



“The Right to Have Effective Rights”, Michael Walzer

If we assume that human beings have rights, whatever our disagreements about the extent of those rights, and even if the list is very short, it must follow that these rights ought to be defended. If people have rights, then they have a right to have effective rights. What is the content of this right, which rides on the back of all the others? Rights-bearers are entitled to rights-enforcement, which means that they are entitled to have an agency working on their behalf to enforce their rights. But aren't they themselves responsible for the establishment of this agency? We can think of the state as the primary agent of rights-enforcement, and the state is created, according to one widely accepted political theory, precisely for that purpose by its future members. We the citizens, defending our life and liberty, authorize this state and this government to act as our agents in our defense. And if the state and the government fail to do that, aren't we the citizens still responsible for dealing with the failure?

But sometimes states are seized by tyrants, who kill, torture, and persecute their own citizens (or subgroups of their own citizens); and sometimes states simply collapse, giving way to warring and predatory gangs. In these circumstances, it is hard to hold citizens responsible for re-establishing the state in its proper role. They may well be incapable of doing that, for they are not active citizens now but simply victims. So what does the right to have effective rights mean in those circumstances? Who is responsible for the enforcement of rights when the state is no longer an instrument in the hands of its citizens?

The first thing to say is that UN agencies that monitor violations of human rights, and organizations like Human Rights Watch that watch and report on violations, don't make for an adequate response to this question. Their work is important but it isn't effective on the ground. Publicity about and moral condemnation of rights violations are certainly necessary, but if our lives are at risk we are likely to think that we are entitled to something more. Again, if we have a right to life then we have not





only a negative right not to be killed but also a positive right to be protected against murderers.

This positive right justifies or, better, requires, humanitarian intervention to stop massacre and ethnic cleansing. When everything else has failed, and mass murder is in progress, then the use of force is just and necessary. Ideally, every such use should be authorized and organized by the UN Security Council, and we should work to make sure that the Security Council can be counted on in a crisis. But right now, it can't be counted on. Given the many ways in which the UN falls short of a world government, given its domination by states pursuing their national interests, the failure of the Council to act simply passes the obligation on to any state or regional association of states that is capable of stopping what needs to be stopped. The people being killed or threatened with massacre have a right to be rescued by whoever is capable of rescuing them.

But the right to have effective rights, even against one's own state, doesn't spring into existence only in moments of political crisis and humanitarian emergency. It has a more ordinary meaning, which is harder to describe than the use of force in a crisis but, perhaps, easier to realize in practice. In the world as it is currently organized, effective rights depend on an effective state. But this must also be a decent state, committed to defending the rights of its citizens. States of this sort don't wait for crises; they act in anticipation of rights violations, establishing a police force and a public health service, for example, barring child labor, passing minimum wage laws, and so on. Similarly, the UN and the society of states should not wait for crises; they should act in advance to prevent state failure and tyrannical abuse.

They will have to act within the limits of political sovereignty and territorial integrity. But there is still a lot of room for action, especially since much of the action that is morally and politically necessary is negative in form. Tyrants are often aided and abetted by external supporters, by foreign states that hope to bribe the tyrant (often with advanced military technology) and then profit in ways that more responsible





governments would not allow. And state failure is often exploited by multinational corporations seeking advantageous deals with faltering governments or local war lords. Not aiding and abetting tyranny, not exploiting political weakness: this doesn't quite count as the enforcement of human rights, but it definitely would help to prevent or reduce the incidence of rights violations. We can think of these negative actions as implementing the human right to have effective rights, which means to have an effective and decent state. A number of other actions, positive and negative, would serve the same purpose: economic and political assistance to decent governments in trouble, fair trade practices, boycotts and embargoes directed against brutal and repressive regimes, and international reconstruction programs ("state-building") after state collapse.

The right to have effective rights isn't necessarily a "statist" doctrine. It can be implemented or enforced by a wide variety of agents, including sub-state associations (like vigilante groups on the American frontier) and regional unions (like the EU) and the police and courts of a future global regime. At this moment, however, the state is the preferred agent—first, because it is the most available agent and, second, because it is the agent most likely to be subject to democratic control. That's why the right to have effective rights is best expressed, now, as the right to have an effective and decent state. This right matters most to people, like the Kurds and the Palestinians, who don't have any sort of state, but it also matters a great deal to the much greater number of people whose states are ineffective or indecent, chaotic or murderous. It is an international obligation to help these people find the protection to which all human beings are entitled.

