# 3. The Human Rights Case for the War in Iraq: A Consequentialist View

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"It may well be that under international law, a regime can systematically brutalize and oppress its people and there is nothing anyone can do, when dialogue, diplomacy and even sanctions fail."

Tony Blair[1]

The purpose of this chapter is to provide a moral and ethical defense of the war in Iraq. The principal argument of this defense is that the war – while probably illegal from the point of view of most bodies of statutory international law – was morally defensible in its overall consequence: it has objectively liberated a people from an oppressive, long-standing tyranny; destroyed an outlaw state that was a threat to the peace and security of the Middle East and the larger global arena in which terrorists operated, sponsored materially and ideologically by Iraq; brought the dictator Saddam Hussein to justice for his genocides and crimes against humanity; prevented the possibility of another genocide by a leader who has already committed this crime against his own subjects; restored sovereignty to the Iraqi people; laid the foundation for the possibility of Iraq becoming a liberal republic; created the conditions for the entrance of this republic as a *bona fide* member into what John Rawls termed the "Society of Peoples"; and opened up the possibility for the citizens of Iraq to claim, as autonomous agents, those human rights guaranteed to them by the United Nations Declaration of Human Rights, but denied to them by the very mechanisms of international law that are supposed to be the formal guarantors of such rights. Overall, this chapter presents what I call the "human rights case" for the war. I think it is necessary to make such a case in this particular volume, because most of the chapters herein provide critical

[1] From a speech given by Prime Minister Tony Blair. Full text can be found at: http://www.pm.gov.uk/output/Page5461.asp.





reflections on human rights issues in the United States, or alleged abuses that have occurred in the prosecution of the war on terror and the war in Iraq. Such critiques are important and necessary, but serve to obscure violations of human rights in Iraq under Saddam Hussein's regime and forestall discussion of the possibility that the war has had positive moral consequences.

I would like to begin by stressing that the human rights case for the war has been difficult to make. The principal reason for this is that the Bush Administration failed to strongly present its own rationale for the war, especially in the months leading up to the war. As the primary mechanism of global governance, international law rendered the Bush Administration's first attempts to justify the war primarily legal in nature. The legal case was twofold. First, the United States argued that Iraq was in breach of sixteen separate U.N. Security Council resolutions, and that, according to international law, the Security Council was obligated to enforce its own resolutions. This was a fairly straightforward argument, which – to Saddam Hussein's advantage – was more or less ignored by the Security Council. The second argument was based on considerations of national interest: this was a war of anticipatory self-defense, or what has, in this case, been called "preemptive war." Based on intelligence reports that documented Saddam's efforts to acquire weapons of mass destruction (WMD), as well as evidence about Saddam Hussein's support of international terrorism, the Bush Administration argued that the Iraqi ruler was an imminent threat to the national security of the United States and a more general threat to world peace and security. This second argument has been very difficult to sustain in light of the failure to find appreciable quantities of weapons of mass destruction and the somewhat indeterminate evidence of Iraqi connections with al-Qaeda, the presumptive enemy of the United States in the war on terror.

For the most part, critics of the war have focused almost exclusively on the shaky case for preemptive war, while at the same time ignoring the failure of the United Nations to uphold its own resolutions or the principles of the United Nations Declaration of Human Rights. Absent from the debate on the war is a serious discussion of the moral legitimacy of the war in terms of human rights. I would like to argue that the war can be seen in positive terms, as an advance for human rights, both for the Iraqi people themselves and for the overall program of human rights more globally. Given the vitriolic opposition to the war and the fact that most major human rights lawyers, scholars, and activists were against it, this is a rather contentious argument. It is, however, one that must be made, because a stance of opposition to the war cannot in any sense be seen as an advance for human rights either. To have been opposed to this war – or to war in general – on the principle that the

rule of law and peace is the most desirable state of affairs in the international community is a principled stance, which carries much weight. It is, however, a stance that has moral and ethical consequences, which extend beyond the virtue of pacifism or the issue of the rightness of obeying international law. The choice to adhere to international laws – even if such laws are unjust – and to prefer peace absolutely, forces the question of justice and human rights for the Iraqi people to take second place. Such an emphasis also begs the question of the relationship between violence and human rights, and when the use of the former is appropriate for achieving the latter. While this is a subject for another paper, it is important to consider that human rights have often been achieved through the use of violence against oppressive social systems and practices, some obvious examples being the French Revolution, the American Revolution, the struggle against apartheid in South Africa, and the prevention of genocide in Kosovo (all which took place in opposition to unjust laws).

There are those who would argue that a commitment to justice and human rights is the first and most fundamental ethical principle, to which laws and other ideological positions must be held accountable. To have stood against the war – even on the most virtuous of legalistic or pacifistic grounds – was, at the most basic ontological level, to have tolerated Saddam Hussein's violation of international law and human rights; his manipulation of legal procedures for his own advantage; and his ongoing threat to peace and security. This is an unpleasant fact for those who were against the war, but it is a fact that I insist on as a crucial starting point for my argument. That the war was badly legitimated and badly managed – so that it resulted in the loss of civilian life and the alienation of certain (but certainly not all, as some would have us believe) states in the world – does not diminish the fact that opposing the war also represented a moral choice. It represented a moral choice that involved the sublimation of human rights and justice for those who suffer to other concerns: concern about American imperial ambitions, the hatred of George W. Bush and anti-Americanism on the part of the global left; concern about the sanctity rule of law; concern about innocent victims; concern for peace (or the absence of war); and concern about the possibility of jeopardizing "authentic" humanitarian interventions in the future.

The basic argument of this chapter is that there are substantive moral and ethical imperatives that, at times, supersede the strict requirement of obeying formal bodies of law – especially those laws that are not made with the consent of those who are subject to them. The logic of this position should not be foreign to those liberals who, for instance, participated in the Civil Rights Movement and sought to overturn perfectly legal, but also perfectly unjust



laws, which denied African Americans fundamental human rights. More generally, though, the central argument here is similar to that which many people made about the humanitarian intervention in Kosovo: that, strictly speaking, the intervention was illegal according to various articles of the U.N. Charter, but that it was morally legitimate. This was the finding of the U.N. Kosovo Commission, many members of which do not share the same view of the Iraq war (IICK 2000).[2] My position, though, is that the Iraq war can be seen in much the same way as the war in Kosovo, albeit with some important modifications, and a conscious recognition that the central motivation for the war by those who waged it does not appear to have been humanitarian in nature. The question of moral legitimacy must, in my view, be measured not only in terms of intent, but also in consideration of the moral and ethical consequences of armed intervention.

However, moral judgments of war cannot be based on considerations of intent and motives alone. In contrast, I would argue that *motive* is actually not the most important factor to consider in assessing the justness or unjustness of any human action, even war. While this may be the most important factor in jurisprudence, especially with regard to crimes such as genocide (as, for example, the requirement of *dolus specialis*, or special intent), legal criteria are not the only ones that can be used for assessing the justice or injustice of human action. It is just as important to consider the moral and ethical *consequences* of war as we consider the overall question of whether a war can be considered just or not. There are quite a number of historical situations in which the ethical motivations of humanitarian interventions on the part of states were questionable, but the consequences of such interventions were rather positive. The abolition of the British slave trade, for instance, was not carried out because the British Parliament itself came to its ethical senses. Rather, it was primarily a result of ethically motivated activists who organized the anti-slavery movement and pressured their leaders to abolish slavery. The consequence – the abolition of slavery in the British Empire – was surely a positive ethical consequence that no one would seriously deny, and which can, in its moral qualities, be considered quite outside of the intentions of the agents who brought it about.

[2] Justice Richard Goldstone, the head of the Commission, summarized the findings as follows: "[The Commission] concluded that, in the absence of United Nations Security Council authorization, the NATO military response violated international law but was nonetheless politically and morally legitimate. The illegality lay in NATO's decision to avoid the Security Council and certain Chinese and Russian vetoes. The legitimacy arose from the egregious oppression and violations of the human rights of the Kosovar Albanians by their Serb rulers" (Goldstone 2002: 143).

In this sense, the central argument of the chapter rests on a consideration of the war from the standpoint of *consequentialist ethics* in moral philosophy. My purpose is not to defend the use of force and the violation of international law generally as the preferred means for advancing human rights. This would be a disaster, to be sure, as many critics of the war have pointed out. My view is rather more like Kant's in *Perpetual Peace*, in which he argued that if wars were to occur they should be used as opportunities for the reform of the situations that caused them to happen.[3] And as Kant's major modern interpreter John Rawls has argued, there are situations in which gross violations of human rights by "outlaw states" warrant armed intervention.[4] War, in this sense, is not an absolute evil; just war theorists in the Augustinian tradition have long pointed out, it is actually the lesser evil in some cases, and I hold that this is true in the case of the war in Iraq. My attempt here is not to persuade those who opposed the war to change their minds and suddenly decide that the war was actually a great victory for human rights. Rather, my position is that the Iraqi people, who were subjected to tyranny, had the right of revolution against it, and lacking the ability to mount such a revolution, had the right to assistance and that this assistance can be described as a type of humanitarian intervention.

My own support, indeed, was very ambivalent, yet always measured by my insuperable belief that to stand against the war would be to participate in an act of unjust appeasement of a brutal tyrant and an act of abandonment of the victims of his brutal regime, most of whom, as I shall stress later, were supportive of the war as a means to their liberation. I denied myself the possibility of standing against them. The view I offer here is meant to provide a case for the war that challenges the dominant anti-war orthodoxies of the humanitarian and legal communities, and illustrates the necessity to force debate on the current disjuncture between ethics and international law – a disjuncture that cannot in any way be seen as a positive development for the advancement of human rights.

[3] Kant argues in *Perpetual Peace*, in his section "On the guarantee of perpetual peace," that Perpetual Peace is guaranteed by complying with the three definitive articles (republican government, confederation, and cosmopolitan right to short visit) out of respect for a "duty of reason," and that having experienced many times the horrors of war and realized that Perpetual Peace is in its best interest, war might be said to contribute to the future removal of war ([1795] 1983: 120–5). I am indebted to Nicolas de Warren for this interpretation of Kant.

[4] See, for instance, Rawls 1999. Rawls is maddeningly unclear as to what specific conditions would justify humanitarian intervention outside of the framework of the law, noting only that, ". . . war is no longer an admissible means of government policy and is justified only in self-defense, or in grave cases of intervention to protect human rights." (1999: 79).



One of the problems with the human rights argument for intervention is that it can be seen as absolutist: in any case where we see violations of human rights, we are obligated to stand against them. In no way do I want to make this absolutist claim – and take great heed of those who have argued that such interventions could unleash a virtually boundless future of human rights crusades.[5] I make no claim that it is right in all cases for a state to intervene unilaterally on absolutist grounds of human rights. Rather, intervention on the grounds of rights is acceptable to the degree to which agents who are subjected to human rights abuses desire intervention and see the intervening power as a force that they wish to act on their behalf because they do not have the ability to do so themselves. Legal philosopher Fernando Tesón articulates this perspective of humanitarian intervention succinctly:

> The recognition of the right to resist tyranny is extremely important in international law. Beyond the consequences for the law of international human rights itself, it has consequences for the theory of humanitarian intervention. If citizens did not have a right to revolt against their tyrants, foreigners a fortiori would not have a right to help them, even by non-coercive measures, in the struggle against despotism. Humanitarian intervention can be defended as a corollary to the right to revolution: victims of serious human rights deprivations, who have rationally decided to revolt against their oppressors, have a right to receive proportionate transboundary assistance, including forcible help. (1998: 6)

In addition, it must be possible for the intervening power to act where it is possible to do so without creating more widespread global conflicts. Thus, it would be entirely ethical for a state to intervene in, say, Tibet, because the abuses of the Chinese government there are so palpable, and the majority of Tibetans would support such an intervention. Yet, because China, as a world power with nuclear weapons and formidable armies, could be expected to retaliate forcefully, this would not be pragmatically possible. The ethical argument for intervention is not an absolute one, but tempered by a consideration of the realities of power in the world. An ethical case for war does not have to proceed without any consideration of pragmatic consequences.

[5] One eloquent elaboration of this argument can be found in Chesterman's *Just War or Just Peace: Humanitarian Intervention and International Law* (2001). Chesterman argues that "unilateral enforcement is not a substitute for but the opposite of collective action. Though often presented as the only alternative to inaction, incorporating a 'right' of intervention would lead only to more such interventions being undertaken in bad faith, it would be incoherent as a principle, and it would be inimical to the emergence of an international rule of law" (2001: 6). Whether or not the Iraq war will lead to these things is an empirical question, rather than something that should be accepted on the basis of Chesterman's prognosis.

Intervention must depend upon both the reasonable assumption, or empirical verification, of a widespread desire for rescue on the part of those subjects who are denied their sovereignty, and a subsequent willingness of the people in need to bear the costs of war – destruction of civilian life, property, infrastructure, and social disorganization – in order to achieve a greater benefit. Furthermore, the intervening power must execute the war according to strict *jus in bello* criteria, and seek to minimize the threat to all those entities that are not direct objects of military action. Finally, the victorious power is strictly obligated to engage in a process of social reconstruction, in order to ensure that the outlaw state is transformed into a liberal republic. Gary Alan Bass has recently referred to this as "*jus post bellum*," and argued that the overall justness of a war is dependent on whether or not the conquering state fulfills its duties after the war (2004: 386).[6] This process entails the provision of all the material resources necessary for such an accomplishment: including the presence of the military, to provide security and safety, and the establishment of democratic political structures. I see nothing inconsistent with basic liberal principles in a position of support of the war in Iraq – indeed, on the grounds already mentioned, it is questionable whether those who were against the war were, in fact, truly liberal... but that is a question for another day. Suffice it to say that those of us liberals who have tried to offer liberal justifications for the war have experienced no small amount of frustration that our liberal colleagues have not even been willing to listen to the arguments, much less change their positions.

For purposes of this chapter, I would like to set aside the arguments about the ways in which the Bush Administration mishandled the justification or prosecution of the war. These debates will rage on; my preferred approach is to simply acknowledge that each side in the debate has valid, principled points of view, and to present what might be called a "third view" – the human rights case – which has seldom been presented in the polarized discourse on the war.[7] Critics will immediately argue that these considerations cannot be set aside, since they are central to their opposition: if there were no WMDs, or if Saddam and bin Laden had no objective relationship, then the war could not have been an act of anticipatory self-defense. Perhaps this may be true; my reason for setting aside this argument, however, is to focus on articulating a humanitarian case for the war that stands over and above not only "Bush's war," but also the "anti-war proponents' war." What I am asking, plainly and simply, is for those of us who share a commitment to the advancement of human rights to at least consider whether there is a legitimate human rights case for the war to be made. There is a distinct advantage to engaging specifically with other human rights thinkers on this question, because it is probably pointless to convince, say, George W. Bush, Jacques Chirac, Noam Chomsky, Howard Zinn, or Michael Moore of the human rights case. Rather, I want to foster a discourse among those who consider themselves to be humanitarians; in this case, I present my argument for the war as one humanitarian to others who also consider themselves to be humanitarians, but who may not agree with my view.

[6] An eloquent argument for the ethical and moral obligations of the United States and the international community in post-war Iraq can also be found in Feldman 2004.

[7] For a more detailed discussion of this "third view" and the positions of other liberal supporters of the war, see Cushman 2005.



## The Humanitarian Case Against the War

For purposes of this chapter, I would like to begin by considering, in detail, the case of one extended argument *against* seeing the Iraq war as a humanitarian war. In Chapter 6, "War in Iraq: Not a Humanitarian Intervention," Kenneth Roth, the director of Human Rights Watch, puts forth a strong argument against viewing the conflict as a humanitarian intervention. Indeed, he finds such arguments dangerous, and even subversive of the more general cause of humanitarian rescue in the future. In making the case against the human rights argument, Roth reproduces several aspects of the currently accepted logic regarding what constitutes legitimate humanitarian intervention. Thus, I shall use Roth's own arguments about the specific case of Iraq to raise more general points, which I consider to be problematic in thinking about humanitarian intervention. Following this critical appraisal of Roth's views, I shall provide my own view of the human rights case, which is grounded, in part, on a concrete sociological appraisal of the war's consequences for the Iraqi people, and, also in part, on an application of consequentialist ethics to the case of Iraq.

Whether or not we see the Iraq war as a humanitarian intervention depends upon how one defines the term "humanitarian intervention." In general, based on the literature on the subject, there are at least five factors that must be present in order to consider an act of aggression as a humanitarian intervention:

1) There must be a recognition of some imminent threat by an organized group of perpetrators to some group of people who are imagined as victims. These victims must be considered to be in need of rescue; and all other – pacific – efforts to rescue them must have been attempted and failed, so that the use of military force, then, necessarily represents a last resort.

2) In general, humanitarian intervention ought to be welcomed by the subjects of gross violations of human rights and is not dependent on the consent of rulers who are the source of their peoples' suffering (Kolb 2003: 119).[8]
3) The intent of the rescuers must be moral and ethical in nature, and may neither be based on self-interest (i.e., the acquisition of territory or resources), nor national interest exclusively. The war must be publicly acknowledged as a humanitarian intervention, and the humanitarian goals must be specified (Lang 2003).[9]
4) Such humanitarian interventions must be approved by the U.N. Security Council and, thereby, have the sanction of international law (Chesterman 2001: 236).
5) The basic humanitarian goals must have a reasonable chance of success and once accomplished, the intervention must not mutate into something else – such as the destruction of the sovereignty of the state and its leaders, the acquisition of material resources, or the implementation of a program of nation-building (Cook 2003: 153).

Based on these criteria, humanitarian interventions – generally speaking – are not transformative events, but "reactive" ones. They do not aim to eradicate the social-structural sources that give rise to crises and violations of human rights, but, instead, are meant to alleviate the latter. They are essentially conservative, in the sense that they conserve the status quo formations; the criteria for humanitarian intervention are so rigidly specified that a good number of the worst violations of human rights are tolerated and allowed to occur. This was the case in Iraq, and has been the case in many other situations of great social suffering in the modern world.

In his very title – "War in Iraq: Not A Humanitarian War" – Roth wants to be perfectly clear about establishing the ontological reality of the war: it is not a humanitarian war. The central criterion that he appears to adopt as the basis for his classification is that the aim and intent of the war were not to prevent genocide, which, for him, is the principle determining factor for what constitutes a legitimate humanitarian intervention. Roth notes (presumably speaking as the director of Human Rights Watch for the entire organization):

> In our view, as a threshold matter, humanitarian intervention that occurs without the consent of the relevant government can be justified only in the face of ongoing or imminent genocide, or comparable mass slaughter or loss of life. To state the obvious, war is dangerous. In theory it can be surgical, but the reality is often highly destructive, with a risk of enormous bloodshed. Only large-scale murder, we believe, can justify the death, destruction, and disorder that so often are inherent in war and its aftermath. Other forms of tyranny are deplorable and worth working intensively to end, but they do not in our view rise to the level that would justify the extraordinary response of military force. Only mass slaughter might permit the deliberate taking of life involved in using military force for humanitarian purposes.

[8] Humanitarian intervention of a non-military aid, such as the provision of food, medicine, or other forms of assistance, can be by invitation of rulers (Kolb 2003: 119).

[9] Lang does note that intent alone is not a necessary condition, but, rather: "a mix of motives, means, and outcomes must all play a role in determining if an intervention is humanitarian or not" (2003: 3).



Roth, thus, sets the threshold for humanitarian intervention as "genocide prevention" – and only that. States and international organizations may only engage in humanitarian intervention reactively, when there is a distinct threat of genocide, or when genocide is actually occurring. What this means is that humanitarian intervention can *never* be justified except in cases of actual or impending genocide. This is an unnecessarily restrictive view of humanitarian intervention. Even though genocide is "the crime of crimes," is it really the case that humanitarian intervention ought to be reserved only for this crime against humanity and this crime alone?

Let us imagine, for a moment, that in the year 1995 Saddam Hussein had decided that each day he would publicly torture fifty children of suspected dissidents, and, afterwards, televise the beheading of ten women suspected of prostitution. Further, let us imagine that in the same year, the world community finally came to a firm determination about what exactly constitutes genocide (there is, of course, no consensus at present), and established a threshold that, if met, would lead to swift and severe humanitarian intervention to stop it. Imagine that, soon after this, Saddam Hussein began a program of mass killing that approached that threshold, but intentionally fell short of it in order to escape the sanction of "humanitarian intervention."

Thus, if genocide prevention were regarded the only acceptable criterion for humanitarian intervention, then whole classes of human rights abuses would be relegated to the margins of concern: the systematic torture and killing of people would be allowable and acceptable, and could proceed without sanction. Even worse, if rulers such as Saddam Hussein were to know what demarcates the threshold of genocide, they would be further emboldened to engage in genocidal actions that approach that threshold, but never actually meet it. Such rulers, who always operate referentially and reflexively in assessing what they think other parties will or will not do in response to their behavior, would know fully that they would be safe from outside intervention – so long as they managed their atrocities within the established parameters of what is acceptable. If Roth's view firmly establishes the principle that only genocide prevention is an acceptable rationale for humanitarian intervention,

then it leaves open the possibility – a possibility that is, actually, all too real in the modern world – for despots and tyrants to violate human rights in any way, shape, or form, as long as they remain under the threshold for humanitarian intervention: rather than acting as an impediment to human rights abuses, such a threshold would actually embolden human rights violators to further violate human rights with impunity.

There is another issue, alluded to above, related to the problematic question of how genocide is defined by the international community. There is clearly no consensus on the issue, but one thing that is clear is that the international community has had a very difficult time defining genocide with enough clarity so that resolute action against it can proceed. The lack of humanitarian intervention in Bosnia and Rwanda was, in large part, a result of the fact that the United Nations – as well as those states that had the power to intervene – could not come to an agreement as to whether these situations were, in fact, instances of genocide. While foreign powers were deciding on this issue – and, for practical reasons, specifically avoiding the use of the term "genocide" whilst doing so – the mass killing continued unabated. In the cases of both Bosnia and Rwanda, this was something of a "green light" to those who were planning to commit genocide, as they recognized that Western hesitation would not lead to intervention. Roth argues that there was no evidence that Saddam Hussein was planning another genocide; this may or may not be true. In 1988, the regime of Saddam Hussein waged the Anfal campaign against the Kurds in Northern Iraq, a planned and systematic program of mass murder, torture, deportation, and cultural destruction. This campaign constituted genocide in the view of Human Rights Watch.[10] After the Gulf War in 1991 and throughout the 1990s, the Iraqi regime engaged in an all-out campaign of devastation against the Ma'dan, or Marsh Arabs, Shi'a Muslims who inhabited the marshlands of Southern Iraq. This campaign was characterized by mass executions, widespread imprisonment, torture, and forced migrations; Human Rights Watch estimates that from an original population of 250,000 in 1991, the population of Ma'dan in their ancestral homelands was reduced to 40,000 by 2003 (HRW 2003). This certainly constitutes a mass crime against humanity, if not, according to standard sociological definitions, a genocidal campaign. So the fact of the matter is that Saddam Hussein perpetrated at least one genocide and another campaign that was, at the very least, genocidal. In his chapter, Roth allows for the possibility that humanitarian intervention might be justified if there were an impending genocide, as was

[10] See HRW 1993 for full report on the Anfal campaign.



the reasoning in considering Kosovo to be a humanitarian intervention (it appeared that Milosevic was planning a repeat of the Bosnian genocide in the fields of Kosovo). I would like to leave open the question of whether humanitarian intervention could be justified, based on a reasonable suspicion that it might occur again. But on the other hand, it seems reasonable, in thinking about whether or not humanitarian intervention is justifiable, to consider that those who have already committed genocide – not once but twice – ought to be considered at danger to commit it again. When coupled with other considerations of gross violations of human rights, this possibility must figure into the equation that assesses the potential for genocide. Another way of putting this might be: why would anyone seriously committed to human rights and genocide prevention want to give a potential *genocidaire* with a track record in committing the crime the benefit of the doubt? Roth's views, in this regard, are very little different than many opponents of the war, who continually gave Saddam Hussein the benefit of the doubt, in spite of his outrageous violations of human rights, acts of genocide, and over-flaunting of U.N. resolutions.

In any case, even if we suspend the question of what constitutes a threat to commit genocide, we are still left with the central question of whether or not humanitarian intervention can be justified in cases of non-genocidal gross violations of human rights.

Roth himself seems aware of the contentions of those who argued that there could be positive human rights consequences to war beyond simply stopping mass killing. He notes:

> Because the Iraq war was not mainly about saving the Iraqi people from mass slaughter, and because no such slaughter was then ongoing or imminent, Human Rights Watch at the time took no position for or against the war. A humanitarian rationale was occasionally offered for the war, but it was so plainly subsidiary to other reasons that we felt no need to address it. Indeed, if Saddam Hussein had been overthrown and the issue of weapons of mass destruction reliably dealt with, there clearly would have been no war, even if the successor government were just as repressive. *Some argued that Human Rights Watch should support a war launched on other grounds if it would arguably lead to significant human rights improvements. But the substantial risk that wars guided by non-humanitarian goals will endanger human rights keeps us from adopting that position.* (Emphasis added)

Roth's argument that other humanitarian rationales were simply not even worthy of addressing is truly remarkable, given the fact that Human Rights Watch has done more than any other international non-governmental organization (NGO) to document the gross violations of human rights in Iraq. Does

it seem too much to ask the very organization that made us aware of such gross violations in Iraq to at least consider other rationales for the war, rather than dismissing them out of hand? Also odd is Roth's concern about the "risk that wars guided by non-humanitarian goals will endanger human rights." It is hard to imagine how leaving Saddam Hussein in power (and substantially emboldened by the appeasement of institutions of global governance, just as he was after the first Gulf War) could in any way not "endanger human rights." And in spite of the fact that the war in Iraq has many negative consequences, it is still hard to imagine that the war has "endangered human rights" more than Saddam Hussein. Perhaps it is the case that, given the chaos of post-war Iraq, Roth could be said to have been astute in his predictions; however, ultimately, this question must be considered from a consequentialist standpoint and can be stated quite simply: is Iraq better off now than it was under Saddam Hussein? Those who argue that it is better off now bear the burden of having to justify their view in light of the physical and human costs of the war and the current problems in post-war Iraq. Those who argue that it was better off under Saddam must bear the burden (and moral consequences) of arguing that any population could be better off under a regime that was, arguably, one of the greatest violators of human rights in modern times.

Putting aside the issue of Roth's dismissal of any humanitarian rationales for a moment, a more central question becomes: why was it the case that the war could never be seen by Roth, or others, as having any positive consequences for human rights? Many in the human rights community were not even willing to entertain the thought. It ought to have been obvious that the most immediate consequence of the war would be the removal of Saddam Hussein and his regime – the central sources of human rights violations; thus, it is hard to imagine that Human Rights Watch, which has probably compiled more damning information on Saddam's crimes than any other organization, could not have recognized this act alone as an ontological improvement in the situation of the Iraqi people. To be fair, Roth and others were most likely concerned about the unpredictable consequences and outcomes of such a war: it would, indeed, cause a degree of chaos and ontological insecurity in Iraqi society, which would lead to negative outcomes.

However, it is seldom the case in revolutions that aim to depose tyranny that a clear vision of the future is articulated at the same time that the fight for liberation is proceeding. The radical British political philosopher Norman Geras has termed the overthrow of Saddam Hussein a revolution; and I substantially agree with his assessment, while stressing that it was a revolution that only could have occurred with decisive intervention by powers greater than those of Saddam Hussein (Geras 2005). It seems, though, as if Roth was



looking well beyond the deposing of the tyrant, and seeing Thermidor, when I would argue that in situations in which the imperative to overthrow a tyranny is as clear as it was in Iraq, the decision not to support the revolution because you see only Thermidor is a mistake. And while opponents of the war would now like to paint a picture of post-war Iraq as Thermidor, it is, in fact, a far cry from that.

Roth notes that he does not mean to ignore the plight of the Iraqi people, in spite of his denial that they ought to be aided:

> In stating that the killing in Iraq did not rise to a level that justified humanitarian intervention, we are not insensitive to the awful plight of the Iraqi people. We are aware that summary executions occurred with disturbing frequency in Iraq up to the end of Saddam Hussein's rule, as did torture and other brutality. Such atrocities should be met with public, diplomatic, and economic pressure, as well as prosecution. But before taking the substantial risk to life that is inherent in any war, mass slaughter should be taking place or imminent. That was not the case in Saddam Hussein's Iraq in March 2003.

But this raises exactly a point that neither Roth nor other opponents of the war have ever really considered: how is it that Saddam Hussein could have been stopped with "public, diplomatic, and economic pressure, as well as prosecution"? The entire history of his regime is, in some ways, a story of victory against such pacific and well-intentioned means. Indeed, he even survived a multilateral war against him in 1991, and further intensified his genocidal policies and gross violations of human rights after his military defeat. The idea that, somehow, Saddam Hussein could be indicted or prosecuted by anybody in the world, all the while enjoying full member status in the U.N. while being treated as a negotiating partner with U.N. bodies and other states, while enjoying the fiscal and material support of powerful U.N. Security Council members such as France and Germany, seems fantastical. Even more fantastical is the idea – very often taken as a matter of faith in the international community – that, somehow, the indictment and/or prosecution of Saddam Hussein by some international tribunal while he was still in power, and being treated as a *bona fide* member of the Society of Peoples, would have any practical positive consequences for human rights at all. Prosecutions do not stop human rights violations; human rights violations are stopped by interventions. Moreover, Roth seems to accept, a priori, that war would have a far worse consequence than allowing Saddam Hussein to remain in power. He argues:

> Another factor for assessing the humanitarian nature of an intervention is whether it is reasonably calculated to make things better rather than worse

> in the country invaded. One is tempted to say that anything is better than living under the tyranny of Saddam Hussein, but unfortunately, it is possible to imagine scenarios that are even worse. Vicious as his rule was, chaos or abusive civil war might well become even deadlier, and it is too early to say whether such violence might still emerge in Iraq.

On this view, the immediate consequence of removing one of the most heinous violators of human rights from power is subordinated to some greater concern that the situation might worsen after his removal. To some extent, Roth's logic is vindicated by some of the negative outcomes since the war: Islamist fundamentalist resistance, the rise of factionalism, and the fractious nature of emergent politics. But of course, these outcomes – which are very real, and, which were to be expected – must be offset by considering some of the positive outcomes of the war, outcomes that are seldom acknowledged by critics who wish to see the war in the most negative terms possible in order to vindicate their original position against it. In any case, it can by no means be ascertained now that chaos or abusive civil war has been the dominant result of the war, even though we are disposed by negative media coverage to see it that way. The mishandlings of the post-war situation by the Bush Administration were many: too few soldiers were used, there was no plan for winning the peace, that policing was carried out by soldiers who were not trained as policemen. The latter, though, were not in any way determined to happen – but, to the detriment of the Iraqi people, they did; while they have watered down some of the more idealistic expectations of Iraqis, they have not extinguished them.

Finally, in his chapter, Roth holds to the conventional wisdom of the international community (and of the human rights community as well) that, somehow, international law is the best hope for the protection of human rights. Clearly, this is neither a view that the majority of Bosnian Muslims, Rwandan Tutsi, Kosovar Albanians, or Afghanis under the Taliban (or numerous other people in other extreme situations of danger who require rescue) would have taken at the time when they were subjected to crimes against them, nor is it a position that survivors would take now. In each of these cases, those who were victims of genocide and gross violations of human rights begged for deliverance from the institutions of global governance, and, to this day, resent that it was not provided for them. (Indeed, as I have discovered in Bosnia, much of the post-conflict resentment is directed not only towards perpetrators, but also towards those who knew what was going on and did nothing to stop it: a phenomenon that I refer to as "nested resentments.") For it was precisely under the cover of international law that many of the gross violations of the human rights of these peoples were allowed to occur.



The very fact that so many people found some justification for the interventions in Bosnia and Kosovo – even though they were technically outside of the bounds of international law – means that we ought to apply the same logic to the Iraq war. As mentioned, the argument that motive and intent are the most important criteria for considering whether a war is humanitarian is not valid. Rather, some consideration of the moral and ethical consequences of the war must also figure into the equation. For many of those who supported the war on human rights grounds (an admittedly small group), the rationales provided by the Bush Administration were deeply problematic, and, in fact, made support of the war (in any form) a difficult choice to make. But one common thread that united such people was the ability to see that, beyond the failures of ideological justifications, and beyond the failures of institutions of global governance and international law, one had to consider the likely positive consequences of the war; and upon such balance, many of those who supported the war felt that the positive consequences and benefits for the Iraqi people potentially outweighed the negative costs. Even more importantly, many of those who supported the war on these terms did so with conscious recognition that it was not they alone who were making the cost-benefit determination, but the Iraqi people. We who supported the war were, first and foremost, ethnographers of the conscience and desire of the Iraqi people, as well.

## The Human Rights Case for the War in Iraq: A Consequentialist-Sociological View

In what follows, I would like to offer something of a phenomenological journey, which gives those who might be puzzled by the strange and dissident view of the human rights case for the war some sense of what we who made this case felt and experienced as we faced the impending war and eventually made our stand in support of it. For those of us liberals who supported the war in Iraq, one of the principal reasons for doing so was to express solidarity with the Iraqi people. On the eve of the war, it was clear to many of us – mostly through networks of displaced Iraqis and other information emanating from Iraq, as well as site visits to various places in Iraq and extended conversations with Iraqis – that the majority of Iraqi people wanted to see Saddam Hussein deposed, and were quite open about the means by which to achieve that end.[11] In short, it seemed to us that the principal ethnographic reality was that most

[11] Two clear examples of this solidarity can be found in Faber 2005 and Clwyd 2005.

Table 3.1.

From today's perspective and all things considered, was it absolutely right, somewhat right, somewhat wrong, or absolutely wrong that the US-led coalition forces invaded Iraq in Spring 2003?

| | Count | % | Combined % |
|---|---|---|---|
| Absolutely right | 520 | 22.5 | |
| Somewhat right | 759 | 32.8 | 55.2 |
| Somewhat wrong | 343 | 14.8 | |
| Absolutely wrong | 694 | 30.0 | 44.8 |
| TOTAL | 2316 | 100.0 | 100.0 |

*Source:* Oxford Research International, February 2004.

of the Iraqi people supported the war as a means of liberation from tyranny. In the years before the war, it had been very difficult to get any valid or reliable surveys of opinion from Iraq; so, ethnographic sensibilities were extremely important, if not somewhat tentative and risky.

Yet, in the months following the war, new survey research seemed to confirm on a more general level, the supposition that most Iraqis supported the war and wished to see Saddam Hussein deposed, according to Oxford Research International, which has commissioned and carried out five waves of systematic social research on the opinions and attitudes of the Iraq people in the post-war situation. The results of this survey, overall, show that that, in spite of the costs of the war, problems with insurgencies, and the humiliating experience of occupation, a majority of surveyed Iraqis supported the war.[12]

As Table 3.1 shows, in February of 2004, almost one year after the war and occupation, 55.2 percent of Iraqis felt that the war was absolutely right or somewhat right, while 44.8 percent felt that it was somewhat wrong or absolutely wrong. In addition, in contrast to the negative imagery that was the mainstay of the Western press regarding Iraq, in February 2004, there was

[12] All of the data presented in this chapter in the form of tables are taken from Oxford Research International's National Surveys of Iraq in February and June of 2004. These full reports, as well as the results of surveys prior to February and ongoing future reports of successive waves of research can be found at: http://www.oxfordresearch.com/publications.html. These reports are rich with data about all aspects of Iraqis' lives, and I have drawn selectively from them to illustrate patterns of public opinion that favor a humanitarian argument for the war and the results that I present here must be compared with ongoing events in Iraq and future surveys that will have been published by the time of this chapter appearing in print. I gratefully acknowledge the work of Oxford International Research, and permission to use their data in this chapter.



Table 3.2.

Overall, how would you say things are going in your life these days – very good, quite good, quite bad, or very bad?

| | Count | % | Combined % |
|---|---|---|---|
| Very good | 355 | 13.5 | |
| Quite good | 1501 | 57.2 | 70.7 |
| Quite bad | 376 | 14.3 | |
| Very bad | 392 | 15.0 | 29.3 |
| TOTAL | 2624 | 100.0 | 100.0 |

*Source:* Oxford Research International, February 2004.

a rather remarkable optimism about the present and future among Iraqis. Table 3.2 indicates that 71 percent of Iraqis felt that their lives at the time were very good or quite good, as opposed to 29 percent of Iraqis who felt that things were quite bad or very bad.

Table 3.3 shows that, in comparison with their lives a year before the war, 57 percent of Iraqis felt that things were much better or somewhat better overall in their lives, 24 percent felt that things were about the same and only 19 percent felt that things were somewhat worse or much worse.

And what is most striking is the overwhelming sense of optimism expressed by Iraqis about the future. As Table 3.4 indicates, a huge majority of Iraqis, 82 percent, felt that things overall in their lives would be much better or somewhat better a year from February 2004. It is vital to stress that these measures of optimism occur in a post-war, occupation situation, rife with violence,

Table 3.3.

Compared to a year ago, I mean before the war in Spring 2003, are things overall in your life much better now, somewhat better, about the same, somewhat worse, or much worse?

| | Count | % | Combined % |
|---|---|---|---|
| Much better now | 581 | 22.3 | |
| Somewhat better | 917 | 35.1 | 57.4 |
| About the same | 618 | 23.7 | 23.7 |
| Somewhat worse | 338 | 12.9 | |
| Much worse | 156 | 6.0 | 18.9 |
| TOTAL | 2609 | 100.0 | 100.0 |

*Source:* Oxford Research International, February 2004.

Table 3.4.

| What is your expectation for how things overall in your life will be in a year from now? Will they be much better, somewhat better, about the same, somewhat worse, or much worse? | | | |
|---|---|---|---|
| | Count | % | Combined % |
| Much better | 975 | 42.2 | |
| Somewhat better | 911 | 39.4 | 81.5 |
| About the same | 250 | 10.8 | 10.8 |
| Somewhat worse | 86 | 3.7 | |
| Much worse | 91 | 3.9 | 7.7 |
| TOTAL | 2312 | 100.0 | 100.0 |

*Source:* Oxford Research International, February 2004.

social, political and economic problems, and are even more astounding in that light.

A few months later, in April of 2004, the Roper Center for Public Opinion Research surveyed Iraqis and found that more than a year after the war and occupation, 61 percent of Iraqis said that in spite of the hardships they had endured under war and occupation, ousting Saddam Hussein was worth it, while only 28 percent felt that it was not. As Table 3.5 shows, there are regional and religious variations, but still a quite sizeable majority, even in the face of the hardships of war, felt that the removal of Saddam was a positive event (and this view did not change hardly at all in Baghdad from April 2003 to April 2004).

Another fascinating finding of the February 2004 survey by Oxford International Research, shown below in Table 3.6, is that about half of Iraqis felt that the U.S.-led coalition force liberated Iraq, while about half felt it humiliated Iraq.

Table 3.5.

| Thinking about the hardships you might have suffered since the invasion, do you think ousting Saddam Hussein was worth it? | | | | |
|---|---|---|---|---|
| | All(%) | Baghdad | Baghdad 2003 | Shiite Areas |
| Yes, was worth it | 61 | 57 | 62 | 74 |
| No, was not worth it | 28 | 38 | 30 | 17 |

*Source:* CNN?USA Today/Gallup Poll, provided by the Center for Public Opinion Research, April 2004.



Table 3.6.

| Apart from right and wrong, do you feel the US-led coalition force invasion: | | |
|---|---|---|
| | Count | % |
| Humiliated Iraq | 1093 | 49.7 |
| Liberated Iraq | 1109 | 50.3 |
| TOTAL | 2202 | 100.0 |

*Source:* Oxford Research International, February 2004.

It is important to note that many Iraqis are of two minds about the war: they see it, simultaneously, as an act of liberation and – especially in the occupation phase – of humiliation. Most observers of the war have not been able to grasp the fact that these two feelings of the war could coexist; but in each case, the existence of the two attitudes is explainable in relation to the social-structural sources that have given rise to them: gratitude for relief from totalitarian domination in the case of the experience of liberation, and suspicion and resentment about the imposition of a new regime of occupation over which the average person had little control.

Although there is no systematic data before the war, or immediately after, one might hypothesize that these numbers of supporters and those who experienced the war as liberation might have been even higher. In any case, such survey results have not enjoyed wide attention in Western publics, and contradict the narrative of negativity about the war and the views of the Iraqi people, which was a convenient narrative for those who were against the war in seeking to delegitimate it.

Lest I paint too optimistic a scenario, though, it is important to note that as the post-war situation deteriorated, mostly due to the violence of the insurgency and the lack of security, the views of Iraqis changed considerably by June 2004, which is the latest survey research published by Oxford Research International by the time of this writing. The views of Iraqis began to become increasingly negative. Table 3.7 indicates that only four months later, 41 percent of Iraqis felt that the war was absolutely right or somewhat right, while 59 percent felt that it was somewhat wrong or absolutely wrong.

Still, Iraqis maintained a clear sense that things were still going well for them and expressed a rather strong degree of optimism about the future. Table 3.8 shows that 55 percent of Iraqis still felt that their lives were very good or quite good (and the majority of 43 percent still perceive life as "quite good"), while 45 percent felt that things were quite bad or very bad.

Table 3.7.

From today's perspective and all things considered, was it absolutely right, somewhat right, somewhat wrong, or absolutely wrong that the US-led coalition forces invaded Iraq in Spring 2003?

| | Count | % | Combined % |
|---|---|---|---|
| Absolutely right | 373 | 13.2 | |
| Somewhat right | 782 | 27.6 | 40.8 |
| Somewhat wrong | 728 | 25.7 | |
| Absolutely wrong | 947 | 33.5 | 59.2 |
| TOTAL | 2830 | 100 | 100.0 |

*Source:* Oxford Research International, June 2004.

Table 3.9 shows a decline in well-being in comparison with one year before, with 44 percent of Iraqis feeling that they were better off, 32 percent felt that things were about the same, and 25 percent indicated that things were somewhat worse or much worse.

Finally, Table 3.10 indicates a persistent optimism among the Iraqi people: 64 percent of them had the expectation that things overall in their lives would be much better or somewhat better, 18 percent expected that they would be about the same, and 19 percent felt that things would be somewhat worse or much worse.

So there is clearly some decline in Iraqis' perceptions of the war and their lives, but nonetheless, the data indicate overall that many Iraqi people express positive opinions about their lives and futures, even in the midst of the chaos of the post-war period. The decline from February to June is mostly due to concerns about security and the coalition forces' sometimes gross

Table 3.8.

Overall, how would you say things are going in your life these days – very good, quite good, quite bad, or very bad?

| | Count | % | Combined % |
|---|---|---|---|
| Very good | 373 | 12.5 | |
| Quite good | 1281 | 42.8 | 55.3 |
| Quite bad | 866 | 28.9 | |
| Very bad | 472 | 15.8 | 44.7 |
| TOTAL | 2993 | 100.0 | 100.0 |

*Source:* Oxford Research International, June 2004.



Table 3.9.

Compared to a year ago, I mean before the war in Spring 2003, are things overall in your life much better now, much worse, somewhat better, about the same, somewhat worse, or much worse?

| | Count | % | Combined % |
|---|---|---|---|
| Much better now | 347 | 11.8 | |
| Somewhat better | 933 | 31.8 | 43.6 |
| About the same | 922 | 31.5 | 31.5 |
| Somewhat worse | 538 | 18.4 | |
| Much worse | 190 | 6.5 | 24.9 |
| TOTAL | 2931 | 100.0 | 100.0 |

*Source:* Oxford Research International, June 2004.

mismanagement of the occupation. Such events as the Abu Ghraib prison abuses could only work against the view of the war as a humanitarian venture. In the June survey of public opinion, 67 percent of Iraqis were surprised by the revelations of human rights abuses at Abu Ghraib, while 33 percent were not surprised. Nonetheless, most Iraqis do not feel that this was a matter of systematic policy of the U.S. government, nor do they think that it is at all morally comparable to the practices of Saddam's regime; 54 percent of Iraqis felt that the abuse of prisoners at Abu Ghraib were carried out by fewer than 100 people, while only 26 percent felt that more people were involved, and a scant 20 percent thought that the behavior of soldiers at the prison indicated that the entire United States was like this (ORI 2004: 31). The majority of

Table 3.10.

What is your expectation for how things overall in your life will be in a year from now? Will they be much better, somewhat better, about the same, somewhat worse, or much worse?

| | Count | % | Combined % |
|---|---|---|---|
| Much better | 724 | 27.4 | |
| Somewhat better | 967 | 36.6 | 64.0 |
| About the same | 463 | 17.5 | 17.5 |
| Somewhat worse | 335 | 12.7 | |
| Much worse | 155 | 5.9 | 18.6 |
| TOTAL | 2664 | 100.0 | 100.0 |

*Source:* Oxford Research International, June 2004.

Iraqis do not think that the Abu Ghraib scandal was a systematic policy of the U.S. administration, even though Abu Ghraib has been cited extensively by anti-war opponents as a violation of *jus post bellum* ethics, which they call upon to question the *just ad bellum* justifications for the war. Unlike most opponents of the war, an overwhelming 76 percent of Iraqis felt that the human rights abuses at Abu Ghraib would make no difference to the future of Iraq, except to increase hatred and negative perceptions of Americans (ORI 2004: 32).

It is clear from survey results that many Iraqis would like the occupation to end and for coalition forces to leave. In June 2004, 34 percent felt they should leave now, although most felt that they should stay for varying time periods, with 28 percent believing they should not leave until a permanent government is in place (ORI 2004: 34). Even so, this desire does not mitigate a desire for democracy on and to take control of their own destiny: a sentiment which is entirely in keeping with the human rights case for the war – a case which has never been about imposing a regime of rights on the Iraqi people, but which has always valued the restoration of their sovereignty, agency, and right to self-determination.

In the wake of the war – with rising discontent about the war and increasing resistance – it is clear that public opinion in Iraq in favor of the war began to change. Yet, from the existing survey data that we have – which, though quite substantial, is seldom referred to in discussions of the war – we can discern that this was consequential to the failures in administration and management of the occupation, rather than attributable to a fundamental realignment of an original position of moral support for the war.

These facts about public opinion confirm, for me, the rightness of my initial stance of support for the war as an act of solidarity with the majority of the Iraqi people. One of the most troubling aspects of the response to the war, however, is that many people who were against the war simply ignored such public opinion, or – even worse – distorted it to serve their own anti-war positions. The dominant concern, at least of the more pacifistic anti-war forces, was for the number of civilians who would be killed in the war. Although this is a legitimate concern, it was often expressed without consideration of the actual wishes and desires of the majority of the Iraqi people: their collective public opinion has indicated that they were willing to suffer a certain degree of short-term pain for the more pleasurable outcome of liberation from over thirty years of despotism, and the more enduring prospect of achieving some measure of collective happiness from a democratic future. In short, a determination of whether the war was just has been based not on a sterile, utilitarian calculus made from the outside, but a consideration of the moral calculus used



by the Iraqi people themselves, which has been made apprehensible through the tools of social-scientific research.

This positive public opinion of the Iraqi people toward the war was a kind of moral capital of which the Bush Administration – in offering its rationales for the war – never failed to squander. It is, indeed, one of the great failures of the administration of the post-war occupation. For if it could be ascertained and documented that the Iraqi people were in favor of the war, and this fact had been stressed by the Bush Administration, it would have made the case all the more compelling from a human rights perspective. The result, in my opinion, is that more liberals, who were generally against the war, might have been inclined to support it on traditional liberal internationalist grounds. In my experience, liberal-humanitarians are united by a strong sense of solidarity with the weak. While many of us did not expect George W. Bush to take a strong stand on human rights, many of us felt disillusioned by the fact that our left-liberal colleagues not only did not stand in solidarity with the Iraqi people against Saddam, but also turned steadfastly against the war and left the Iraqi people to the vicissitudes of their dictator and the ethically challenged system of international law. Left-liberals who had so long championed resistance to tyranny and fascism in, say, Latin America, South Africa, and elsewhere, as well as resistance to imperialism throughout the twentieth century, suddenly found themselves enthralled with the empire of international law, the neo-imperial machinations of France and Germany, and the inclination to reduce the entire war to a reductive Marxist scheme of "blood for oil" or the "quest for American empire." The result was a distantiation from the very ethical principles that are the core of liberal internationalism: solidarity with the weak, anti-fascism, anti-totalitarianism, and the fundamental principles of human rights. Only a small handful of liberals were making the argument that we ought to consider the public opinion and desires of Iraqis as a central aspect of our positions on the war. The imperative of solidarity with the weak became invisible, masked by concerns about international law, the motivations of George W. Bush, and the fear of American empire – anything else but the elemental sense of solidarity with the oppressed, which, for me, is the defining characteristic of liberal conscience.

A human rights case for the war has depended, fundamentally, on imagining both the consequences of not going to war, and of the war itself. The consequence of not going to war would have been the appeasement of Saddam Hussein and a toleration of brutality of his regime. The consequence of not going to war would have been to allow international law to become a tool of tyrants who have a keen sense of how to manipulate the Western (and, especially, the European) desire for peace at all costs. The consequence

of not going to war was to seriously jeopardize the legitimacy of the United Nations and its central decision-making apparatus, the Security Council. The consequence of not going to war would have been to confirm the very fact that the ethical basis of the entire global order – the U.N. Declaration of Human Rights – was, for the Iraqi people, a meaningless rhetorical charade.

This does not mean that most of those who supported the war on the liberal grounds, which I have laid out here, made this decision lightly. As I have noted, the decision to support the war – at least in my case – was made with the conscious knowledge that the Iraqi people were looking to the West for deliverance and that – flawed though war is as a means to this end – a war promised them that, at least in the short run. Let us imagine for a moment that the Iraqi people are agents who desire to make a revolution against their dictator. Furthermore, as educated people, they are fully aware that many people in the rest of the world enjoy human rights and freedoms, which they have been denied. These agents are also fully aware that many of the world's most powerful states have previously aligned themselves – for *realpolitik* reasons – with their oppressors, while at the same time continuing to hold onto the possibility that it will not always be that way. Now, let us imagine that these very same people get wind of the fact that the American president, with several key allies, is now set to depose their dictator: that is, is willing to assist them in their revolution. They also recognize that various other powerful states, such as France and Germany, are allied against the American president, and, therefore, against them. They have little or no faith in a system of international law that, although promising them great things, has never actually delivered them much of anything, except toleration of their oppression, and economic sanctions, which hurt them, but, actually, empowered their oppressor both financially and politically. In this scenario, the American president and his allies are really the only means by which these oppressed people can reclaim their agency and the ability to reclaim their own sovereignty. They would like to do it another way, but they have no other choice. They realize that war will bring with it the dissolution of a certain way of life, ontological insecurity, the deaths of innocents, the destruction of economic and material infrastructure, in short, a degree of certain pain. But, at the same time, these people have already experienced a level of pain accrued from living for over thirty years in a totalitarian regime that had few equals in history. They imagine a future, even an imperfect one, in which they are liberated from their oppression and empowered as agents to choose their own destiny. They are not specifically asking to be given a specific set of rights, or a particular kind of political or economic system, but to be given the possibility to act as autonomous agents to choose their own destiny



and self-determination – a possibility that had previously been denied them. They do not want to become America, or a colony of America, but a free Iraq.

In this situation, there can be no legitimate reason to deny these people the right to assistance and rescue, and by way of that, the right to claim their human status as free and autonomous agents. In his recent work on human rights, Michael Ignatieff makes an important reformulation of what he had considered to be the central goal of the human rights movement. He notes that fostering human rights is not so much the act of giving specific rights, but allowing people the agency to claim those rights that they desire. Ignatieff notes:

> Human rights matter because they help people to help themselves. They protect their agency. By agency, I mean more or less what Isaiah Berlin meant by "negative liberty," the capacity to achieve rational intentions without let or hindrance . . . Human rights is a language of individual empowerment, and empowerment for individuals is desirable because when individuals have agency they can protect themselves against injustice. Equally, when human beings have agency, they can define for themselves what they wish to live and die for. In this sense, to emphasize agency is to empower individuals, but also to impose limits on human rights claims themselves. To protect human agency necessarily requires us to protect all individuals' right to choose the life they see fit to lead. . . . In this way of thinking, human rights are only a systematic agenda of "negative liberty," a tool kit against oppression, a tool kit that individual agents must be free to use as they see fit within the broader frame of cultural and religious beliefs that they live by. (Ignatieff 2001: 57)

Ignatieff's view of "human rights as agency" is an important amendment to the usual view of human rights as a kind of "gift" given by the strong to the weak. Its importance lies in the fact that it tames the missionary zeal that characterizes so much of the human rights movement, and, which has caused people, at various times and places, to insist that people be given rights, regardless of whether they – *as agents* – actually desire them. Ignatieff is perfectly clear that in some cases – in traditional Muslim societies, for example – the ideal of the total equality of women and men is something that the vast majority of people in such societies do not want. Any attempt to give them such rights over and against their wishes is a form of "human rights imperialism," better, to be sure, than other forms of more retrograde imperialism, but imperialism all the same. Rather, what is given to them is the agency to choose for themselves, even if this choice means that they do not choose the entire panoply of rights at their disposal. In this sense, humanitarian intervention, far from being a simple reaction to managing the consequences of tyranny, is a more proactive exercise in "negative liberty,"

an act, even, of what might be called "negative liberation" in the service of human agency.

Ignatieff's view is important for making the human rights case for the war in Iraq, because, in this case, it was clear that the majority of the Iraqi population 1. wanted to be free of Saddam's tyranny and 2. remain committed to the project of liberation and self-determination and 3. wanted to claim certain human rights as free agents but 4. were denied that agency by various forces, among them: Saddam's own repression; the mechanisms of international law, which denied intervention except on grounds of genocide; and the *realpolitik* machinations of certain great powers – France, Germany, Russia, for instance – that had much to lose if Saddam were to be deposed. The current scandal about the U.N. Food-for-Oil program and the material interests of several nations that opposed the war is something that must also be considered as a factor in our consideration as to whether the Iraqi people were better off consequentially under a regime of international organization or as a result of unilateral intervention. These various structural forces directly repressed the autonomy of the Iraqi people as agents who could claim the rights entitled to them, in principle, by the U.N. Declaration of Human Rights. In this respect, the war was justifiable on the simple grounds that it opposed the internal and external sources of constraint that affected the ability of the Iraqi people to act as agents. The war is then not so much about giving the Iraqi people specific rights, but allowing them as agents to construct a situation in which they can claim those rights that they freely choose as a democratic society. Of course, according to this view, if we see the war in Iraq more centrally – as the provision of agency to the Iraq people – then we must, necessarily, allow them to choose their own destiny, even if that destiny is not entirely in keeping with the vision of what the "victorious power" would like to see. The American-led coalition is an occupying force, which has led some to make the charge that it is an imperial venture. Yet, at the same time, the restoration of sovereignty and the provision of security whilst Iraq forges out something resembling a democracy, surely indicates that, unlike the empires of old, the current venture is more in keeping with the principle of self-determination and the allowance for a collective expression of the agency of the Iraqi people than it is the strict imposition of an imperial design. To the extent that the occupation is anything more than that, it is not a success as a "humanitarian intervention" as I have redescribed that phenomenon here. In sympathy with those who still oppose the war on the grounds that it does not really establish true agency and autonomy to the Iraqi people, I would myself want to keep a close eye on events, all the while keeping alive a spirit of liberal hope that the history of Iraq over the next few years should show those suspicions to be without merit.



## Concluding Remarks

Having made this elemental human rights case for the war, it is necessary to self-critically point out the shortcomings of it, as a way of further engaging with those who might not agree with it. In this case, there may be some common issues of concern to share with those who are critical of my arguments. I end by raising a series of questions and providing some commentary.

Are war and violence the best means by which to promote solidarity with oppressed peoples? No. The decision to go to war, as Kant himself noted, means that the structural processes, which have developed in the "civilized world" to avert war, are flawed and in need of correction. Those who share a concern for the illegality of the war according to international law, or who fear the idea of preemptive war, are legitimately committed to the Kantian idea of reason in global affairs. Yet, at the same time, they have failed to understand the limits of their own rationality as a means to counter the irrationality and persistent tenacity of human right abuses in the modern world. The question that the war raises for the future of global governance is quite simple: does the political will exist at the United Nations to seriously take on and address human rights issues, despotism, and tyranny in ways that will avert future wars? Those hold their faith in the United Nations as the "last best hope of mankind" must ask themselves that question in light of some of the arguments presented in this chapter. One positive consequence of the war in Iraq, which would have significance, more generally, for the future of global governance, is that it forced a consideration of reforms in international law and international institutions, which might mitigate future possibilities of such events occurring again. Whether there is any optimism about that possibility is a matter for further discussion.

Does the decision to label the Iraq war a humanitarian war on consequential grounds jeopardize future humanitarian interventions, which are more in line with the conventional wisdom of humanitarian intervention as rescue from genocide? No, because it is quite conceivable that the institutions of global governance could be highly successful in the future in intervening to prevent genocide, without any reference at all to the case of Iraq. The case of genocide in Darfur, Sudan, offers some hope that some consensus on the reality of genocide there can be forged while the genocide is actually going on, rather than in an ex post facto way that leaves thousands of people dead and generates the weak and self-serving apologies rendered by those who failed to act. It is quite conceivable that the world community, working through the United Nations, could multilaterally decide to intervene in Sudan to stop the mass killing there, although at the time of this writing, it appears that the same old pattern of avoidance, negotiation, and considerations of *realpolitik* will win

the day and we will find ourselves, in five years' time, asking the same question that we ended up asking about Bosnia or Rwanda: how did we let it happen? There is a time when the rhetoric of "never again" becomes tiresome in light of the failure of any appreciable social-structural changes to redress the fact that – over and over again – the institutions that are designed to protect and foster human rights have failed in the worst ways imaginable.

Does the decision to go to war in contravention of international law mean that a plethora of similar "humanitarian interventions" of a bogus nature will be unleashed by powerful actors who claim to be acting in the interests of humanity, but actually have imperial or other less idealistic ambitions? Possibly. But, not necessarily. The possibility of this happening ought to be seen in light of an actual consideration of the historical record and there is no evidence that would warrant making the determination that any unilateral intervention, including that in Iraq, has or will lead to the increased incidence of bogus humanitarian wars. Of course, because I do not consider the claim that the Iraq war was a bogus humanitarian war to be valid, I do not see it as a threat in this sense.

Finally, one might raise the question: if the threshold for humanitarian intervention is lowered from the conservative principle of "genocide prevention only," who is to decide what that threshold is? And where to apply it? To be sure, it is worrisome to imagine that the threshold for humanitarian intervention could become entirely subjective and, perhaps, a product of the caprice of powerful states. In the case of Saddam Hussein's Iraq, those of an authentic liberal-humanitarian disposition ought to argue, in the face of more than thirty years of brutal repression, crimes against humanity, and genocide in Iraq that the regime deserved more than a response of willful indifference, capitulation, and appeasement on the part of the liberal-humanitarian community.

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