



# Democracy and the Rule of Law

15<sup>th</sup> Forum 2000 Conference, October 9–11, 2011, Prague

## Theme Report: A Globalizing World: State Sovereignty and Its Limits



“We cannot intervene everywhere but that does not mean we should not intervene anywhere.”

**Gareth Evans**, Former Australian Minister of Foreign Affairs and Chancellor of Australian National University

Seven of the conference panels were dedicated to discussions on the implications of globalization for state sovereignty, with particular focus on human security and development aid. Emerging from these discussions was a consensus that the present supranational governance frameworks are not evolving in pace with rapidly changing geopolitical realities. Whilst there have undoubtedly been important developments in global governance, such as the concept of Responsibility to Protect (RtoP), the principle of universal jurisdiction and the creation of the International Criminal Court, there was a clear message that these vital developments remain very much works in progress.

### Human Security: Responsibility to Protect

“RtoP is the most significant development in human rights protection since the Universal Declaration of Human Rights.”

**Jared Genser**, President, Freedom Now

In the current geopolitical environment, the protection of human security takes precedence over state sovereignty. State sovereignty can no longer be regarded as a right but rather is a responsibility and the state is responsible for protecting its population. In the words of **Pierre Lévy** (French Ambassador to the Czech Republic), “state sovereignty is not a free passport to kill”, while **Francis Deng** (UN Special Advisor for the Prevention of Genocide) spoke of “positive sovereignty”. Where a state fails to protect its population from mass atrocity, Responsibility to Protect affirms the international community’s duty to provide

support to that state or even to intervene in the event that the state itself is responsible for mass atrocity. In the latter context, **Gareth Evans**, one of the chief architects of RtoP, cited the 2011 intervention in Libya as a textbook invocation of RtoP. Developed in direct response to the 1994 genocide in Rwanda, Professor Evans was confident that the response of the international community to a similar situation today would prove the value of RtoP. The participants emphasized that despite the criticisms of its detractors, RtoP is not synonymous with military intervention, which is the last resort in a toolkit of protective measures available to the international community.

RtoP provides the framework not only to respond to mass atrocity scenarios, but to endeavor to prevent their occurrence. That the concept of RtoP is now fully accepted by UN members is a substantial achievement in itself, but the detail surrounding its implementation remains far from finalized. In particular, further reform of institutions such as the UN Security Council is needed, together with more comprehensive consideration of the implications for military force planning. **Šimon Pánek** of Czech NGO People in Need also criticized response times, emphasizing that in mass atrocity scenarios, time is obviously of the essence.

The strength of RtoP, conceded by both, its detractors and opponents, lies in the narrowness of the concept; efforts to broaden its scope beyond that of mass “atrocity” into the broader human rights arena would undermine its credibility.

Realpolitik inevitably plays a role and is a source of moral discomfort for many. The “balance of consequences” inevitably needs to be considered and North Korea was cited as a potential RtoP scenario where the consequences of UN-backed intervention could not be justified.

## Human Rights

The human rights movement has been revolutionized by globalization and the Information Revolution. The value of global trade provides a powerful lever against state abuse of human rights. Abuses can often now be recorded and communicated rapidly to a global audience although it was acknowledged that this did not necessarily have any greater effect. The debate also acknowledged the disadvantages of globalization, including the spread of bad practice such as electoral fraud.



The EU and US, traditionally the defenders of human rights, have seen their influence markedly reduced by the shift in economic power bases. China, in particular, presently rejects any intervention in its internal affairs (the case of Liu Xiaobo was cited) and the economic consequences of taking a stand are considerable, as Google experienced. Support for political dissidents through official channels such as diplomatic visits to sites of symbolic importance remains of some value but the role of the media in bringing international pressure to bear is paramount.

The evolving role of supranational institutions, such as the European Court of Human Rights, was discussed. However, greater international cohesion e.g. within EU member states is needed if such bodies are to achieve their full potential. There was a clear conclusion of the need for greater investment in developing civil society which has a critical role to play in channeling information, both to such institutions, and by encouraging democratic development at the local level. Human rights abuses are commonly regarded as being predominantly an issue for the developing world. However, as Dutch politician **Frans Timmermans** pointed out, both the EU and the US, particularly in the post-9/11 era, must also come under scrutiny.

### Development Aid

Whilst globalization has resulted in enormous benefits for the world's poorer countries, its impact varies substantially by region with the present international framework determining the winners and losers. In the years between 1990 and 2010, income disparity worsened and whilst the number of Lower Income Countries decreased significantly during this time, it is estimated that 25% of the global population saw their income reduced by 1/3.

The creation of the Millennium Development Goals has driven the development of a high visibility framework for tracking and assessing the impact of globalization on the world's poor. 1/5 of the global population lives in absolute poverty (defined as living on less than \$1.25 per day) and there is clear evidence that levels of poverty and malnutrition have actually increased over the past two decades, with 1/3 of all deaths each year attributable to poverty-related causes. In addition, there is a demonstrable link between political instability and levels of poverty, with 20% of the world's poor currently living in what are deemed to be Fragile or Conflict-Affected States.





**Jiro Hanyu** (Chairman, The Sasakawa Peace Foundation) presented the early findings of ongoing research to support proposals for reforming the system of development aid. There was consensus among the speakers on the present lack of effective systems to evaluate aid effectiveness and for the need to refocus current aid strategy on people rather than countries and on outcomes (effectiveness of aid delivered) above inputs (value of aid distributed). The speakers agreed that, despite the enormous increase in development aid distributed since 1990 (in 2010, US \$54 billion), its effectiveness is diminishing, in large part because the increased funding level engenders increased corruption. This, together with a lack of transparency, undue influence of corporate lobbyists at the national level, the self-interest of donor nations, weak governance at both the national and international levels, and the absence of clear agricultural or industrial development strategies, were believed to be the most significant factors hampering aid effectiveness. The result is a vicious circle where lack of effectiveness results in reduced support for development aid.

**Motoshige Itoh** from the University of Tokyo presented calculations demonstrating that with only 20% of the current annual aid budget, absolute poverty could be eliminated within ten years in Lower Income Countries – conditional upon the aid system undergoing major reform to link the interests of the poor with the rich, a proposal reiterated by **Thomas Pogge** (Professor of Philosophy and International Affairs, Yale University). The Sasakawa Peace Foundation's draft reforms include moving beyond the present system of moral obligation towards a legally-binding global aid convention and greater use of output-focused incentive mechanisms such as the Health Impact Fund.



## A Globalizing World: State Sovereignty and Its Limits Theme Speakers

**George Andreopoulos**, Professor of Political Science, The City University of New York, USA; **Pavel Barša**, Professor of Political Science, Charles University, Czech Republic; **Veronika Bílková**, International Lawyer and Lecturer, Faculty of Law, Charles University, Czech Republic; **Ivan Chvatík**, Jan Patočka Archive, Czech Republic; **Marcus Cornaro**, Director, Development and Cooperation, European Commission, Belgium/Austria; **Francis Deng**, Special Advisor for the Prevention of Genocide, United Nations, USA/Sudan; **Mou-Shih Ding**, Senior Advisor to the President, Taiwan; **Ondřej Ditrych**, Executive Secretary, Oxford and Cambridge Alumni Society, Czech Republic; **Gareth Evans**, Former Minister of Foreign Affairs, Chancellor, Australian National University, Australia; **Vladimír Galuška**, Deputy Minister, Ministry of Foreign Affairs, Czech Republic; **Jared Genser**, President, Freedom Now, USA; **Jiro Hanyu**, Chairman, The Sasakawa Peace Foundation, Japan; **Howard Hensel**, Professor of Politico-Military Affairs, Air War College, USA; **Motoshige Itoh**, Dean, Graduate School of Economics, The University of Tokyo, Japan; **Sai Felicia Krishna-Hensel**, Professor of Anthropology, Auburn, Montgomery, USA; **Pierre Lévy**, Ambassador to the Czech Republic, France; **Ales Michalevic**, Politician, Former Presidential Candidate, Belarus; **Wolfgang Michalski**, Managing Director, WM International; Former Chief Advisor to the Secretary General of the OECD, Germany; **Aryeh Neier**, President, Open Society Foundations, USA; **Olusegun Obasanjo**, Former President, Nigeria; **Cem Özdemir**, Co-Chair, Alliance 90/The Greens, Germany; **Šimon Pánek**, Director, People in Need, Czech Republic; **Thomas Pogge**, Leitner Professor of Philosophy and International Affairs, Yale University, USA; **Jiří Schneider**, First Deputy Minister, Ministry of Foreign Affairs, Czech Republic; **Jiřina Šiklová**, Sociologist, Czech Republic; **Tetsushi Sonobe**, Program Director, National Graduate Institute for Policy Studies, Japan; **Marek Svoboda**, Director, Human Rights and Democracy Department, People in Need, Czech Republic; **Frans Timmermans**, Politician, Diplomat, The Netherlands; **Jan Urban**, Journalist, Czech Republic

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