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Deconstructing Armed Humanitarian
Intervention, a Review of Reading Humanitarian
Intervention: Human Rights and the Use of Force
in International Law by Anne Orford

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BOOK REVIEW

DECONSTRUCTING ARMED HUMANITARIAN INTERVENTION

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Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law. Anne Orford. Cambridge: Cambridge University Press, 2003. PP. 256, \$75.00 (Hardcover).

As the 1990s progressed, armed humanitarian intervention became the subject of much debate and gradually acquired greater legitimacy. In the face of what appeared to be an increasingly unpredictable and volatile world, and with a newly revitalized United Nations Security Council at the helm,¹ there was a growing belief in many quarters that such intervention might be

a means for the liberal alliance of democratic states to bring human rights, democracy and humanitarian principles to those in undemocratic, authoritarian or failed states [C]ollective humanitarian intervention has become necessary to address the problems of local dictators, tribalism, ethnic tension and religious fundamentalism thrown up in the post-Cold War era.²

Ethnic conflict resulting in widespread genocides in Rwanda in 1994 and Bosnia and Herzegovina in 1995; the collapse of governing authority prompting ensuing violence in Somalia in 1992, East Timor in 1999, Haiti in 1993 and yet again in 2004; and the goal of ridding the world of ruthless dictators such as Iraq's Saddam Hussein in 2003, all appear to validate the need for a determined international community capable of coming to the rescue in a sometimes dangerous, dysfunctional, and threatening world that somehow manages to survive someplace beyond Western borders. Thus, although legal scholars may contest the *legality* of armed

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1. For an analysis of the role of the United Nations Security Council in internal conflicts, see Ruth Gordon, *United Nations Intervention in Internal Conflicts: Iraq, Somalia, and Beyond*, 15 MICH. J. INT'L LAW 519 (1994).

2. ANNE ORFORD, *READING HUMANITARIAN INTERVENTION: HUMAN RIGHTS AND THE USE OF FORCE IN INTERNATIONAL LAW* 4 (2003).

humanitarian intervention,³ the morality and righteousness of those who would use force in the name of human rights is rarely, if ever, questioned or seriously considered.⁴

Professor Anne Orford's provocative and very thoughtful book, *Reading Humanitarian Intervention: Human Rights and the Use of Force in International Law*, critically interrogates the narrative that sustains and makes armed humanitarian intervention both credible and acceptable, and challenges us to think very carefully and very differently about such intervention. As she reinterprets international law, probes the perceived causes of humanitarian upheavals, and scrutinizes the role of the international community both before and in the aftermath of internal turmoil, it becomes increasingly apparent why this narrative has so quickly become an accepted and normal part of international discourse. In the end, one wonders if we should perhaps heed her challenge, for the reasons behind the acceptance of this narrative are not particularly encouraging.

Orford begins by situating the legality and rationale for armed humanitarian intervention within the colonial and imperial project that is at the core of international law, forming a central part of its past and continuing to haunt its present.⁵ She maintains that it becomes possible to regard international law as an agent of liberation that is capable of enforcing humanitarian norms only if one decouples it from its imperial roots.⁶ Relying upon postcolonial and feminist theory, Orford uncovers new prospects for reading international law that include the possibility of imperialism as a "largely economic . . . enterprise [in] the era of decolonization."⁷ In addition, this reading of international law makes it feasible to consider the ways in which intervention narratives mirror imperial culture.

3. *Id.* at 40-46 (discussing the various perspectives of legal scholars on the legality of humanitarian intervention).

4. Of course there has been much debate as to whether the vindication of human rights is only a pretext for intervention and whether armed intervention is warranted in any given situation. *See, e.g.,* Ruth Gordon, *Humanitarian Intervention by the United Nations: Iraq, Somalia, and Haiti*, 31 *TEX. INT'L L.J.* 43 (1996).

5. ORFORD, *supra* note 2, at 39.

6. Whether scholars are urging its legality, illegality, or expressing uneasiness given the potential for abuse, a central tenet of their analysis is to forget international law's imperial history and to trust that decolonization has been successful and has led to a new era characterized by decolonization and the founding of the United Nations. *Id.* at 40-46 (discussing the positions of international lawyers and scholars on the legality of humanitarian intervention).

7. *Id.* at 47.

By situating the “imaginative geography of humanitarian intervention”⁸ within the imperial and colonial project, Orford facilitates the emergence of different perceptions of “the local” and “the international.”⁹ The accepted understanding of intervention positions humanitarian upheaval, driven by local leaders and governments, motivated by tribalism, ethnic conflict, or religious factionalism, against international law and an international community that will emancipate hapless local communities from these evils. Contemporary accounts of internationalism present an international community that is motivated by a desire to promote and protect such core values as freedom, democracy, and human rights.¹⁰ International institutions, such as the World Bank, the International Monetary Fund (IMF), the Security Council, the North Atlantic Treaty Organization (NATO), and others are depicted as the purveyors of freedom bringing salvation to the peoples of Africa, Asia, Eastern Europe, and Latin America, as they liberate them from the grip of a lawless tyranny and then assist in rebuilding their communities in the image of the civilized West. From this perspective, humanitarian crises result from a dearth of law and the absence of the international community, prompting grave situations that must be remedied through armed humanitarian intervention.¹¹

Orford demonstrates that this “imaginative geography” is unsettled, however, when one considers the vast economic project emanating from the international community and the overwhelming presence of international institutions in most Third World countries.¹² Indeed, given the pervasive and enormous influence of international financial institutions, such as the World Trade Organization (WTO), the IMF, and the World Bank, one must wonder if it is possible to ever situate “the local.”¹³ For many people in most Third World countries, these institutions configure daily life to such an extent that it may be difficult, if not impossible, to position *local* causes of conflicts or threats to human rights.¹⁴

8. *Id.* at 85 (internal citation omitted).

9. *Id.* at 82-123.

10. *Id.* at 88.

11. *Id.* at 84.

12. *Id.* at 110-20.

13. *Id.* at 82-87.

14. *Id.* at 110-23. For a more detailed discussion of the role of international financial institutions in the Third World, see, for example, Antony Anghie, *Time Present and Time Past: Globalization, International Financial Institutions, and the Third World*, 32 N.Y.U. J. INT'L L. & POL. 243 (2000). Ruth Gordon & Jon Sylvester, *Deconstructing Development*, 22 WIS. INT'L L.J. (forthcoming 2004).

This point is vividly demonstrated by Orford's analytical dissection of the involvement of international financial institutions in the former Yugoslavia and Rwanda before the genocides that ultimately ravaged their local populations.¹⁵ The case of Rwanda is particularly compelling and worth briefly recounting. Rather than focusing upon an absent international community at the time widespread genocide began, Orford's account emphasizes that the presence of the international community in Rwanda actually loomed quite large.¹⁶ While often characterized as a case of unmitigated anarchy, the Rwandan genocide was actually a quite methodical and authoritarian affair with the state playing a pivotal part. It could only play this role because it had been financed and developed by international development agencies, which previously viewed Rwanda as a model developing state that had done an excellent job implementing the good governance project.¹⁷ Given this milieu, Orford thus concludes that the requisite level of state capacity necessary to commit genocide was in part made possible by the development project,¹⁸ an enterprise that in Rwanda was built on the remnants of an authoritarian colonial system.¹⁹ While development workers may not have been able to halt the violence, the foreign aid community which had a great deal of influence over government policy stood by idly as human rights violations increased.²⁰ Hence the genocide in Rwanda was not a purely local phenomenon, although it is usually portrayed as such. By viewing it as a purely local episode we may fail to deal with crucial elements that emanate from the international arena.²¹

In intervention literature, the international community only lays claim to peace, democracy, security, and liberty. Development and

15. ORFORD, *supra* note 2, at 87-96 (discussing IMF policies in Yugoslavia during the 1980s).

16. *Id.* at 96-110 (discussing the international presence in Rwanda).

17. *Id.* at 103. Good governance had been part of development mandate since the early 1990s. See, e.g., James Thuo Gathii, *Good Governance as a Counter-Insurgency Agenda to Oppositional and Transformative Social Projects in International Law*, 5 *BUFF. HUM. RTS. L. REV.* 107 (1999).

18. ORFORD, *supra* note 2, at 104 (noting that development aid was responsible for close to eighty percent of the investment budget and much of the operating budget of the Rwandan government).

19. *Id.* at 108. Other stabilization policies required by international institutions, and the "[o]ngoing inequality, exclusion, dispossession, alienation, disempowerment and humiliation [that] had characterized life in Rwanda for decades, and the development aid" that perpetuated this dispossession may have also played a role in the resulting humanitarian crisis. *Id.* at 106.

20. *Id.* at 104-05.

21. *Id.* at 109-10.

economic liberalization are assumed to such an extent they are almost considered instinctive.²² Yet, this is where intervention is at its most pervasive in Southern tier countries. By treating economic policies as inherent, inevitable, and benign, their profoundly destabilizing effects recede into the background and are typically ignored,²³ even though their consequences can be devastating. With humanitarian crises defined in terms that vilify a non-existent local, the use of force becomes almost a necessity. If we dig deeper, however, and explore the influence of international institutions and their policy mandates, the analysis and the response may be quite different and the presence of the international community may be found to be ubiquitous rather than nonexistent.²⁴ Indeed, in an age of globalization, the local may have almost disappeared for many Third World nations and their peoples, who may find it difficult to separate from the international community, regardless of their desires.

Orford continues her deconstruction of perceptions of the "international community" by examining its role in post-intervention nation building.²⁵ She explores this role within the context of self-determination, a term with varying meanings and whose subtext is drastically limited in post-intervention state building paradigms.²⁶ The international community's invariable position as an administrator in post-intervention nation building is persistently represented as a benign, democratizing, and even civilizing force. But this contemporary form of trusteeship, which is characterized by U.N. paternalism, World Bank development models, and unrestrained foreign investment, may be merely a new form of colonialism, with the international community collectively acting as the new colonial power.²⁷ Despite pronouncements of democracy, within post-intervention state-building paradigms, it is not the people, but the international community that mandates what will actually come to pass. For example, economic reforms and

22. Gordon & Sylvester, *supra* note 14 (discussing how development has become such an accepted part of international discourse that it almost seems to be innate).

23. ORFORD, *supra* note 2, at 120-22; see also Amy L. Chua, *Markets, Democracy and Ethnicity*, 108 YALE L.J. 1 (1998).

24. ORFORD, *supra* note 2, at 120-22.

25. *Id.* at 126-57.

26. Professor Orford analyzes various definitions of self-determination, from the limited definition of freedom from foreign political control to more expansive and imaginative configurations. *Id.* at 143-57. She encourages us to rethink self-determination or failing to achieve it may become yet another problem for the West to fix. *Id.*

27. *Id.* at 137-38. On trusteeship as a form of colonialism, see Ruth Gordon, *Saving Failed States: Sometimes a Neocolonialist Notion*, 12 AM. U. J. INT'L L. & POL'Y 903 (1997).

liberalization are imperatives regardless of the actual desires of the populace or governing elites. As an international military presence is replaced with an international business presence, newly installed or elected governments are directed to protect the rights of investors and conform to investor sensibilities. Constitutions, laws, and governing institutions must be designed in accordance with Western understandings of what is appropriate.²⁸ The cases of East Timor and Bosnia and Herzegovina are employed in this book to demonstrate the often exploitative role of international interventionists, even as they are popularly portrayed as compassionate and munificent.²⁹

After analyzing post-intervention nation-building, Orford then attempts to explain why the armed humanitarian intervention narrative is supported by those who might otherwise eschew the use of force even if it is deployed in the name of human rights.³⁰ Relying upon feminist, Marxist, and post-colonial theories of subjectivity and identification, she attempts to account for why this now familiar narrative has become so ubiquitous that it appears to be almost natural.³¹ The chronicle always begins with the disruption of established order and the identification of a villain that is systematically personified as ethnic hatred, a rogue state, or a ruthless dictator. Orford maintains that these images represent a colored, feminized *other*.³² "Knights in white armor" are poised to come to the rescue, in the form of a white, masculinized international community personified by the United Nations, the U.N. Security Council, NATO, and/or the United States.³³ Within this milieu are secondary passive characters that lack power, agency, and authority; hence, they are in need of civilization, progress or development.³⁴ Just as international agencies and the major powers are imagined as bearers of human rights and democracy, local peoples are presented as victims of abuse, and as childlike, primitive, barbaric, or unable to govern themselves and, thus, in need of being re-fashioned as an extension of the international community.

28. For a general discussion of post-colonial state building, see Ruth Gordon, *Growing Constitutions*, 1 U. PA. J. CONST. L. 528 (1999).

29. ORFORD, *supra* note 2, at 129-40.

30. This ambivalence surfaced for many who had previously shunned the use of force, but thought it justified in Bosnia-Herzegovina and more recently, in Iraq.

31. ORFORD, *supra* note 2, at 160.

32. *Id.* at 160-80.

33. *Id.* at 165-71.

34. *Id.* at 171-75.

Undoubtedly, hierarchies of race³⁵ and gender underpin such representations, for both the tyrant and the starving, powerless, suffering masses are always colored or somehow different, and the latter are often women and children.³⁶ These images fit within the racial and gender stereotypes that are prevalent in Western culture, even though they may now be submerged. Intervening to save the *other* allows those in the West to keep the *other* at bay, lest they show up as refugees on Western shores.³⁷ While humanitarian breakdowns appear to disrupt the established order, armed humanitarian intervention appears to rectify such crises and ultimately serves to validate the established order as well as the valiant international community that maintains it.³⁸ According to Orford, in the final analysis, the concept of armed humanitarian intervention creates a powerful sense of a self that possesses the right and the power to intervene.³⁹

Orford's book sets forth a fascinating and quite provocative reading of humanitarian intervention, a concept we rarely pause to question in a fundamental manner. The morality and credibility of humanitarian intervention makes it appear to be impervious to criticism, for to assist those in dire need would seem to be a moral imperative. Perhaps this view is correct, in some sense, and this empathetic response to people in need is beyond reproach. Orford, however, forcefully and persuasively argues that armed humanitarian intervention may serve many purposes beyond simply satisfying the humanitarian and compassionate desire to help others. Surely she is correct in the contention that armed humanitarian intervention endorses and perpetuates a demeaning view of those already deemed different from those in the West and that this difference is confirmed and enabled by an accepted wisdom regarding local cultures as a place where chaos and upheaval are not far from the norm and, thus, a place where sole responsibility for turmoil can be lodged. Armed humanitarian intervention ultimately allows the West to maintain a certain kind of distance and a sense of superiority, as the international community purports to assume the role of savior, while simultaneously continuing to pursue the colonial project in the guise of an economic development

35. For a series of articles exploring the intersections between international law and Critical Race Theory, see Symposium, *Critical Race Theory and International Law: Convergence and Divergence*, 45 VILL. L. REV. 827 (2000).

36. ORFORD, *supra* note 2, at 173-75.

37. *Id.* at 208-11.

38. *Id.* at 177-78.

39. *Id.* at 175-77.

agenda that requires the adoption of prescribed social, economic, constitutional, legal, and governing institutions.⁴⁰ In Southern tier countries, globalization has taken on new meaning as the international community occupies a space that would never be countenanced in the West. When we fail to interrogate the economic and political mandates of the international community and never implicate it or question its role as perpetrator or liberator, it is accorded agency to intervene in the affairs of Third World peoples yet again, and in an even more invasive and dominant manner. Moreover, as within the discourse of development, intervention is legitimized under the self-perpetuating Western banner of moral authority and virtue. Of course, one must be careful not to rob the nations and peoples of the Third World of all agency over their lives, for surely that agency endures on some level, and the very real possibility that intervention may be desired in times of turmoil cannot be denied or ignored. But Orford is on to something when she urges that one must be willing to at least search for and question the role of the international community when crisis ensues.⁴¹

For many, Orford's entire analysis will seem to be misguided. From their perspective, one cannot deny the harsh reality of the crises that come to pass in the likes of Iraq, Haiti, Bosnia, or Rwanda, even if we concede they are the result of a broader variety of causes. After all, they will wonder, what will happen if we, the international community, which of course really means the West, fails to even attempt to rescue the *other*. These thoughts also haunt Orford, just as they haunt all who long for a less violent and more just world, and she does acknowledge that a more limited kind of intervention may be desirable in certain cases.⁴² Nevertheless she poses the infinitely more difficult challenge of how to abandon our own power and our sense of being separate from, and having power over, others. For the notion of helping and being able to help serves in part to authenticate the self, while distancing and pauperizing the other. And in truth, even with the best of intentions, the international human rights community cannot guarantee help, even if help is warranted. Orford notes examples of people placing their trust in the international community in East Timor, Rwanda, and Bosnia and later being forsaken, as the international community literally abandoned them to be slaughtered. She wonders if they would have found other ways to protect themselves, if

40. Gordon & Sylvester, *supra* note 14.

41. ORFORD, *supra* note 2, at 120-25.

42. *Id.* at 218-19.

not for their misplaced trust in an unreliable international community.⁴³ Perhaps they would have been murdered in any case, but surely these stories raise additional questions about a doctrine that aspires to protect those in danger and yet cannot be counted upon to do so.

It must be acknowledged that international legal scholars and activists who refuse to give any credence to critical theory will undoubtedly find this volume wanting. To those scholars who confine legal analysis to doctrinal readings of international law, this book asks illegitimate and irrelevant questions and, accordingly, it provides meaningless answers that do not address conditions in the real world. To find value in this book, one must be willing to question quite fundamental assumptions and be prepared to engage in a dialogue that is at times quite heavy on theory. Although she does a very good job of making theory accessible, this book may become a bit dense to those unfamiliar with critical theory.

Yet Orford is an effective and patient teacher who continually reinforces the theoretical aspects of her work with quite powerful examples, and it is these case studies that make her thesis so powerful and convincing. Orford begins her journey through the narrative of humanitarian intervention in East Timor and she wanders through the killing fields of Bosnia and Herzegovina, Rwanda, and other locations of violence. Her feet are firmly planted in the harsh reality of humanitarian crises, even as she relies on quite provocative and occasionally complex theories to explain that reality.

As the United States intervened in Afghanistan in the aftermath of the events of September 11, 2001, the human rights banner was raised in defense of poor hapless Afghani women.⁴⁴ As weapons of mass destruction, whose existence served as the primary justification for war against Iraq, have failed to materialize, the war is now rationalized on humanitarian grounds. Intervention discourse has taken on a new and more ominous note in a new world order characterized by an amorphous war on terror. Perhaps Orford is correct that we will not lose much if we abandon the notion of humanitarian intervention, for it appears to have now been appropriated in the name of the unbridled use of force.

Indeed, reading this book with recent events in Haiti as a backdrop, makes Orford's thesis even more compelling in many respects. The familiar narrative she exposes seemed to unfold

43. *Id.* at 197-203.

44. *Id.* at 202.

almost on cue. Notwithstanding being aware of the history of U.S. and broader international involvement in Haiti,⁴⁵ it was easy to be drawn into a discourse that erased that history and made the elected leader of Haiti a despotic dictator who violated the human rights of his people.⁴⁶ That those who sought to replace him had little legitimacy was almost a footnote, as was the complex social and economic structures that inform the Haitian and U.S. labyrinth that profoundly influences what takes place in Haiti.⁴⁷ As the threat of a Haitian exodus toward the United States ripened, calls for intervention grew more strident and President Jean-Bertrand Aristide was soon hastened out of Haiti on a U.S. military plane.⁴⁸ This book provided quite powerful tools that permitted this reader to view this narrative with a great deal of skepticism. Whether one ultimately accepts all of her assertions, if this book causes that type of reflection in the wake of humanitarian upheavals, perhaps it is reason enough to declare Orford's work both a success and a milestone that should be seriously considered by all who are interested in human rights.

45. Gordon, *supra* note 1, at 556-60.

46. See, e.g., Les Kjos, *Analysis: Prospects Dark for Haiti*, UNITED PRESS INT'L, Feb. 10, 2004, available at <http://www.washtimes.com/upi-breaking/20040210-021325-8747r.htm> (last visited Apr. 10, 2004); *Will America Finish The Job, This Time?*, ECONOMIST, Mar. 6, 2004, at 22.

47. See, e.g., *Timeline of Critical Events in Haiti*, IN THESE TIMES, Apr. 12, 2004, at 18; Larry Birns, *Haiti's Democracy in Flames*, IN THESE TIMES, Mar. 13, 2004, at 16, available at http://www.inthesetimes.com/comments.php?id=652_0_1_0_M (last visited Apr. 14, 2004).

48. *Did He Go or Was He Pushed?*, ECONOMIST, Mar. 6, 2004, at 24.