal groups who depend on crime for material support. This appears to have been the case following the US invasion of Iraq in 2003 (Williams 2009). The passing of authoritarian regimes, as illustrated by the end of the apartheid era, the dissolution of the Soviet bloc, and post-Mubarak Egypt, is often followed by surging crime rates (Shaw 2002; Pridemore 2003a; 2003b; Pridemore et al. 2007; Daraghaj 2013).

It is not surprising, therefore, that recipients of protection from state crime may in some cases be resentful of their protectors. Images of flowers thrown in the path of Allied forces during the liberation of Paris may be enduring, but the warmth of the reception has not always been replicated. This resentment may itself take the form of indiscriminate violence. Pape's (2005) seminal work on suicide terrorism notes that most incidents at the time of writing appear to have been inspired by the presence of foreign troops on one's soil, not all of whom arrived with hostile intent. Sending an invading army (even in furtherance of a worthy cause) may provoke suicide bombing (Pape and Feldman 2010). Perhaps on a less dramatic scale, cultural influences introduced by international protectors may erode indigenous values and informal institutions of social control.

The use of force across state frontiers may also entail unintentional technology transfer. The secret campaign of cyber warfare, apparently waged by the United States and Israel against Iranian nuclear enrichment facilities, resulted in the inadvertent release of a malicious computer virus (Sanger 2012). With the virus itself now in the public domain, the potential exists for its appropriation by mischievous states, criminal organizations, or individuals. With knowledge of its very existence now widespread, others may follow the example of the US and Israel and wage cyber warfare for their own purposes. Indeed this scenario is not limited to Israeli-Iranian cyber warfare or cyber terrorism, but various instances of this have been reported over the past decade. The ultimate consequences of this are unpredictable. Electronic attacks against U.S. financial institutions and Saudi oil facilities may represent two examples (Perloth 2012; Perloth and Hardy 2013).

Aggressive intervention may also harm the intervener. Casualties and costs can be substantial. In the Iraq War (2003–12), the U.S. Congressional Research Service reported 4,409 total deaths of US personnel (killed in action and non-hostile) and 31,925 wounded in action.⁶ Estimates of the long-term financial costs of the war reach three *trillion* dollars (Saglitiz and Bilmes 2008).

There can be less tangible costs as well. One might argue that the moral authority of the United States has been corroded by misplaced applications of military force over a substantial proportion of its history. That the US government and its citizens may have seen themselves as altruistic is beside the point.

Conclusions

The downside consequences of altruistic intervention are amenable to management, if not total preclusion. Many professions learn from their mistakes (and from unforeseen events). So too can policymakers. Perhaps most critical is the

development of knowledge of the culture into which one proposes to intervene. Not everyone sees the world from the perspective of what 19th-century commentators would refer to as "Christian gentlemen" (whose armed interventions, ironically, ushered in the age of imperialism and the "salvation" of Africa and Asia).

Not everyone responds to polite requests, economic pressure, or the threat and/or use of force with cooperation or submission. De Waal (2012) cautions against overlooking or ignoring the motivations and political goals of perpetrators. He notes that the Nazi holocaust and Rwandan genocide experiences are atypical, and that state oppression on a lesser level may be amenable to resolution through negotiation or mediation.

Closely related is an understanding of the likely perception of the intervention by recipients. Just as strategic bombing served to steel the resolve of target populations, so too can any of the forms of intervention discussed above. A perceived threat from outside may be invoked to justify domestic repression. Armed intervention, in particular, may elicit hostile reactions. Economic boycotts may be especially futile in a society which takes pride in resourcefulness and self-reliance, or where there exists a robust cohort of organized criminals experienced in circumventing legal restrictions.

Interventions should be thoroughly planned, and "modelled" in a manner that anticipates unintended consequences so that they can be "engineered-out." To some extent, this lesson has been learned in the area of economic sanctions. Blanket economic sanctions may heighten the repressive capacity of a criminal state, encourage the emergence of black markets, and foster organized criminal activity. So-called "smart sanctions" which specifically target the assets of criminal leaders are an improvement, but are by no means productive. The millions of dollars allegedly hidden away by Bashar al-Assad may prove as elusive as those of Ferdinand Marcos.

Those involved in the intervention process should be appropriately trained and supervised. Explicit attention should be paid to rules of engagement, and compliance with those rules should be strictly monitored. Perpetrators of harm should also be accountable for their actions. Kahl (2007, 35) reports that only a small percentage of US personnel responsible for the deaths of Iraqi civilians were imprisoned for any offense. Nor should the United Nations be seen to be above the law.

Interventions should also be subject to observation by a free and robust press. With the advent of digital technology, this goal has become much less remote than in the past. One recalls the iconic images of Abu Ghraib, which went viral prior to their publication in the mainstream media. It is interesting to note that US officials requested major media companies to refrain from publishing the images, lest they inflame public opinion in the Middle East and place US forces at significantly greater risk. The images were already in the public domain, and it was decided that the public interest in knowing what abuses had taken place in the name of the United States should prevail. At the same time, media coverage of conflict situations must be guided by a critical eye. Maren (1997) suggests that the competitive world of humanitarian aid has moved some NGOs to be more concerned for their public image and "market share" than they are for the well-being of their beneficiaries.

Just because efforts to control state crime will have negative consequences is neither a necessary nor sufficient justification for abandoning such attempts altogether. Moreover, scholars who seek to classify and explain counterproductive initiatives are not simply denigrating humanitarian intervention. They are instead advising caution against glib responses and poorly considered measures to address a problem with enormous implications. Such is the case of the United States and other world powers with respect to their decision to support the rebels in Syria (2012–present). Their fear is that arms and weapons will fall into the hands of extremists.

In the world of transportation, bridges collapse and airplanes crash. Engineers who study such incidents do so not to discourage bridge construction or aviation, but to make land and air travel safer. The same should be said of those who seek to control state crime and who decide which course of action is in the best interests of the people who are most affected.

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Notes

- 1 The authors use Ross's definition of state crime (Ross 1995/2000). The expressions "state crime" and "state illegalities" are used interchangeably.
- 2 Although it might be helpful to distinguish between unilateral and multilateral interventions, global sanctions vs. single-nation sanctions/cut-offs of aid, and interventions in the "drug wars" and those that are invited or uninvited. This kind of advanced theorizing is important, but not approached in this chapter.
- 3 One also notes recent disclosures of cash deliveries by the CIA to the offices of President Hamid Karzai of Afghanistan (Rosenberg 2013).
- 4 A common strategy of insurgents is to intentionally provoke state over-reaction to protest, in order to discredit the legitimacy of the criminal regime. This may well produce victimization of innocent parties who might otherwise escape the wrath of the state (Johnson 2004, xvi).
- 5 One recalls the glib quote from the Vietnam era: "We had to destroy the village in order to save it."
- 6 <http://journalistsresource.org/wp-content/uploads/2013/02/RSS22452.pdf> (accessed May 23, 2013).

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