Can an Intervention in Syria be Morally Permissible? Is it Morally Obligatory?

https://www.e-ir.info/2012/10/18/can-an-intervention-in-syria-be-morally-permissible-is-it-morally-obligatory/

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In order to answer a question such as this it is important to understand what is meant by the term 'humanitarian intervention', as it is, somewhat, vague and can, in truth, encompass a myriad of different behaviours and interactions between states. From this point the essay can progress forward and examine two key theories of humanitarian intervention. The first theory I wish to explore is, what has been called, the limited view. However, due to the nature of the argument that it presents and for the purposes of this essay I shall call it the 'exceptional circumstances theory'. The second theory to be examined is the more liberal view; one that supports a less narrow range of circumstances in which humanitarian intervention is acceptable and is therefore, what I shall call, the 'necessary circumstances theory'. The third part of the essay shall be to try and draw from these two theories their best aspects and reach a sound conclusion as to what conditions must be met for humanitarian intervention to become viable. Finally I shall conclude by arguing for more knowledge on Syria.

So what is meant by Humanitarian intervention? I do not, in the space of this essay, have an adequate word count to fully discuss this issue; however Caney provides an accurate description:

"coercive action 'by an outside party or parties, in the sphere of jurisdiction of a sovereign state, or more broadly of an independent political community', which is undertaken, partly or exclusively, to protect the welfare of the members of that political community"[1]

What I interpret the term 'coercive action' to mean is anything that involves a military intervention, such as the deployment of troops. Humanitarian intervention is therefore defined, for the purpose of this essay, as; the use of military force, by one sovereign body over another, in the interest of the citizens of the latter sovereign body.

The Exceptional Circumstances Theory

As the name of this theory suggests it is one that supports a very narrow range of situations where humanitarian intervention is morally justified. The theory is based around the writing of Michael Walzer, whose theory of humanitarian intervention is grounded in the Millian understanding of self determination. What Walzer (and Mill) argue is that humanitarian intervention is wrong because it harms the capability of the political community to be one that is self determining. According to Walzer a political community is understood to be a "community, entitled collectively to determine their own affairs."[2] At first look this seems to suggest that a political community can only be understood as democratic and/or liberal, however the definition is much wider than this and merely means; a people who see themselves as a single political community and is broad enough to include that "they are to be coerced and ravaged (…) only at one another's hands."[3] The important aspect to note is that according to this theory "self-determination and political freedom are not equivalent terms."[4] One might well, at this point, wonder how a political community can be self-determining if it is one that lacks the basic liberties needed in order for citizens to work towards change. This rests on a misconception of the term self-determination; it is not the ability to change one's community through simple actions, but through any form of internal action, even if it involves great hardships: "The members of a political community must seek their own freedom, just as the individual must cultivate his own virtue."[5] The issue with humanitarian intervention, then, is that it disregards the sovereignty of a political community

and simultaneously hinders their self determination.

This, though, is not a theory of complete non-intervention there are times in which it is morally permissible for a state to begin a process of humanitarian intervention. Walzer gives three cases in which this occurs: firstly is the case of secession,[6] the second case is that of civil war.[7] Neither, however, concerns us in the case of Syria. The final case is what this section shall continue to debate and is the case of human rights abuse, or more specifically "when the violation of human rights within a set of boundaries is so terrible that it makes talk of community or self-determination or "arduous struggle" seem cynical and irrelevant, that is, in the cases of enslavement and massacre."[8] Before we begin to consider whether Syria fits with this particular definition I wish to look at an issue that occurs within it. The first is that the definition is somewhat vague; Walzer may provide examples but it does seem to be a definition that rests entirely on the moral conscience and viewpoint of the state that is witnessing the activities of another. Later in the paper a somewhat more specific definition is provided; "what is at stake is the bare survival and minimal liberty of (some substantial number of) its members."[9] This is still vague though. What is needed is a comprehensive list.

What one cannot forget, at this point, is that this is a limited view and that when one seeks a comprehensive list it is hardly likely to be extensive. Miller argues that there are five conditions under which it would be appropriate for one country to become involved, for humanitarian purposes, in the interests of another: natural disasters that leave people without the adequate levels of subsistence, deprivation that occurs accidentally from the inadequate policies of the state government, and "systematic rights violations on the parts of governments, for example the incarceration of political opponents, punishment of their supporters, use of torture and other degrading modes of treatment."[10] As well as this there are cases of wars that already exist between states and humanitarian crimes that result from civil war. The condition for intervention has now become: when the domestic government is proven to be, unable to prevent, too incompetent to prevent, or is partaking in basic human rights abuse on a mass scale.

This is, unfortunately, not a complete criterion as there are other issues one must look at before one can send troops out to intervene in the interests of another state. The first is vaguely alluded to by Walzer,[11] which is an important aspect of the considerations for or against intervention. It is a consequentialist argument at its core and simply argues that Humanitarian Intervention is only acceptable in cases where the state that initiates such intervention can make the situation better. This is an important consideration because it is a further expansion of the self-determination idea; it demonstrates that even when attempting to do good a state may accidently impede the capacity for self-determination and thereby do more damage than had the citizens of such a state been left to handle their own affairs.

The final consideration is grounded in human rights theory. It is the theory of cost; namely the cost to the state that decides to intervene. Humanitarian intervention, especially in the military sense that I speak of, is a costly business, in terms of both financial and resource costs as well as the cost to human life. This is a fact that one cannot ignore and therefore one that must be addressed. The issue arises when one considers the claim that humanitarian intervention is justifiable in extreme cases of human rights violation. The assumption here is that these human rights have imposed a duty. The question becomes "who has the responsibility to intervene?"[12] The duty to uphold human rights is not one that has a specifically designated discharger; it is more of a duty to not violate than to protect, and so, when a nation is making the decision to intervene it must consider whether it is the nation with the duty. How is it to do this? To answer one must examine the very nature of what a state and its government is, unfortunately this is not possible in this essay so I shall take a definition from another: a "government is simply an agent whose fiduciary duty is to serve the interests or to realize the will of (…) citizens"[13] This is our key to determining if a nation is the one who bears responsibility; it has the moral right to intervene if it is the will of the people, if they believe that their government should: "pure humanitarian intervention is (…) morally impermissible, unless there is a clear democratic mandate."[14]

We now have the full conditions that are required by the exceptional circumstances theory to be met should the UK seek intervention in Syria:

1. It must be against a mass violation of essential human rights.

2. There must be a reasonable expectation that such intervention can only improve the situation of those who are suffering
3. There must be approval, through democratic means, of the majority of the population of the state planning to intervene.

The Necessary Circumstances Theory

This theory, as mentioned earlier is one that has a more open band of circumstances that allow for many more instances of humanitarian intervention. It is also a theory, as I shall explain, that supports humanitarian intervention as a duty, not just a liberty in certain circumstances. Whereas the exceptional circumstances theory found its grounding in the rights of a political community and society, this theory is one that finds it's grounding in the rights of humans. As well as this the list of human rights is much more extensive than the previous theory and include "right to freedom of worship, conscience, action and association."[15] David Luban discusses the issue at length and goes through many formulations of the just war doctrine to tease out those areas that have a moral relevance, the areas that in the first theory have little moral credibility; for example, he considers the idea of national sovereignty to be 'morally flaccid'. In this concept "a state must be legitimate in order for a moral duty of non-intervention in its affairs to exist."[16] This is because the people of that state have a right; it is a "right to their legitimate state"[17]

At this stage then we have two questions to answer: How do we define what a legitimate state is? Why is it a moral duty to intervene instead of a liberty or right? Luban has a direct answer to the first question and considers it in full, arguing that "a political community is made legitimate by the consent (tacit or explicit) of its members."[18] A state, it seems, cannot be subject to the intervention of another if it is one whose government enjoys the consent of its people. Luban talks of two forms of consent; horizontal, which arises through an explicit contact and vertical which arrives through an acceptance and usage of the political structures. However there is still a problem; many people subject themselves to a system and accept it out of fear and tradition. They know of no better option, and if they do are too afraid to act out. This could be a regime that uses forceful oppression to maintain its rule. Luban accepts that this is a limitation but does believe that one can find "clear evidence (…) that a state is not based on consent and hence not legitimate."[19] There is now a condition; one must have evidence that the people of a nation do not consent to the regime they are under; how one does this is a complex mater and is best left to another time. Why then is it a moral duty to intervene? Rights do not correlate purely with negative duties: "socially basic human rights", rights which are essential to existence, "are everyone's minimum reasonable demands upon the rest of humanity"[20] He then goes on to argue that "such rights are worth fighting for (…) not only by those to whom they are denied but, if we take seriously the obligation which is indicated when we speak of human rights, by the rest of us as well."[21]

There are other issues that need working out though before this is a complete theory. There are two more questions that need answering: What of the cost to the state that intervenes? Doesn't such a theory just allow any nation to intervene on loose humanitarian grounds to serve their own purposes? I wish to answer this second question first; it would seem that a theory which has such an open attitude towards humanitarian intervention might open up the floodgates for states which see their interests served by removing an unfavourable dictator from power; the case of Iraq is often cited. It is a debate over this very issue that Teson draws us towards a concept that could solve the problem. In his paper 'Ending Tyranny in Iraq' Teson argues that a state will rarely have pure intentions, as most theorists accept: "states don't send their soldiers into other states, it seems, only to save lives"[22]. But, this is not a problem; by drawing a distinction between the concepts of intent and motive, Teson argues that humanitarian intervention, even where there may be gain, is morally acceptable: "If a government wages war with the *intention* to rescue victims of tyranny and does in fact liberate those victims, then the intervention is humanitarian (…), even if its *motive* is self-interested or otherwise nonhumanitarian."[23] This gives us a second criterion then; the intervention must be committed to the cause and aim, ultimately, to help the people who were once persecuted.

What of the cost then? Luban argues that if there is a dedication to human rights we must be willing to fight for them, however, as previously mentioned this costs and (most unfortunately of all) costs lives. How can a theory based in rights accept that a nation command its soldiers to lay down their right to life for others, for strangers? Luban does not shy away from the issue and accepts that "when we consider the manner in which wars are fought (…) we shall

always find violations of socially basic rights."[24] His manner of dealing with this, though, is shockingly calculated; he asserts that we must "compare the violations of socially basic human rights likely to result from the fighting of a war with those it intends to rectify."[25] There is an issue within human rights abuse in that it comes in many forms and is carried out at different degrees of severity. To authorise a full military invasion and toppling of a regime for a dictator who, whilst not a good leader, has committed a limited number of abuses might be too severe. It is an arguable point. Therefore the style of intervention must be proportional to the abuses committed. These two conditions lead to the idea of proportionality: "the costs incurred as a result of the intervention are not disproportionate in comparison with the internal wrongs".[26]

We now have the three conditions that assert upon nations of the world the duty to intervene for humanitarian purposes:

1. The protection of human rights that are being violated in an illegitimate State
2. A true commitment to such human rights as part of a project for change
3. Any response must be proportional to the crimes that are being committed.

A Final Set Of Conditions

Each theory has its strengths and weaknesses and inevitably the best set of rules is a compromise between the two. When it comes to the issue of which rights to protect and what situation to intervene I side more with the necessary circumstances theory. If in the west we are to argue that we have a true dedication to human rights then we must fight for them. This said it should be a violation of basic social rights on a large scale. I also agree with the theories concept of proportionality; I believe that we must do what is appropriate but not more; such an activity would harm our own nation and therefore be a completely undesirable outcome. From this point on though my sympathies lie with extraordinary circumstances view: we must, if we call ourselves a democratic country, seek first and foremost the opinion of our own nation. There must also be a chance of success, otherwise there is a huge loss for no gain; to make the situation worse does not respect human rights. Therefore before any humanitarian action is taken all of the following questions must be answered with yes:

1. Is the state where the intervention will occur illegitimate?
2. Are there violations of basic social rights on a mass scale?
3. Is the cost of military intervention one that is proportional to the violations?
4. Is there a chance of success and improving the situation?
5. Is there approval from a majority of home citizens?

Conclusion

To come to a sound conclusion would mean answering the previous questions and unfortunately that is a task beyond this essay. What can be determined, though, is that the situation in Syria is not one that should be intervened on lightly. It is true that there is dissent and rebellions, and that the regime is oppressive, but Syria must be looked at more before we determine whether it constitutes intervention. I can safely conclude though that now is not the time to enter into this domestic conflict; the case must be examined further and when we have a sound answer to all the five questions above then a decision can be made, and be made well.

[1] Caney, S. Humanitarian Intervention and State sovereignty. In: Valls A. (ed.) Ethics in International Affairs. U.S.A. Rowman and Littlefield Publishers inc. 2000. P120.

[2] Walzer, M. Just and Unjust Wars; a moral argument with historical illustrations. U.S.A. Basic Books. 2006. P87

[3] Ibid. P86.

[4] Ibid. P87.

[5] Ibid.

[6] Ibid. P90.

[7] Ibid.

[8] Ibid.

[9] Ibid. P101

[10] Miller, D. The responsibility to protect Human rights. In Meyer, L. H. Legitimacy, Justice and Public International Law. U.K. Cambridge University Press. 2009. P233.

[11] The idea of the consequentialist argument is present in Walzer's justification of limited action found in his paper: Walzer, M. The Argument about Humanitarian Intervention. Dissent, 49(1) 2002.

[12] Miller, D. The responsibility to protect Human rights. In Meyer, L. H. Legitimacy, Justice and Public International Law. U.K. Cambridge University Press. 2009. P235.

[13] Buchanan, A. The Internal Legitimacy of Humanitarian Intervention. The Journal of Political Philosophy 7(1). 1999. P73.

[14] Ibid. P77.

[15] Caney, S. Justice Beyond Borders: A Global Political Theory. U.K. Oxford University Press. 2006. P234.

[16] Luban, D. Just War and Human Rights. Philosophy and Public Affairs 9. 1980. P165.

[17] Ibid. P166.

[18] Ibid. P167.

[19] Ibid. P170.

[20] Ibid. P175.

[21] Ibid.

[22] Walzer, M. Just and Unjust Wars; a moral argument with historical illustrations. U.S.A. Basic Books. 2006. P101

[23] Teson, F.R. Ending Tyranny in Iraq. In Ethics and International affairs 19. 2005. P6.

[24] Luban, D. Just War and Human Rights. Philosophy and Public Affairs 9. 1980. P176.

[25] Ibid.

[26] Caney, S. Justice Beyond Borders: A Global Political Theory. U.K. Oxford University Press. 2006. P248.

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Date written: April 2012