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In Defense of the *Responsibility to Protect*: A Response to Weissman

JOHN J. DAVENPORT*

This article defends the Responsibility to Protect (R2P) doctrine (adopted by the United Nations in 2005) against critiques by Fabrice Weissman in this journal, and against similar criticisms of humanitarian intervention and human rights norms made by postmodern thinkers in the Nietzschean tradition, such as Alain Badiou and Anne Orford. I argue against Weissman that R2P can be effective in stopping or preventing mass atrocities, and in particular that opposition to military intervention in Syria during the 2013 debates was a terrible mistake. Moreover, the moral ground for humanitarian aid efforts is the same as the basis for forceful rescue from mass slaughter, ethnic cleansing, and persecution (when other conditions of just war can be met). Weissman's critiques misinterpret just war theory on key points and rely on inflated rhetorical strategies inspired by extreme forms of cultural and moral relativism that are intellectually bankrupt—both in blaming “Western imperialism” for most crimes against humanity committed by tyrants, and in leaving hundreds of thousands without the only protection that could prevent their murder and exile. These extreme positions and the strained rhetorical devices used to defend them do not deserve the wide respect they command in some parts of academia.

Keywords: Responsibility to Protect (R2P), Fabrice Weissman, human rights, humanitarian intervention, Alain Badiou, Michel Foucault, Carl Schmitt, Syria, Jürgen Habermas, humanitarianism, Anne Orford, Eric Reeves, Doctors Without Borders (MSF)

Five years ago in this journal, Fabrice Weissman of Doctors without Borders contributed an article titled “‘Not in Our Name’: Why Médecins sans Frontières Does Not Support the ‘Responsibility to Protect.’”¹ Weissman’s essay

exemplifies a tendency in recent sociological and ethical studies of humanitarianism and war to critique human rights norms and efforts to enforce them by invoking forms of cultural relativism and hermeneutics of suspicion that derive from Michel Foucault, Carl Schmitt, and other postmodern thinkers, as if their extreme claims were evident truisms. It is important to respond to Weissman’s arguments

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because they showcase the intellectual bankruptcy of these influential ways of conceiving moral and political issues, which become conceptually self-defeating when they reject the bases of human rights. This approach exhibits a kind of narcissism that supports itself by one-sided, selective, and distortive representations of the complexities faced by any serious effort to coordinate political powers to prevent or end mass atrocities. Such self-congratulatory rhetorical indulgences have never helped a single victim of tyranny or crimes against humanity, but they sap our already-weak will to stand up to mass evils with force when necessary. In this article, I will respond in kind: in my view, the intellectual vices evident in Weissman's article deserve excoriation; we can no longer afford to tolerate amiably his kind of high-handed irresponsibility.

In exposing these vices, I will address Weissman by name, rather than Doctors without Borders/Médecins sans Frontières (MSF), because it is unclear whether Weissman speaks officially for MSF in his essay—and I want to give them the benefit of the doubt.² For I recognize MSF as a medical organization with a particularly strong reputation for supporting human rights, at the constant risk of its own doctors and staff—as seen recently in the tragic deaths of 14 MSF personnel in Kunduz, Afghanistan, in a mistaken US helicopter attack on their building. Major humanitarian aid organizations like MSF, Oxfam, Care, Catholic Charities, UNICEF, and others coordinate massive efforts of many thousands of individuals who are motivated primarily by ethical callings to direct hundreds of millions in aid money to meet crisis needs, build sustainable communities, and deliver essential

services to people in some of the poorest or most war-wracked places on Earth. It may thus come as a shock that there is now an entire genre of work inspired by Foucault and Foucaultian brands of “postcolonial studies” that doubts the evident motives and functions of such aid organizations, construing them instead as mainly industries devoted to their own enlargement, or driven by delusions of cultural superiority.³ While the power of such organizations within nations they serve can raise ethical issues, especially when they play roles that ought ideally to be fulfilled by a more democratic system answerable to people in these nations, they are hardly structural forces of domination bent on Western hegemony.⁴ It may be partly because of this recent theoretical assault on “humanitarianism” that some philosophically inclined leaders within large aid charities are interested in distancing themselves from the ideals of universal human rights that first inspired the formation of the Red Cross and the subsequent Hague and Geneva Conventions, which emerged from the humanitarian movement in the early twentieth century.⁵

Thus, while I focus on Weissman's arguments, along the way I will note telling comparisons with a handful of other recent postmodern critics of R2P—the shared responsibility to protect persons from crimes against humanity—and related humanitarian norms. Weissman's scattershot attack on R2P is important in its own right, but it also illustrates the fallacies central to a well-traveled way of trying to debunk human rights ideals and political institutions that could uphold them against tyrannical malevolence. I do not mean in what

follows to paint “postmodernism” with a single brush, as if this mode of thought advanced any unified doctrine on moral questions. But I agree with Keith Doubt’s observation that “Michel Foucault, Jean-François Lyotard, and Jacques Derrida ... [were] all admirers of the ancient Sophists,” sympathetic to Callicles’ and Thrasymachus’ view—repeated in new guise by Carl Schmitt—that claims of justice are merely masks for strategies of power, as if there could be no fundamental difference between *right* and *mere might*.⁶ In this respect, their views are much like Nietzsche’s.⁷ As Christopher Norris notes, even in his late work Foucault maintained a basically Hobbesian view that all claims of “will, judgment, moral conscience, or practical reason” reduce to different linguistic schemes or subject-positions in a war of all against all.⁸ Similarly, in his end-of-century review of postmodern critiques of human rights,

Zühtü Arslan notes that while “postmodernism” is a vague concept, several of its most prominent writers reduce human rights to a “totalizing ideology,” a “grand narrative” of Enlightenment rationalism that, like all such narratives, “inevitably leads to domination, coercion, and repression.”⁹ Their rejection of “the subject” or a capacity for individual autonomy leads to a relativism that rules out the possibility of rights that are universal across all cultures, nations, or geography.¹⁰ In reply, Arslan notes Jürgen Habermas’ key point that this critique of all objective truth, deriving from Nietzsche, ultimately consumes the critical impulse itself:¹¹ for there is then no basis left for critiquing or rejecting domination, coercion, or even the erasure of whole cultures. This problem is well known and appears in nearly every high-school-level textbook on ethics; yet postmodern authors keep repeating the error in new guises.

1. Introduction: R2P

The R2P doctrine was proposed nearly 16 years ago, but it is even more important for the world now. R2P began as a policy proposal carefully developed by a broad multicultural panel commissioned by the Canadian government following perhaps the largest failure in the UN’s history, namely the Security Council’s inaction during the beginning of the Rwandan genocide. The R2P recommendations were also crafted during what Gareth Evans calls the “Darfur horror period of 2003–04,” when China repeatedly blocked UNSC action that could have stopped ethnic cleansing in Sudan.¹² Evans co-chaired (with the

Algerian diplomat Mohamed Sahnoun) the International Commission on Intervention and State Sovereignty (ICISS), which first articulated the concept in its 2001 report, *The Responsibility to Protect*.¹³ According to Evans, the idea was developed from Bernard Kouchner and Mario Bettati’s arguments for a “right to intervene” in humanitarian catastrophes, first presented at a 1987 conference.¹⁴ It was further promoted by UK Prime Minister Tony Blair’s 1999 doctrine, prompted by the crisis in Kosovo, that there could be a just war of intervention “based on values” rather than only on national interests.

Yet the concept of humanitarian intervention (HI) provoked objections that it would allow powerful nations to interfere in nations of the global South at will.¹⁵ In Evans' view, addressing objections from developing nations required a concept that would emphasize the importance of individual rights while also limiting any license that "great powers" might take from such innovations. The movement for "human security," focusing on protecting people from mass slaughter and from intentionally imposed famine (or other lack of basic necessities, such as fuel in winter), provided a bridge that helped mobilize the campaign for the International Criminal Court (ICC). But the specific basis for a new consensus on R2P was provided in arguments by Francis Deng, special representative to the Secretary-General for Internally Displaced Persons (IDPs), along with Roberta Cohen at the Brookings Institute, that state sovereignty is limited by a responsibility to guarantee the basic rights of the state's residents—a responsibility that may legitimately be taken up by the international community if the state fails to uphold it.¹⁶ This doctrine of rights-based sovereignty has been gaining ground ever since. Thus the ICISS report stresses the need to protect people from atrocities—including by conflict prevention and post-conflict reconstruction—rather than stressing intervention by itself.

The central elements of the ICISS proposal were taken up by a High-Level Panel preparing for the 2005 UN World Summit, at which most of its recommendations were adopted by a *nearly unanimous majority* of nations in the General Assembly, and reaffirmed in Security Council resolutions.¹⁷ Although China had

consistently blocked its application in Darfur, the R2P doctrine was cited in the UNSC resolution authorizing use of military force to protect the citizens of Libya against Qaddafi's forces on their way to slaughter thousands of civilians Benghazi. It was partly NATO's success in bringing an end to Qaddafi's tyranny that galvanized Putin's determination to prevent any new coalition acting against Assad, no matter what crimes his regime perpetrates, and more generally to deny the rights-based sovereignty doctrine; for Putin and his partners in Beijing want to block the advance of democratic rights that threaten their own dictatorial regimes. Following Darfur and Rwanda, Syria has thus become the third scene of mass atrocities against largely unarmed civilians numbering in the millions to go unanswered by the larger world community since 1989.

When he wrote in 2010, Weissman could not have known that just over a year later the Assad government in Syria would begin a civil war against the Sunni majority of that nation by attacking peaceful protesters from many ethnic backgrounds in Syria and then leveling neighborhoods from which growing numbers of protesters came. Assad's actions spiraled into a massive series of crimes against humanity, mainly through the regime's destruction of civilian housing by artillery and bombs dropped from aircraft. To stop another domino from falling and to protect its only base on the Mediterranean, Russia blocked action by the UN Security Council, continued to arm Assad, and (on the pretext of attacking ISIS) moved aircraft to Syria to bomb Free Syrian Army groups and other rebels to support the regime's army. Assad's forces

were on the retreat in mid-2015; now they have surrounded Aleppo, driving at least 100,000 more refugees towards Turkey. On the other side, of the many European and Middle Eastern nations that could have intervened to stop the mass atrocities, none have stepped forward to form a coalition for this purpose—despite the urgent call of French President Hollande in August 2013 following chemical gas attacks. In consequence, as of March 2016, this war has claimed over 350,000 lives, with roughly two-thirds on the Sunni side, and driven over 4 million refugees across Syria's borders. The toll in Syria is already much larger than the deaths, injuries, and refugee movements caused by the Milosevic regime's atrocities against Bosnia and Kosovo combined, both of which Western military intervention eventually stopped and reversed. The current flood of desperate Syrian refugees trying to reach Europe represents only a small fraction of the millions in Turkey, Jordan, and Lebanon now struggling for survival—and depending on MSF and other aid organizations for a lifeline while most of their children go without schooling.

If the R2P doctrine had been followed, Assad could have been stopped: R2P implies that Syria should have been secured by an international coalition that could have negotiated and implemented a new political deal for the region, complete with provisions to prevent reprisals and enable rebuilding. This would never have been easy, but delays have made it much harder. In August 2012, when Assad's regime had already killed over 20,000 people, Bernard-Henri Lévy issued an impassioned call for military intervention to establish at least a no-fly

zone and no-drive zone for tanks to protect Sunni peoples in Syria from their own government.¹⁸ Some leaders in US government, such as Hillary Clinton and John McCain, supported this idea in light of our public commitment to R2P. But there was no political groundswell until Assad's forces launched missiles capped with poison gas warheads in early summer 2013. Then President Obama and Prime Minister Cameron joined Hollande in calling for a coalition to act against Assad. But at that crucial juncture, by late August 2013, intellectuals in several aid organizations, along with opposition leaders like Edward Miliband in the United Kingdom, argued that yet more negotiation with a mass-murdering regime that had rejected all efforts in prior talks was somehow more likely to succeed.¹⁹ Their naive advocacy for new negotiations not backed by any credible military threat helped to stop the rising movement for intervention in early September 2013.²⁰ This emboldened the Assad regime to step up its scorched-earth tactics, which opened the power vacuum that would allow the rise of the so-called "Islamic State" jihadi movement (ISIS or Daesh) in northeast Syria.²¹ Many of ISIS' young recruits are motivated by the desire to fight Assad.

We can fairly ask how the critics of R2P would now answer the many Syrians, Iraqis, and Kurds who openly begged (often on television) for outside military aid against Assad and ISIS, and who expressed astonishment again and again that the world could ignore their horrific plight. What do they say to the leaders of Turkey who expressed willingness to take military action, but *not alone*? What do they say now that

Putin's warplanes are mainly bombing Sunni rebels rather than ISIS targets, while Russian spokesmen call them all "terrorists," just as Assad does? What apology could they offer the victims of the ISIS atrocities in Paris and Brussels, along with hundreds of other victims in Ankara and Beirut, and on the Russian airplane blown up by ISIS? If the international community had followed R2P and stopped Assad's tyranny, arguably ISIS would never have risen to such power.

Thus it is more important than ever to uphold and promote the R2P doctrine against the biases and errors evident in Weissman's misguided attack on it. To reject R2P in today's world is nearly tantamount to rejecting the limitation of

government sovereignty by basic human rights from which R2P follows – which is natural if one agrees with Thrasymachus and Putin, but perverse for a scholarly interpreter of MSF's mission. For if a national government's right to sovereignty over its "internal affairs" depends on protecting its people's human rights at least minimally well, a government loses that right when it initiates mass atrocities: the international community's responsibility to intervene follows from the same basis and violates no legitimate national sovereignty.²² Answering the manifold errors in Weissman's attack on R2P will help clarify its moral point and conceptual strengths.

2. Postmodern Errors in Weissman's Critique of R2P

While Weissman manages to commit a plethora of fallacies in a single article, it will be enough for my purposes to review five that are central to his account, and explain their similarity to other instances of postmodern anti-rights and anti-intervention polemics. A more detailed rebuttal could explain how a stronger multilateral organization, such as a league of democracies, would be capable of implementing all aspects of R2P – including pre-conflict prevention, nation-building, and the sort of long-term *jus post bellum* reconstruction and disarmament that needed to happen in Libya, but was never undertaken (contrast Bosnia, Kosovo, East Timor, or post-war Germany and Japan).²³ I leave that fuller account for later work and focus here on Weissman's critique, and in particular his belief that the

violence involved in humanitarian interventions is necessarily counterproductive. The errors I canvass in this section are all related to this theme.

Flawed HI Entails Never HI?

First, Weissman argues that humanitarian interventions (HI) have not been successful enough to support the "reaction" aspect of R2P that requires HI. For example, in Sierra Leone, British paratroopers enabled the government to defeat the Revolutionary United Front (RUF), but left war crimes by government agents unaddressed and prevented "vital humanitarian assistance" from reaching RUF-controlled areas (196). The response in this case is simple: the British-UN operation should have helped civilians in RUF areas; but

this failure does not arise from the principle that the most basic rights shall be protected by force if necessary in the face of a regime or set of armed groups that cannot otherwise be deterred from mass atrocities. In Sierra Leone, a stronger intervening coalition could have held government agents accountable, too, and thus perhaps have organized a more just basis for peace. Similarly in Syria, if the rebellion prevails, it will be crucial to ensure that Alawites and other minorities are not slaughtered by Sunni rebels looking for vengeance against groups who supported Assad. The same applies to Weissman's complaint that Australia's intervention in East Timor did not stop all the Indonesian atrocities there. Flawed results from half-hearted action on the R2P ideal no more prove any error in the principle than a botched arrest—for example, one in which half the members of rival gangs engaged in a gunfight get away—shows that there is something wrong with using police to enforce the law against murder.

More deeply, Weissman's criticism seems to be based on his sense, expressed in a 2004 essay on Sierra Leone, that favoring the UN's cause against the RUF's extreme brutality led aid agencies to acquiesce to the UN strategy of conditioning aid to RUF-controlled areas on RUF compliance with mandated steps towards peace and disarmament.²⁴ Thus he apparently associates support for the ideals embodied in R2P with willingness to use aid as a means of war, or to employ strategic denial of basic necessities to civilians on the "wrong" side of front lines. But this is a clear mistake: a responsible aid NGO operating in a war zone can insist on providing vital supplies to civilians on all sides, even if it also

recognizes the justice of one side—for example, one supported by an intervening rescue force. Recognizing the legitimacy (or even moral necessity) of a military intervention in a given case is compatible with serving humanitarian needs on all sides and refusing to be manipulated by interveners and their enemies alike. R2P does not imply that aid NGOs should refuse vital aid to civilians with some contingent relation to atrocity perpetrators, and succumbing to that temptation should not be described as supporting R2P. Weissman links these positions rhetorically by describing both as violations of the "principle of impartiality" on which humanitarian aid is based, but they are logically unconnected. This shows, unfortunately, how the negative language of "impartiality" can sow confusion.²⁵

There remains a further question of when and to what extent amnesty policies, truth and reconciliation processes, or war crimes trials should be part of the response to systemic abuses by a regime that is either ceding power under pressure, or being forcibly removed. For example, amnesty for Assad and his generals is probably more than utilitarian reasoning could justify in the Syrian case, while it may make sense in Colombia today.²⁶ But this complex question of post-conflict justice is not in itself a problem with R2P, which simply urges that there are situations in which we need the kind of intervention that can make this further question relevant. It is a much better problem to have than mass slaughter of civilians or scorched-earth strategies that drive many thousands away to "purify the land" of "vermin," as Assad has called his Sunni opponents.

The "Violence" of False Moral Equivalences

This brings us to an error of equivocation in Weissman's discussion of Kosovo. After saying nothing at all about Serbian crimes in Kosovo, and only mentioning reprisals by the Albanian population after NATO intervention enabled their return, Weissman turns to the "highly political" nature of such interventions, alleging that they create "a new political order through violence" (197). Here we meet the greatest catch-all term in the postmodern repertoire: "violence" in an ambiguous sense that allegedly permeates all relations, yet also connotes *illegitimate* use of force. Of course bombing Serb targets until Milosevic gave in and signed a peace deal on Kosovo was violence. And this tells us almost nothing. As any introductory ethics or law textbook will say, the primary question is always: was force, violence, or coercion used *in response* to other wrongful violence (prior, ongoing, or imminent); for example, against innocents?²⁷ The point is so elementary that it is incredible to see it constantly ignored in postmodern attacks on human rights standards and legal regimes that aim to uphold them. About Kosovo, just war theory asks: was the NATO violence (a) reacting to prior violence initiated by Serb militias and partisans, and (b) did it stay within the limits of *jus in bello* as much as possible? Failures in the latter respect—for example, targeting power plants or hitting too many civilian targets by accident—are another example of flawed implementation of a sound ideal, as was the UN's failure to secure genuinely safe havens in Bosnia (197). Perhaps Weissman thinks that any

use of force is always immoral, no matter for what purpose. But if one really wants to defend such an extreme pacifist doctrine, one at least needs some argument for it. After all, we are just as responsible for our acts of omission as for acts of positive commission, and refusing to intervene in Rwanda was a *violent omission*—as MSF's call for humanitarian intervention there recognized. Thus MSF-France's President Jean-Hervé Bradol said in 2004 that "[g]enocide is that exceptional situation in which, contrary to the rule prohibiting participation in hostilities, the humanitarian movement declares support for military intervention."²⁸

It is instructive to compare Weissman's view to Robert Hayden's comments against Kouchner's defense of intervention in Kosovo. Like the Foucaultian sociologists mentioned above, he accuses Human Rights Watch and other NGOs that "call[ed] for military intervention" of acting as "political figures, demanding the application of massive violence to those whom they define as immoral."²⁹ We see here the same rhetorical pattern: say nothing about the Serbian atrocities; suggest that Serbian actions were not really evil but were only "defined" as such by Western imperialists; imply that calling for military intervention is "political" rather than ethically motivated (as if Hayden's own opposition to intervention were *not* "political" in the same overly broad sense); and then describe the intervener's actions as "violence," as if this label implied some kind of moral criticism. Similarly, Hayden accuses NATO leaders of "humanrightism," which is a "moral crusade for massive violence,"³⁰ as if it would have been

morally superior to allow Milosevic's regime to prevail in driving all the ethnic Albanians out of Kosovo, or as if there were no "violence" in standing aside and allowing a murderer to get to his victim. I am not disputing that NATO should have pressed its threat in other ways that might have been more effective in preventing the onslaught of Serbian militias; I am simply noting the knee-jerk tendency to reduce a sincere effort to save innocent victims to mere "violence," as if that effort were on a par with the criminal forces' initial assaults. Such false equivalences should shock our consciences: they are offensive to victims of mass atrocities and can sow confusion during crises when speed is needed.³¹

Garbling Just War Theory

In responding to flaws in historical interventions, Weissman also confuses key questions in just war theory. He seems to think that we should take from the examples of Sierra Leone, Kosovo, Bosnia, Somalia, Iraq, and Afghanistan that military intervention could *never* succeed in protecting beleaguered populations or groups at great risk. It is difficult to understand what this means, unless it is only the analog of the banal point in domestic contexts that even the most principled and well-resourced policing will never be 100% effective. Bizarrely, Weissman implies that the US-NATO failure to win over all Afghans or stop Taliban resurgence somehow casts doubt on R2P, rather than suggesting that the desire to be rescued by a majority of the population should be factored into R2P criteria for just cause, as its defenders themselves have said.³²

Indeed, as Cécile Fabre explains, one way of arguing for the right to rescue with military force when necessary derives it from the victims' right to self-defense, together with their right to transfer implementation of that right to willing third-party rescuers—she notes East Pakistan as a case in point and even considers whether presumed consent in cases like Rwanda may be sufficient.³³ However, Fabre does not make victim-invitation sufficient to justify military intervention, and she recognizes that when a majority of victims oppressed by a tyrannical regime oppose rescue by foreigners, this may defeat an otherwise strong case for intervention.³⁴ James Pattison goes a little farther, arguing not only that military interventions that represent the wishes of the victims are more likely to be successful, but that such "representativeness" is morally necessary to justify HI.³⁵

In light of these clarifications of R2P, Weissman might argue that NATO's failures show that most Afghans (or at least Afghan men) did not wish to be rescued from the Taliban. But he ignores the crucial additional factor in this conflict, namely that Taliban militias have relatively safe havens in parts of north-west Pakistan to which they can retreat in order to regroup—something that a more adequate intervention would have had to address. Laying that unusual difference in the Afghan case aside, suppose we stipulated for the sake of argument that NATO's task was never achievable because too many people in Afghanistan are indissolubly committed to an ideology that keeps women entirely subservient, and are prepared to give their lives to keep these cultural practices in place (especially given

the affront that the presence of foreign troops always brings). This line of reasoning would only show that the Afghanistan case fails the criterion of probable success and perhaps also the *ad bellum* criterion of proportionality (if the likely gains do not sufficiently outweigh the likely harms to civilians, to intervening troops, etc.). So, on a charitable reading of this part of Weissman's argument, he simply misses the difference between these conditions and the *just cause criterion*, which is what R2P is about. He sneers at the very notion of "just war" (195) while ignoring its nuances as a framework for moral analysis, even though the ICISS report carefully distinguishes the main just war criteria for intervention, separating just cause (including rescue from genocide and mass ethnic cleansing) from other key *ad bellum* and *in bello* criteria.³⁶ Contrary to the Geneva Conventions, Weissman approvingly cites Raymond Aron's rejection of any general norms for war, and he implies incorrectly that contemporary just war norms will sanction military "punishment of the presumably guilty party" (206n24).

Moreover, Weissman freely mixes the categories of (a) military intervention to protect and enable humanitarian relief efforts (198) and (b) military intervention to protect civilians directly by stopping mass slaughter or ethnic cleansing; and he conflates (c) humanitarian organizations supporting R2P in general with (d) humanitarian NGOs calling for military intervention in particular conflict zones. Of course, in practice a real intervention may cross these conceptual divides; and MSF can certainly argue that it must not call for intervention in areas where it is operating for fear of losing the access that

neutrality is supposed to provide (198). A central goal of Weissman's essay is clearly to cast doubt on the wisdom of aid NGOs arguing for forceful interventions in cases like the ones he cites—for example, Chad, the Democratic Republic of Congo, and Sudan (202). And given his recognized status in this field, Weissman's arguments could well influence policy on these matters in other NGOs, and thus among politicians in national governments and civil servants in intergovernmental organizations (IGOs) within the UN structure who listen to such NGO leaders.³⁷

Indeed, Weissman himself publicly argued against armed HI in Darfur in 2006 on grounds that it would be too difficult and would meet too much resistance from the government in Khartoum along with some armed rebel groups.³⁸ Weissman even attacked Jan Egeland, UN Deputy Secretary for Humanitarian Affairs, for calling for military protection of the Janjaweed's victims, suggesting that such a call was endangering humanitarian relief efforts. Eric Reeves (a leading US expert on Sudan) correctly called this an attempt to use the international community's failure to mount a serious military intervention as a reason for acquiescing to the demands of "a genocidal regime." He rightly noted that this opposition to armed rescue itself violated Weissman's "specious 'neutrality.'" ³⁹ I would add that Weissman's argument in this case implies that the UNSC, powerful nations, or regional IGOs should allow a tyrannical regime to blackmail them into refraining from armed HI to stop mass atrocities, lest the regime punish its foreign critics by expelling humanitarian aid groups that are

trying to mitigate the harms done in the regime's assaults. Imagine that we plan to stop a thug from stabbing innocent victims, and he responds by threatening to kick out a doctor waiting to help his intended victims. According to Weissman's backwards thinking, it would be better to give in to the thug's blackmail, so that the doctor can bandage the wounds after the attack, rather than to *prevent or halt* the attack by force. When the successful thug goes on to hamper the doctor's efforts after the attack, he has called our bluff and knows we will not risk punishing him for reneging on such a stupid bargain.

Supporting R2P Does Not Undermine Humanitarian NGO Operations

Even if we focus only on issue (d), Weissman's case looks weak. MSF followed the policy of refusing to support intervention in Syria in 2013, as in Darfur, but this did not secure it much access to rebel-held areas under prolonged sieges. For example, the Assad regime has blocked even basic food aid from reaching the rebel-held town of Madaya for months since October 2015, leading to fatal starvation. MSF complained loudly about strict limits on its relief efforts imposed by Assad's regime, but its neutrality also did not help it reach victims. Similarly, Weissman's opposition to armed HI in Darfur did not prevent MSF's being expelled from South Darfur in March, 2009, or keep its hospitals in South Kordofan from being *intentionally* bombed in 2015. Weissman himself has explained how the Khartoum regime and its opponents, the Sudan People's Liberation Army (SPLA), manipulate aid agencies and

often misappropriate aid stocks intended for civilians; the badge of political neutrality does not prevent such perfidy.⁴⁰ Similar trends have been seen in Sri Lanka, Zimbabwe, Eritrea, and other areas where massive human-rights violations are systematically committed: contemporary dictators have learned that aid organizations will keep alive those they wish to kill off or drive away, and will report on their crimes. Thus they manipulate the aid NGOs—for example, by getting them to provide aid to civilians on the regime's side that would otherwise cost the regime resources, while preventing aid from reaching civilians on the opposing side.⁴¹

At this point in history, then, the norm of neutrality classically defended by the International Committee of the Red Cross (ICRC), which proved useful in classical war contexts, may be nearly useless when mass atrocities are in the works during civil conflicts. As a result, aid organizations may not lose much access they would otherwise have had if they publicly accept that a military response may become necessary to stop the most vicious kinds of repression and brutality. For when a tyrant is bent on broad slaughter or "cleansing" away whole segments of their society, they are not simply seeking to defeat a regular military whose personnel can be removed from combat when aided by neutral medical personnel; nor are they trying to spare civilian populations outside their own base of support. Rather, in the cases to which R2P applies, humanitarian aid NGOs are *eo ipso* opposing the tyrant's war strategy; they cannot be neutral.

Thus, even when specific reasons why certain aid NGOs should not

call for intervention apply to their role in a particular conflict, such case-by-case judgments would hardly show that humanitarian NGOs should not support R2P as a *basic general policy* about how the world community—for example, via the UN or regional IGOs or particular coalitions of nations—should act. Such general endorsement of R2P supports protecting human rights by force when absolutely necessary, and thus setting a precedent that increases risks for regimes considering mass-atrocity schemes. There is an obvious division of labor here: it is the job of governmental entities to decide on and undertake humanitarian interventions when all the criteria are met, while aid organizations provide relief to non-combatants on all sides. But aid organizations with a prominent voice can reinforce governments' sense of responsibility by backing R2P rather than claiming moral superiority on the basis of opposing military intervention.

Of course, complex questions remain about how relief NGOs should or should not coordinate their work with intervening military forces within a conflict zone. For example, as Weissman notes in response to the Sierra Leone case, aid agencies can and should refuse to be used as pawns by intervening forces, even when they have a just cause. And Weissman might plausibly question the initial ICISS proposal's view that protecting effective humanitarian relief delivery—for example, in cases like massive theft of aid by militias in Somalia, or the prevention of aid deliveries after the cyclone in Burma/Myanmar—is an adequate just cause for military intervention. He could also argue that in particular cases like Afghanistan,

intervention might be counterproductive. But these are narrower special issues within topic (a) that are distinct from the general principles at stake in topic (b), as defined above.

Comparison with Orford's Extremism

More broadly, Weissman follows a hermeneutics of suspicion towards any use of military power that parallels the broad-brush rejection of both military intervention and human rights among many postmodernists. Anne Orford, for example, follows Derrida translator Gayatri Spivak in complaining that feminist critics of abuses of women in developing nations of the global South are merely continuing "a tradition of imperialism" by making women of color into "objects of knowledge" (as if this alleged "objectification" in legal texts by feminists were worse than, say, stoning them for being raped by someone other than their husband).⁴² Thus Orford is suspicious of claims that the US intervention in Afghanistan would help restore human rights to women who are terribly oppressed by the Taliban there.⁴³ In general, Orford sees all efforts by Western nations to expand or deepen democratic rights as mere extensions of "colonialism." As Henry Carey points out in his essay-length rebuttal, "such a view is akin to arguing that there has been no essential progress from ending legalized slavery, genocide, or colonialism or establishing human rights institutions domestically and internationally—patently absurd arguments."⁴⁴

Lacking hard evidence for her huge exaggerations, Orford reaches desperately for semiotic associations. For example, she suggests that the UN, NATO, or the Security Council

as interveners are somehow portrayed in popular mass medias as “having the characteristics attributed to white men”⁴⁵—a claim so bizarre that it reveals how strongly her ideology drives her to force almost anything related to military rescues into the narrow boxes allowed by her Foucaultian postcolonial perspective and its small repertoire of rhetorical devices. Like Weissman, she refers generically to the “violence of practices authorized by the international community,”⁴⁶ as if the primary evil in Kosovo were the NATO bombing campaign rather than the Serbian effort to drive a million Kosovar Albanians from their homes, or the mass persecution they suffered in the decade prior to the conflict.⁴⁷ While barely discussing just war theory in a book ostensibly about humanitarian intervention, Orford sees the alleged need for military power “to halt the horrors of genocide or ethnic cleansing” as merely a way of extending economic “domination and exploitation” of poor nations by rich ones⁴⁸—as if the World Bank or the IMF caused dictators like Hussein or Pinochet or Mugabe to act as they did, and as if their brands of tyranny did not *cause* any poverty! Even in the case of Rwanda, she counsels against the emotional lure of intervention, suggesting that at least by not intervening, we avoided perpetuating a “narrative” of “colonial stereotypes of suffering natives or human rights victims as the pivot for establishing the identity of the heroic international community,” which would only have further enabled economic exploitation had we put a new, allegedly more rights-respecting regime in place.⁴⁹ I’m sure it is a great comfort to the Tutsi people to know that elite post-modern critics of legal texts, secure

in ivory towers, have determined that their interests as a “formerly colonized people” are best served by resisting cynical attempt by Kofi Annan et al. to advance Western economic domination via the Trojan Horse of saving people from mass slaughter. A million Tutsis and moderate Hutus may have been killed, but Orford assures their grieving relatives that this was better than perpetuating the greater oppression of universalist “narratives.” For this kind of postmodern arrogance, there are no adequate metaphors.⁵⁰

Higher Moral Ground?

This brings me to the heart of my worries about Weissman’s rejection of R2P, which concerns not his conflation of distinct issues in the ethics of war, but rather the spirit of his critique, as betrayed by the tone of moral superiority that he takes (much as do Orford and Hayden). Weissman’s haughty rhetoric implies that “authentic” humanitarian concerns should not be sullied by any association with profane militarists (all bundled together, with Paul Wolfowitz in the same camp as Ambassador Richard Holbrooke). Weissman’s main goal is to drive a conceptual wedge between the moral bases for provisions of emergency aid by NGOs like MSF and the moral grounds for using military force to protect civilians from mass atrocities when other efforts short of military intervention have failed or clearly will fail—as in Syria today, and still in Darfur. We see this division when he asserts that

there is a more philosophical reason for refusing the call to arms: if the purpose of humanitarian action is to limit the devastation or war, it cannot be used as a justification for

war. ... In our view, the aim of humanitarian action is to "civilize wars" through the distinction between combatants and noncombatants. It is not to conduct "wars of civilization" that split the world into civilized people and barbarians, thus paving the way to unbridled violence. (199)

Let us examine the most egregious errors in these comments one by one. First, we find again the great pacifist sophism that there is no morally relevant difference between the *original* initiation of physical force on innocent victims, and the victims' (or their defenders') *responsive* use of physical force to counter that initiation of violence.

Second, we have the implicit premise that if the purpose of some practice P is to limit the ill side-effects of another activity A, then P and A cannot share any moral justifications. That is clearly false: the root justifications for police activity in arresting suspected criminals may be the same (or substantially overlap with) the basic justification for due process rights to protect suspects, and the moral reasons for procedures to rein in abuses by police (e.g. through internal and external oversight). That some of the needs that an organization like MSF addresses arise from warring (including even justified wars) hardly entails that the grounds for just wars cannot overlap or cohere with the grounds for MSF's work in mitigating the resulting suffering. Yet Weissman quotes a dated article by Umesh Palwankar which offers the same *non sequitur*:

"[b]ecause international humanitarian law starts from the premise that any armed conflict entails human suffering ... [it] would be logically and legally indefensible to conclude that the same law authorized the use of armed force, including in extreme cases." (199)

The inanity of this fallacy is stunning when coming from an educated adult: what would Weissman make of an anesthesiologist who works to mitigate pain caused by a surgeon working to repair an injury, or of forest rangers who use controlled burns to stop the advance of forest fires? Would he take them to be involved in some sort of pragmatic contradiction?

We can approach the same point from the other end by asking what moral purposes could justify Weissman's stated goal of assisting non-combatants and victims of warfare if not the protection of innocent life, limb, and liberty? The idea of "civilizing wars" to which he refers is the original ICRC mission embodied in the Geneva Conventions and in the *jus in bello* norms that preceded and are expressed in these landmark treaties. Their justification lies in the intrinsic wrongness of slaughtering innocents, depriving them of all livelihood, letting them die from neglect, wantonly stripping them of their liberties for no compelling causes related to the common good, or taking their lands at will and thus making permanent refugees of them, etc. Can Weissman and his colleagues at MSF really be blind to this obvious fact? When thousands of innocents are victims of genocide, persecution, or ethnic cleansing, the only values that could justify his organization's mission to "civilize wars" by solidarity with its victims on all sides *also* support using military force to stop such systemic assaults on innocents (when that is the only way to save them, and as long as this can be done in ways that meet the other just war criteria). Or does Weissman imagine that the *jus in bello* ideals that he serves are holier than, and logically unconnected to,

the *jus ad bellum* principles that defenders of R2P stand for?

Third, Weissman obfuscates his own position by invoking the “violence” catchphrase that in postmodern rhetoric now carries with it all the connotations tabulated above. Anyone who seriously asserts that we can never justify causing aggressors to suffer in order to protect innocents from the aggressors’ attacks thereby rejects the use of force even in self-defense—which is the definition of pacifism. Yet Weissman insists that “we [MSF] are not pacifists” (199); presumably he would accept, for example, that the United States and the United Kingdom should have acted sooner against Hitler to stop the Holocaust. Perhaps then he simply uses the V-word (“violence”) as an emotive weapon to beat readers into accepting that any humanitarian military intervention would have to be, by definition, some kind of colonial conquest—the same trope we saw violently employed by Orford? But if so, then he is implying that Africans, or Syrians, or southeast Asians deserve *less* forceful protection than would victims of Nazi concentration camps in Europe. It is a twisted ideology which teaches that any Western military act to save innocent lives is unjust because it is domineering, while implying, for example, that the Chinese oligarchy did *not* act like a colonial power in blocking humanitarian intervention that could have saved Darfuris in order to bolster a tyrannical regime that feeds it oil.⁵¹

“Colonialism,” “Imperialism,” and the Badiouian Rejection of Human Rights

This brings us to the most hyperbolic aspect of contemporary postmodern

rhetoric, which leads those who fall into its rigid scripts to mischaracterize their opponents in extremely offensive ways that are often absurd on their face. Weissman, for example, repeats that defenders of R2P laud themselves as “civilized” while classifying their opponents as barbarians. Channeling Orford, he says that MSF does not want to be associated with this “imperial aspect of liberal universalism;” it breaks away from a “humanitarian tradition that associates ... human rights with colonization, humanitarian assistance with humanitarian military intervention” (200). Any military intervention, then, is by definition “colonial” (the C-word) and so refuted by Weissman’s arbitrary application of labels. Thus Weissman puts the wide multicultural range of politicians and scholars who reached consensus on R2P during the first decade of the twenty-first century on a par with the British Raj or perhaps the Belgian slavers in the Congo during the early twentieth century. On this view, although the people of Bosnia and Kosovo did not feel colonized when NATO protected them from Serbian forces, they must be victims of false consciousness, while the Canadian general Dallaire who tried to stop the Rwandan genocide is the moral equivalent of King Leopold II of Belgium.

These nonsensical implications of Weissman’s ideology, for which he should apologize, are *reductios* of his position. As Bernard-Henri Lévy says, the idea that “the principles of democracy, of human rights, of respect for individuals, etc. are Judeo-Christian principles and therefore Western” and not applicable elsewhere is “obviously absurd.” First, “Judeo-Christian does not mean

Western.” These religious traditions are from the Near East; but second, their central ideas are “from nowhere and everywhere.” Their origin did not keep them from spreading, because “[i]deas ... have no borders.”⁵² Third, in fact sincere defenders of these universalist ideals always opposed colonial oppression, and critics of colonial mandates invoked ideals of enlightened nationalism from Western authors: in fact “Universalism is anticolonialism. Universalism is anti-imperialism.”⁵³

Fourth, we should beware of the tendency to reify and idealize “authentic cultures” as if they were organic wholes: this idol-worship itself owes much to the ideas that inspired European fascism, as the leaders of the Khmer Rouge “educated at the Sorbonne” sadly illustrate.⁵⁴ But this insightful critique of “differentialism” is still not tough enough. Weissman’s offensive equivalences force us to ask how an entire genre of allegedly critical thought reached the point where *what it regards as its best arguments* have less dialectical value than childish insults that middle-schoolers would regard as beneath contempt.

The answer lies in a kind of arrogance that can arise from an ideology strong enough to occlude even the clearest counter-evidence from view. Weissman and his fellow illuminati see themselves as suffering saints because they struggle to keep faith with *all* individuals in conflicts, including those who would be “sacrificed” by the myopic zeal of military interveners (201). Yet the supposed “victims” of intervention, solidarity with whom is so crucial for Weissman, are persons bent on committing mass atrocities. For example, Weissman would apparently have

preferred to keep faith with the soldiers and mercenaries whom Qaddafi hired to level Benghazi, kill as many residents as possible, and drive the rest out of Libya. Weissman’s supposed victims of “Western rationalism” (or substitute your favorite catchphrase) *intentionally* target civilians as their preferred strategy of war, violating to the maximum extent possible the *jus in bello* norms that Weissman invokes to justify his own calling. Never mind that the would-be victims of terrible Western liberal interventionists—the victims with whom he stands in such sentimentalized solicitude—are the Syrian and Russian pilots who intentionally bomb houses, apartment buildings, and hospitals across Sunni areas, targeting civilian non-combatants not merely as an unjust *means* to a war’s aims, but even as an end in itself, to obliterate a religious group they despise. Yet somehow Weissman’s opponents in this debate are meant to feel guilty for “dividing humanity” into those who would commit such crimes and those who are crushed and buried alive by their bombings (often dying a slow, torturous death in the rubble). Do those who strive to cause such appalling deaths en masse *not* thereby “divide humanity”? But Weissman’s strained rhetoric implies that it is more avant-garde or even holier to refuse to distinguish, even in principle or ideally, between innocent victims and aggressors committing the worst war crimes. Ironically, the apparent argument for this position concerns labeling: it starts from the implicit premises that any distinction between good and evil is “orientalist,” branding the mass murderer a “barbarian,” and that such labeling is worse than mass murder. It is hard to judge

which of these two premises is crazier or more irresponsible.

In the lofty heights of this “philosophical reason” for rejecting R2P in favor of a higher calling that does not sully itself with common moral distinctions made by the profane masses, we finally encounter the basis of Weissman’s view. This is his version of yet another overworked sophism, namely that human rights are inherently “Western” ideals and that any notion of enforcing them—even by sanctions but especially by military force—is a “tyrannical principle of integration: the inevitable eradication of anything that obeys other standards and resists inclusion” (200; perhaps this is Weissman’s understanding of Derrida’s “other” or “différance”). These ultra-sophisticated phrases sound so high-minded until we ask: precisely what “other standards” are we talking about? (Weissman offers no examples.) Standards holding that women must remain in the home and accept arranged marriages at age 10 to husbands in their forties who severely abuse them are troubling enough, but at least they arguably have some tenuous cultural basis. What of “standards” saying that we may kill at will or drive away any civilian associated with another religion or sect, or anyone who happens to live on land that the dominant group wants for itself, or anyone who threatens the rule of *real* tyrants like Assad or Kim Jung Un? These are sheer expressions of spite and the will to domination, not “cultural” standards that are merely “different” from ours, or that we should respect rather than “imposing” our values; they have no historical tradition behind them. I call on contemporary writers who respect Emmanuel Levinas and his ethics of

“alterity” to distance themselves from any form of difference-worship that merely provides cover for tyrants to launch campaigns of mass killing and persecution. As Henry Carey says, “Deconstructing human rights law takes the skeptics’ eyes off the ball, which is ... developing methods, norms, and institutions for stopping murder, torture, rape, and other egregious violations of human rights.”⁵⁵

But while Levinas himself actually acknowledges the importance of human rights,⁵⁶ other avowedly post-modern scholars encourage people towards the sort of extremes that Weissman reaches in rejecting R2P. Compare, for example, the rhetoric of Alain Badiou, the self-proclaimed neo-Maoist who now has such a large influence in Europe. In his *Ethics*, Badiou tells us that the “presumed ‘rights of man’ ” are a kind of “moral terrorism,” annihilating any attempt to invent “forms of free thought.”⁵⁷ Though perhaps now he thinks that Putin has renewed free thinking, for in a seminar of 12 March 2014, posted in a translation by David Broder on a *Verso* blog, Badiou maintains that the Western critique of Putin’s intervention in Ukraine is just another iteration of the liberal-imperialist narrative trying to justify war: “The free West has but one mission, that of intervening everywhere it can in order to defend those who want to join it.”⁵⁸ We know where Badiou stands, and it is not with the victims of Putin’s rooftop snipers in the Maidan at Kiev. Like Hayden, he also rejects the NATO intervention in Bosnia, describes the International Tribunal for the former Yugoslavia as “democratic totalitarianism,” and calls for both “the dissolution of NATO” and

“the disbanding of the International Court of Human Rights”⁵⁹—as if the rise of rights-standards in international law were a bigger problem than tyrannical regimes that rule by terror.

Why this invective against rights, which Badiou tells us he has actually toned down? Following orthodox Marxism, he sees all rights as artifacts of liberal theory that only support capitalism, despite all the evidence to the contrary in the texts of the Universal Declaration of Human Rights (UDHR) and its related treaties. He also endorses Foucault’s critique of any conception of human nature as “a timelessly self-evident principle capable of founding human rights or a universal ethics.”⁶⁰ Badiou seems not to know that virtually all scholars in liberal theory, Aristotelian/communitarian political philosophy, and discourse ethics since the late 1970s defend human rights without appeal to any such doctrine of self-evident or timeless natural rights, but he must have his straw men because they are the ones attacked by the Nietzschean brand of thought that he aims to popularize.⁶¹ He insists that Foucault, Althusser, and Lacan all provide better bases than human rights can for an “emancipatory politics” and resistance to “the American way of life” (a phrase cited from Lacan in 1966, who apparently knew little of the diverse subcultures within the United States). That is because human rights, Badiou patiently explains, are purely negative repressions of otherness: they are simply reactions against “evil,” or whatever our culture regards as “barbarian”⁶² (the same catchphrase so overworked by Orford and Weissman).

This is just a postmodernized version of Nietzsche’s empirically unsupported assertions in *The Genealogy of Morals* that all universal standards are merely resentful strategies to suppress more powerful masters. For example, while celebrating artists and warriors against scientists and scholars, Nietzsche rues “the rise of democracy, international courts of arbitration instead of wars, equal rights for women, the religion of compassion and everything else that is a symptom of life in decline.”⁶³ There may be insights in some of Nietzsche’s points on character, effort, and meritocracy, among other topics, but his attempts to reduce all rights to mere power relations⁶⁴ and all moral ideals to mere pity (and self-pity) are ridiculous. We see his debt to this view when Badiou says that what motivates belief in human rights is pity for sufferings we share with other animals: thus human rights reduce “man” to “the level of a living organism pure and simple.” It is interesting that an author who has boldly rejected all universal conceptions of personhood then insists that persons must always be more than their “animal substructure,” must even have an “immortal” potential.⁶⁵ But the important point is that Badiou seems never to have heard of rights to freedom of conscience, thought, and speech, or rights to an education that can develop critical thinking skills (introducing science, history, art, etc.), or rights to social respect via equal treatment. For violations of these rights are not primarily matters of *biological* damage or bodily suffering; yet it is convenient for Badiou’s jeremiad to reduce all human rights to infantilizing protections of weak bodies.

In short, Badiou misconstrues the idea of human rights as a kind of victimology. But rather than being motivated by simple *ressentiment*, as per Nietzsche, rights now serve the ulterior function of justifying “the good-man, the white-Man,” who embarks on “humanitarian expeditions” that split humanity into victims and (white male capitalist) saviors.⁶⁶ Apparently, Badiou does not know that the Indians who intervened to stop the genocide in Bangladesh, or the Vietnamese who finally put an end to the Khmer Rouge’s killing fields, or the African Union forces who at least made some attempt in Darfur were neither Caucasian nor funded by venture capitalists (though maybe Badiou would simply

say that they were “acting white”?). Moreover, Assad looks a shade or two whiter than many of his victims (if that mattered!). So Badiou’s trash-talk could be dismissed as merely ignorant juvenilia if he were not one of the most celebrated faux-intellectuals in Europe today—serving as president of the Global Center for Advanced Studies at the European Central University, where he holds the René Descartes chair—and if we had not met these same vacuous tropes so many times. In sum, Weissman’s incoherent but angry attack on R2P is not an isolated anomaly; it is part of a distinct pattern, a large genre with a growing influence. Unfortunately, we cannot afford to laugh at its corrosive effects.

3. Delusions of Postmodern Anti-Rights Ideology

In responding to the heart of Weissman’s argument, two further points should now be clear. First, his cavalier way with strong words ill-suits such a serious subject. In the neo-Foucaultian genre to which he belongs, the I-word (Imperialism), B-word (Barbarism), and C-word (Colonialism) are now, like the V-word (Violence) and R-word (Racism), so loosely used as to render them meaningless. For the expanded postmodern senses of these terms puts the French conquest of Vietnam or South African apartheid on a par with the UNSC sending troops to Ivory Coast to stop Laurent Gbabo and his militias from taking power by coup after he lost an election. This is itself a kind of violence against the language we need for moral clarity in the face of great evils. Like “racism” when the term is wildly overextended, such distorted misapplications make important terms of moral censure

unavailable when they are really needed and applicable. Young people tune them out because they have heard them wantonly flung about so often; like a massively inflated currency, they lose all value.

Second, while the I/C/V/R-terminology has become the formulaic way to impugn the motives of human rights advocates—so widely preferred that its catchphrases are now the standard lingo of every dictatorship whenever it has to respond to moral criticism—this script has been refuted many hundred times over by various cosmopolitan authors. Yet these clear refutations are routinely ignored by critics like Weissman, who follow the same tired talking points, and whose strategy, like that of politicians bent on inculcating deceptive ideologies, seems to be reinforcement by infinite repetition. Since they cannot begin

to win in the court of serious argument, they focus on style over coherent substance to create the impression that one needs to join their club to count as radical, progressive, or cool. Within some circles of social science and philosophy, it becomes a fashion statement and pass-key to use these code phrases and to reject all forms of moral universalism.⁶⁷

The neo-Nietzschean/Foucaultian critique of human rights can only replicate itself this way because, as an argument, it is patently self-refuting: for its strong language implies that people are *oppressed* by human rights standards. As we saw, Badiou even called such standards “terrorism.” Yet that could constitute a wrong only if coercion, manipulation, or violation of people’s freedom or autonomy are (typically) morally wrong. But that distinction between autonomous consent consistent with the value of human life and violation of people’s capacities for rational willing is also the moral basis for use of force against genocidal regimes, which have lost their legitimate right to rule or to wield power. Thus the critics implicitly endorse the very ground of R2P while they also invoke claims by Foucault and Nietzsche that depend on denying any basic distinction between might (raw power) and right (reason or justification). It is hard to have it both ways: if you complain about imperialism and violence, you are invoking the ancient principle that *might alone never makes right*; but human rights are the modern implication of that fundamental idea. Habermas captures this point brilliantly in his own refutation of Carl Schmitt’s fascist view that

invoking “humanity” is a “bestial” act of oppression:

*Just as every objection raised against the selective or one-sided application of universalist standards must already presuppose those same standards, so does any deconstructive unmasking of the ideologically obfuscating use of universalist discourses actually presuppose the critical viewpoints advanced by these same discourses. Thus, legal and moral universalism is self-reflexively closed in the same sense that one can [morally] criticize its imperfect practices only by invoking those same standards.*⁶⁸

Habermas could have expressed the same point by saying that the postmodern critics implicitly invoke the *might–right* distinction whenever they criticize practices allegedly justified by human rights. Nietzsche and Schmitt certainly rejected this distinction, which was so central to Plato’s *Republic* and to virtually all Enlightenment political thought; thus they dismissed universal human rights as a mere bourgeois egalitarian fantasy. But at least they would have spared us the additional offense of claiming *thereby* to be defending the weak and defenseless, the downtrodden, the wretched of the earth. Nietzsche was more consistent, less self-deceptive, than the self-righteous “emancipism” of Badiou, or Weissman’s pacificism. They are typical of their genre in adopting a *moralistic* tone that drips with condescension, suggesting that their opponents are blind to their bigotries. We could ask in response whether the bias against universal moral standards is not the greatest bigotry of all, the largest plank in the eye. It is a highly immoral bigotry because it encourages rights-violators to portray themselves as defender of authentic culture against malign “Western” interference. Moreover, as

many non-Western respondents have noted, this sort of cultural relativism emerges from Western anthropologists and is itself a “patronizing attitude,” which asserts that Asians or Africans cannot be held to the same high moral standards as Europeans or Americans.⁶⁹ As G. B. Madison says, “Although numerous postmodern Western intellectuals may not appreciate the value and force of the idea of universal human rights ... the more oppressed peoples of the world certainly do.”⁷⁰ Ironically, then, indignant postmodern polemicizers against human rights turn out to be the real “neocolonialists.”

I am not saying that Weissman’s critique of R2P entirely lacks substance. Later in his article, Weissman manages to raise three well-worn issues, though his rhetorical flourishes partly obscure them.

(1) He belabors, in the most tortured tones, the point that there are always “losers” in any peace enforcement or peacekeeping operation, or any development of a new political order; these are the “eggs” sacrificed in making the “omelette” (201). But defenders of R2P already recognize that point or they would not consider *proportionality and modality* constraints on war at all: for example, they agree that hospitals should never be intentionally targeted, even if Taliban fighters are sheltering there. Defenders of R2P also agree that (in almost all circumstances), people on the aggressor or violence-initiating side also deserves humanitarian assistance in civil wars, even when they have helped a tyrant carry out massacres. Nothing in R2P prevents humanitarian aid NGOs from remaining in *that sense* “resolutely on the side of the losers, whose lives it seeks to protect here and now, while questioning the

reasons for their sacrifice” (201). Lévy, for example, laid out a proposal to protect Shi’a peoples in Syria from reprisals with a peacekeeping force and plans to rebuild the war-torn nation.⁷¹ Though the refusal to intervene has now produced a situation so much worse that preventing reprisals may be almost impossible, a coalition to end Assad’s reign of terror would have to set up a cordon to protect Alawites, Christians, Druze, and other minorities, even while pressing against ISIS forces.

But Weissman goes too far in inferring that the “losers” should not be made by military force to lose. The primary “losers” when the R2P doctrine is properly applied would include, for example, the Hezbollah fighters who massacred whole Sunni households and burned women and children alive in their homes when opposing Free Syrian army forces retreated before their advance in the spring of 2013. If they had been attacked by NATO to prevent or halt such acts, what Weissman calls “the reasons for their sacrifice” would have been abundantly clear and just. In fact, killing aggressors to stop them from killing innocents does not constitute “sacrificing” them at all, as if they were treated as mere means or abused for some ideological purpose; that is rhetorical trickery. Of course, MSF doctors could still treat the wounds of Hezbollah fighters who survived the strikes aiming to stop them, though it would be best for such treatment to take place in a prisoner-of-war camp, after which they could stand trial for war crimes. The same goes for ISIS and Al Nusra forces, though the integrity of medical groups may require that they dispense first aid on the field without discrimination or delay.

(2) Weissman slides from this question about humanitarian aid reaching both aggressors and civilians in a given territory to the different, though more familiar worries about “collateral damage” to civilian non-combatants and the vagueness in just war criteria on this issue. He seems to think that humanitarian aid NGOs can never legitimately call for intervention without specifying all the *jus post bellum* details of reconstruction that should follow a just intervention (202), although that is much more the burden of political institutions and their leaders to work out. Then he argues that “the debate over the appropriateness of starting a just war cannot be decided by applying a standard rule of formal law,” as if refusal to specify an exact number of victims (e.g. 10,000 murdered or threatened) makes all humanitarian intervention criteria “vague and subjective” (202). Here we are back with the sophomores again: Weissman falls for the old sophism that any rule-like norm must be “calculative” in Derrida’s sense, providing an exact algorithm or mechanical decision procedure. In fact, all norms in coherent deontological theories require prudential judgment to apply them to specific cases, and the application of positive laws in jurisprudence works quite effectively in the same way. Weissman’s complaint here is on a par with arguing that because a law protecting, say, “freedom of the press” does not specify every form of electronic media and the exact extent of protected speech, judges cannot possibly draw lines between protected forms of speech and prohibited speech inciting hatred, mob violence, or mass panic. It is simplistic to think that the fuzziness of lines negates clear cases captured by just norms.

(3) But it gets worse: Weissman argues that this imprecision makes R2P open to “all kinds of interpretation”; it can be invoked by the Sri Lankan government to justify its total war against Tamil separatists, or by Medvedev/Putin to justify “protecting” the people of South Ossetia by razing towns in south Georgia just as validly as it was invoked to justify peace enforcement in the Democratic Republic of Congo (203). Thus Foucault and Schmitt are right that all such norms merely cloak “political preference” in the guise of “universal moral language” (203).

On the contrary, these Sri Lankan and Russian actions are *clear* cases of using “protection” as a thin tissue of rationalization for aggression, which the ICISS report takes *specific pains* to rule out.⁷² Here Weissman is less like a sophomore and more like a political demagogue who condemns a treaty without even reading it. Moreover, any law or norm at all can be abused in this way, including even domestic laws against murder: a corrupt district attorney can use them to justify witch hunts against a particular community, for example. By contrast, it was clear that the United States had little to gain politically or economically from helping Bosnia and Kosovo; in fact, we knew we would pay for it in our relations with Russia. Weissman could at least pick harder cases where there was something closer to equal aggression and rights-violations on both or all sides. But in cases such as these, R2P does not recommend siding with the existing regimes or any of the main rebel groups, and it may not recommend getting involved at all if the costs of intervention would be too high with too little likely benefit for innocent victims. R2P certainly does not justify endless

“sacrifice” of non-combatants, even when hundreds of thousands are being persecuted. But R2P does counsel us not to leap too quickly to a conclusion that intervention would

be disproportionate, given our familiar eagerness to justify doing nothing except treating 1% of the symptoms of such horrors through funding humanitarian aid.

4. Conclusion

In conclusion, Weissman’s attack on R2P is a paradigm case of postmodern, Foucaultian/Badiouian opposition to any use of force to stop mass atrocities. It perfectly illustrates how weak and riddled with fallacies this anti-rights ideology really is, and the extent to which this ideology’s increasing circulation is propelled by the use of rhetorical tropes that do violence to the ability to think clearly about serious moral issues. While we should all thank Weissman for his service to the people of Darfur in the prior decade, his critique of R2P is worse than incoherent. In historical context, Weissman’s article shows the danger posed by rising opposition within humanitarian NGOs to R2P, even in cases when it is clear that armed HI is essential for the survival or freedom of many tens or hundreds of thousands of imperiled victims. Despite its adoption by the UN in 2005, the R2P doctrine has not been followed in Darfur or Syria, not only because of the opposition of China and Russia, but also because of the influence of the genre that Weissman’s essay so well typifies, including within the world of humanitarian NGOs. I believe that the fateful decisions of some Members of Parliament in Britain at the start of September 2013, which vetoed the rising movement to launch air strikes on

Assad’s forces, is directly related to the anti-intervention stance taken by leading aid NGOs at the time. Now the utter ruin of Syria, including the displacement of over nine million people and the spread of ISIS war-cults across northeast Syria and much of Iraq show just how great the *costs of inaction* can be.

People of Weissman’s opinion are guilty of grave folly when they assume that refusal to engage militarily gets moral superiority by default—that standing idly by while the blood of our neighbors flows in rivers should always be our first preference—when the manifest malice of total tyranny is at work. They play into the tyrants’ hands by arguing naively that the only solution lies in peace conferences that are, unlike the Dayton conference for Bosnia, backed by no credible threat of real force. The “imperialism” that we should really fear in this debate is not in the R2P doctrine; rather, it is the rising dominion of a group of anti-intervention intellectuals who influence public discourse and policy-makers, and their willingness to impose an extreme anti-rights ideology on younger readers by way of sophisms, conflation, exaggerations, ad hominem attacks and outrageous misconstruals of the opposing side. *Écrasez l’infâme!*

Notes

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1 Weissman, "Not in Our Name." Hereafter cited parenthetically in the text.

2 Weissman seems to write as a member of the "CRASH team," which appears to be a semi-independent research group within MSF. It is unusual for a large aid NGO to maintain an internal think tank, but it might be a good thing if they are not openly wedded to extreme anti-liberal ideology. Thus, when I address "Weissman" in what follows, this is short for "any leaders of MSF who would endorse Weissman's main statements, in contrast to the founder of MSF, Bernard Kouchner."

3 For example, see Fassin, *Humanitarian Reason*; Barnett, *Empire of Humanity*; and Laverge and Weissman, "Sudan." Of course I do not mean to condemn the whole field of postcolonial studies, which is a wide and loose category, covering many works, most of which do not attempt to trace all problems in developing nations to Western law or human rights standards.

4 For example, see Jennifer Rubenstein's admirable analysis in her *Between Samaritans and States*; and Horgan, *Beyond Good Intentions*. I have no doubt that a few aspects of work by some aid NGOs have sometimes been counterproductive in certain respects; for instance, see the examples described in Lori Allen's study *The Rise and Fall of Human Rights*. However, the corruption of some aid missions into self-perpetuating support systems for an elite class in a situation of political stalemate hardly implies the "fall" of human rights as moral ideals. Instead, it shows that aid NGOs often cannot carry out their goals effectively and stay on track without other forms of political pressure that only powerful national governments (and sometimes their coalitions) can currently bring to bear. On these issues, see Weiss, *Humanitarian Business*; and former MSF-France President Rony Brauman's remark that "Auschwitz today might be treated as a 'humanitarian crisis,' against which the fervent hand-wringing of television would provide little

protection"—paraphrased by Erica Bornstein and Peter Redfield in their introduction to *Forces of Compassion*, 27.

5 Weissman expresses this negative Foucaultian view of "humanitarianism" on page 200.

6 Doubt, *Understanding Evil* (chap. 8: "Post-modernism's Relation to Evil"), 65; compare his discussion of the normative framework of power-assertion in Plato's *Gorgias* as a fount of political evil (76–8). Doubt is especially concerned to note and counter the trend in sociology to accept or valorize this framework as an interpretative lens. On Schmitt's popularity among some neo-Marxists and scholars in critical theory, see Alan Wolfe's article "A Fascist Philosopher Helps Us Understand Contemporary Politics." In particular, Wolfe notes Jan Werner Müller's claim that Schmitt heavily influenced Michael Hardt, Antonio Negri, and Giorgio Agamben.

7 Brian Leiter's *Stanford Encyclopedia* entry on "Nietzsche's Moral and Political Philosophy" convincingly argues that he was a "Calliclean."

8 Norris, *Reclaiming Truth*, 19.

9 Arslan, "Taking Rights Less Seriously," 205–7 (incl. n. 67). However, as discussed below, in contrast to Arslan (207), I refuse to include Levinas in this genre.

10 Ibid., 209.

11 See *ibid.*, 210–11, citing Habermas, "Entwinement of Myth and Enlightenment," 25.

12 The atrocities in Darfur and other parts of Sudan continue to this very day, as the extensive reporting and documenting by Eric Reeves on *Sudan: Research, Analysis, and Advocacy* (<http://sudanreeves.org>) demonstrates. For example, he discusses the Human Rights Watch report of September 9, 2015, noting that "A Sudanese government special force has gone on two sprees of killings and mass rape of civilians in dozens

of Darfur villages and towns since February 2014" ("Human Rights Watch"). Similarly, see Reeves, "Vast Carnage in Jebel Marra" on the 2016 campaign. Such tactics, along with the use of barrel bombs on opponents in the Nuba Mountains and efforts to destroy crops have been routine for years now, without any significant international response. Several aid organizations long ago abandoned trying to work in Darfur because of the Sudanese government's threats against their personnel. In a major *Washington Post* editorial of May 15, 2015, Reeves described "The World's Abandonment of Darfur." Meanwhile, MSF continues its work in parts of Sudan, even though its hospital in South Kordafan was bombed. The doctors are left to try to treat the symptoms of the horrors, while Weissman opposes action to stop the cause.

13 Evans, *Responsibility to Protect*, 4. See also Evans et al., *Responsibility to Protect*, and <http://www.responsibilitytoprotect.org/>.

14 Perhaps Kouchner's involvement partly explains the hostility of current MSF-France leaders to R2P?

15 See Evans, *Responsibility to Protect*, 4, 32–4.

16 See *ibid.*, 35–6. Similar views that the international community has a responsibility to act when nation-states attack or fail to protect their own people are defended by Henry Shue, Peter Singer, Alex Bellamy, and Ramessh Thakur, among many others.

17 See details at <http://www.un.org/en/preventgenocide/adviser/responsibility.shtml>.

18 See Lévy, "Stop the Slaughter in Syria Now!"

19 A more detailed history is available at faculty.fordham.edu/davenport/syria-history.html.

20 MSF warned that its statement that chemical weapons had been used in Syria ought not to be construed as justifying intervention. This position, combined with statements that intervention would "only make the situation worse" by leaders at Oxfam and other aid organizations, gave the appearance of a wide front against military intervention. See e.g., Ditz, "Doctors Without Borders." How could intervention have produced a worse outcome than the one we face now, almost three years later?

21 At the peace conference organized by the US and Russia in January 2014, the official representing the Free Syrian Army and allied groups put forward a serious and credible compromise, which the Assad regime simply rejected, while putting forward no compromise offer of its own. At the time of this writing, the process is being repeated with a ceasefire in early March 2016 to allow humanitarian aid into besieged areas—a ceasefire repeatedly broken by Russia.

22 On this point, see e.g., Orend, *Morality of War*, 37–42. Compare also Fabre, *Cosmopolitan War*, 46–7.

23 I stress this point because American politicians such as Ted Cruz, Donald Trump, and Tammy Gabbard are constantly arguing that the chaos in Libya today, which ISIS is exploiting, shows that NATO should not have protected rebels from Qaddafi's mercenaries. This inference is fallacious: the chaos today result from the *lack of reconstruction efforts* after the war, as the contrasting case of Bosnia shows. Moreover, the willingness of politicians to seek strategic advantage by siding with tyrants perpetrating mass atrocity crimes should shock our conscience: it is the same cynical logic that led Kissinger to side with Pinochet.

24 See Weissman, "Sierra Leone," esp. 44 and 61.

25 Even if there is some coherent notion of impartiality that both R2P and the corruption of aid agencies can be said to violate, the conclusion Weissman draws would not follow. Even if A entails C and B entails C, it does not follow that A entails B or that B entails A. Also see Genser and Cotler, *The Responsibility to Protect*.

26 All the difficulties with amnesty proceedings to end violent conflict are on display in the evolving peace deal with the FARC militias: see <http://colombiapeace.org>.

27 For example, Robert Kane emphasizes the fundamental role of this distinction throughout his approach to moral theory in his *Ethics and the Quest for Wisdom*. See esp. chaps. 2–4.

28 Bradol, "Rwanda."

29 Hayden, "Biased 'Justice.'" Aleksandar Jokic, the editor of the volume *Lessons of*

Kosovo, in which Hayden's piece appeared, is a postmodern Serbian scholar whose works and collections are full of these kinds of neo-Schmittian attacks on universal human rights and rights-based sovereignty.

30 Ibid., 113. I agree with Hayden that NATO should not have attacked so many infrastructure targets; such targets are in a grey area in just war theory, like several kinds of sabotage, but arguably too indirectly related to military power. However, Hayden's implication that the collateral deaths caused by NATO bombings are wrongs on a par with those committed by the Serbian forces is censurable nonsense. It is another example of how writers in this genre constantly set up false moral parities between initial aggressors and the respondents, who may have little economic or strategic interests in the lands or peoples they are saving. This was the case with the United States in Bosnia and Kosovo, although the postmodern critics have done their best to find non-moral motives for Clinton's actions—thus plugging into the larger set of conspiracy theories by Chomsky about Western foreign policies, while ignoring enormous evils perpetrated by non-Western regimes.

31 For example, Melissa Labonte notes the false equivalence often invoked early in the Rwanda crises: for example, Deputy Assistant Secretary Prudence Bushnell telling "Congress that both sides in the conflict had dirty hands." See Labonte, *Human Rights and Humanitarian Norms*, 112.

32 See e.g., Caney, *Justice Beyond Borders*, 243; Tesón, "The liberal case," 105–7.

33 See Fabre, *Cosmopolitan War*, 172–5.

34 Ibid., 75.

35 See Pattison, "Representativeness and Humanitarian Intervention," 579–82.

36 See report of the ICISS (*The Responsibility to Protect*), §4.16 and §§4.33–4.43, 32–37.

37 Melissa Labonte details these networks of influence in her *Humanitarian Rights and Humanitarian Norms*. For example, she notes that during the first two weeks of the Rwandan genocide, many NGO leaders refrained from characterizing the slaughter underway as a premeditated policy of mass extermination, and frequently made

it sound as if the events were a mere revival of tribal warfare or a mere purge of political opponents with violence on both sides. See 99–105.

38 Weissman, "Darfur." Weissman even accused Jan Egeland of putting himself in the "just war camp," as if that were a horrible thing!

39 See Reeves, "Civilian and Humanitarian Security"; in particular, the section titled "Understanding and Misunderstanding the International Refusal to Protect Darfur: The Case of MSF."

40 Laverge and Weissman, "Sudan," esp. 152–60. Yet they also condemn aid NGOs for sacrificing neutrality by supporting the South Sudanese side (159). The evidence they present instead suggests that the problem lay mainly in the SPLA's corrupt ways of operating.

41 On this point, see Annie Sparrow's recent damning critique of aid efforts in Syria, "Aiding Disaster."

42 Orford, *Reading Humanitarian Intervention*, 59. Orford follows the time-honored tradition among postmodernists of treating everything, including the most heinous cruelties and sufferings, as if they were texts, and portraying urgent moral responses as if they were merely "readings" of such texts. People in non-literate communities, however, can still recognize murder as murder.

43 Ibid., 202.

44 Carey, "Review of Orford," 367.

45 Orford, *Reading Humanitarian Intervention*, 166. Orford's work itself illustrates the colonization of the non-profit world by market forces, for why would Oxford publish such smug, self-righteous, extreme ideological propaganda unless this genre sold so well?

46 Ibid., 190.

47 Here is some context that one will not find in Orford's highly selective "text." Kosovo expert Adam Jones reported that "[a]s tension and violence increased in the Kosovo police-state prior to the outbreak of the war with NATO, there were signs that gender-selective mass killings and other atrocities against males would again

be an essential Serb strategy in any fullscale conflagration. The first indicator was the broad-based campaign of state terror and punitive detention against younger ethnic-Albanian men. Women certainly numbered among the detained. But as Julie Mertus noted shortly before the outbreak of the 1999 war, 'while police ... routinely stop ethnic Albanian men, women and children can usually walk the street without police harassment.' Thus, when Mertus cites the astonishing statistic that between 1989 and 1997, 584,373 Kosovo Albanians—half the adult population—[were] arrested, interrogated, interned or remanded' by the Serb security forces, one can be reasonably certain which half" (Jones, *Gendercide in Kosovo*, citing Mertus, *Kosovo*, 167).

48 Orford, *Reading Humanitarian Intervention*, 165.

49 Ibid., 189.

50 Yet such extreme claims are not uncommon: compare Burleigh Wilkins' suggestion that "India's role in the liberation of Bangladesh ... only made matters worse" (Wilkins, "Humanitarian Intervention," 38–9), even though the Pakistani forces killed at least 200,000 people in East Pakistan (Bangladesh) and systematically raped at least 100,000 women, with many estimates ranging much higher.

51 See the 2003 Human Rights Watch report on this topic, "China's Involvement in Sudan: Arms and Oil." <https://www.hrw.org/reports/2003/sudan1103/26.htm>.

52 Lévy, *Left in Dark Times*, 192–3.

53 Ibid., 194–5.

54 Ibid., 200–1.

55 Carey, "Review of Orford," 372.

56 See Levinas, "Rights of Man," esp. 121.

57 Badiou, *Ethics*, liii.

58 " 'A Present Defaults Unless the Crowd Declares Itself': Alain Badiou on Ukraine, Egypt and Finitude." Entry posted by Clement Petitjean. <http://www.versobooks.com/blogs/1569-a-present-defaults-unless-the-crowd-declares-itself-alain-badiou-on-ukraine-egypt-and-finitude>.

Absurdly, Badiou also blames the 2014 uprising largely on the "Ukrainian orthodox

clergy," because it always had "reactionary" tendencies and supported the Nazis. He calls Kiev the "megalomaniac center of Imperial Orthodoxy," yet strangely he says nothing about the Russian Orthodox Church's wide support for Putin.

59 Badiou, *Ethics*, lvi. It is unclear exactly what "court" he is referring to here, but I believe he is simply misnaming the International Criminal Court established by the Rome Statute just before his preface was written.

60 Ibid., 5.

61 Badiou's debt to Nietzsche is especially apparent when he says that human thought "must be affirmative invention or nothing at all," while ethics allows it no free invention (ibid., 14). He tries to appropriate Levinasian alterity (the value of the "incalculable and unpossessed"), but we should not be fooled by his suggestion that a situation-specific response can be branded as "affirmative" of free possibilities without giving this notion any content. It is just as empty as Nietzsche's notion of the will-to-power as life-affirming, which Levinas rightly rejects.

62 Ibid., 8.

63 Nietzsche, *Genealogy of Morality*, 114. Badiou's hatred of the International Criminal Court makes a little more sense in light of this passage.

64 Ibid., 142 (*Daybreak* II §112).

65 Badiou, *Ethics*, 11. Here again, Badiou directly follows Nietzsche, who says in *Beyond Good and Evil* that the idea of "equal rights" is a sign of degeneration from greatness, reducing man to a "dwarf animal" or "herd animal" (*Genealogy of Morality*, 153; *Beyond Good and Evil*, §228). Similarly, in the preface to "The Greek State," he describes belief in "the fundamental rights of man" as a product of "slavery that hides from itself" (*Genealogy of Morality*, 165). Badiou simply sanitizes these horrific statements. By "immortal," Badiou seems to refer to some sort of transcendence without afterlife.

66 Ibid., 12–13.

67 Unfortunately, recent work in cognitive science has found that much human belief is shaped by the emotion-charged

perception that Belief A will facilitate easier bonding with others in one's preferred social circles than will Belief B; people often believe what it is cool to believe.

68 Habermas, "Fundamentalism and Terror," 24. Translation slightly amended.

69 See G. B. Madison's account of Aung San Suu Kji's and Peter Anyang' Nyong's critique of postmodern relativism in "Hermeneutics," 86–7. Madison also describes Gadamerian hermeneutics as an approach that can support human rights.

70 Ibid., 88. Carey makes the same point in response to Orford: "For those concerned with parochial interpretivism, human rights are just a positivist form of status quo domination. For others, particularly those suffering under various forms of auto-cracy, human rights are greatly to be desired." See "Review of Orford," 371.

71 Lévy, "Stop the Slaughter," 36.

72 For example, see §4.27 excluding the rescue of a state's own "nationals on foreign territory" from the scope of legitimate humanitarian intervention (34).

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