

CRG Chair Lecture

**AN INTELLIGENT GUIDE
TO THE DISCRIMINATORY
HISTORY OF
RESPONSIBILITY**

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1. The Dual Nature of Responsibility

The discussion on responsibility is full with philosophical, quasi-philosophical, sociological, and legal reflections while political reflection and analysis is relatively less. This is because political power is suffused with the idea of sovereignty, and very little with responsibility. While a theory of separation of powers and the constitutional principle of division of powers imply responsibility as an intrinsic element of power, yet power is measured not by responsibility but by the extent of constraints or fetters. Power inherently transgresses restraints and is therefore inherently violent. Even though power is honed with prudence to be exercised in a measured manner, yet power has the capacity to turn itself into a centre, a univocal sovereign signifier of capacity. A capillary existence of power does not guarantee the federalisation of political power or, to be precise, its existence in a responsible mode.

Political power survives on dualities though the prevailing idea of power hides its paradoxical existence. Dualities characterise the situation, such as the dualities of power and capacity, concentration and spread, sovereignty and accountability, protection and destruction, freedom and discipline, prize and punishment, thought and action, knowledge and language, and legacy of power and invention of power. Yet, politics never thought of responsibility as one of its fundamental components. Hence, on the question of responsibility, politics lost out to philosophy and law. We have here among others one fundamental problem, raised by

Machiavelli, one of the few proponents of pure politics, 'The Prince' may achieve his power as legacy or inheritance, in short, fortune; but he can sustain it only by virtue. Thus,

...one who becomes a prince through the favour of the people ought to keep them friendly, and this he can easily do seeing they only ask not to be oppressed by him. But one who, in opposition to the people, becomes a prince by the favour of the nobles, ought, above everything, to seek to win the people over to himself, and this he may easily do if he takes them under his protection. Because men, when they receive good from him of whom they were expecting evil, are bound more closely to their benefactor; thus the people quickly become more devoted to him than if he had been raised to the principality by their favours; and the prince can win their affections in many ways, but as these vary according to the circumstances one cannot give fixed rules, so I omit them; but, I repeat, it is necessary for a prince to have the people friendly, otherwise he has no security in adversity.¹

Further, the Prince has to also discover the virtues of past generations. Thus,

...Marcus, Pertinax, and Alexander, being all men of modest life, lovers of justice, enemies to cruelty, humane, and benignant, came to a sad end except Marcus; he alone lived and died honoured, because he had succeeded to the throne by hereditary title, and owed nothing either to the soldiers or the people; and afterwards, being possessed of many virtues which made him respected, he always kept both orders in their places whilst he lived, and was neither hated nor despised.²

This leads us to the most pressing question in philosophy raised by the *Prince*: *With what should one begin?* That is to say, there is no immanent causality in a process claiming to be transformative - in our case, a continuous process of protection of the victims of forced migration, which will transform global governance and will signal a new ethic of responsibility. The Refugee Convention of 1951 along with its precedents created an institutionalised power to protect. But this creation was not a transformative event. Machiavelli's answer to the conundrum, if you recall, was that all beginnings emerge from the void. Void is the space of the beginning of political practice. Perhaps, the only possible starting position

of a transformative political activity is the unknown as in the case of the figure of The Prince. The power to protect which does not yet exist is made possible only by thinking within the empty space of lack of protection, of the dark story of victimhood, vulnerability, and death. For Machiavelli, the Prince emerged at the meeting point of fortune and virtue. Similarly, ours is a time of contingency. Ideology of protection faces a void. Ideology cannot make sense of the void. Crafting a theory of responsible power in the neoliberal time begins from that void.

The void was best presented in the Indian epic *Mahabharata*. In *Mahabharata*, responsibility is not a philosophical problem, but a political problem. The way the subject connects rule to responsibility is not a metaphysical one, but a very practical one. While in the midst of war (*Dronaparba*), death (the most expected sight, also the most common sight) raises the issue of truth, when peace comes at last (*Shaniti-parba*), it is not truth of death which becomes the pre-occupation of the combatants. They do not discuss death, the obvious consequence of war; they do not discuss the million slaughters the war has caused. Peace occasions the discussion of politics, practicalities, responsibility, and wisdom, which connect them to the realisation of truth—the truth of life. The *Shaniti-parba* tells us that virtue lies in discerning the practical obligations of life. The advices in the *Mahabharata* are calculations towards this maxim. The political subject must deliberate and calculate. Both analytically and normatively this is significant. Therefore, both in war and in peace the actors continuously labour on this point; in fact, politics entails an eternal labour on the continuum and the specifics of the two ends of this continuum—war and peace. On one hand, while emphasising the necessity of death, *Mahabharata* eschews any notion of pure violence and speaks of the futility of destruction. On the other hand, the epic says that violence must be launched politically, which means rationally, with *calculation* and

with instruments. The only answer *Shantiparba* seems to suggest is that in order to avoid conflict and war, political conditions have to be prolonged as much as possible by good and judicious governance. Responsibility emerges from this conjuncture. The truth of life binds death due to violence and peace by conjoining practicality and virtue. Indeed, practicality and virtue make peace possible. They gesture the principle of responsibility – of action, towards subjects, of consequences.

Morality without practicality is not virtue. Against delusion thus the *Mahabharata* says in *Anushashanparba*, “What is eternally true, but contains clever distortion is in fact a lie” (232.18). And more significantly, “The way it was heard, the way it was seen, and the way it was done, to represent it through speech without distortion is truth” (232.17).³ *Shantiparba* and *Anushashanparba* ask us to think of truth in relative terms—that is to say in terms of practicality, responsibility, and reality. Politics in this way establishes the passage between war conditions and peace conditions, ethics and practicalities, killings and protecting lives, truth and untruth, and finally truth and virtue. The method of inquiry is empirical. Responsible power is not to be understood as a moral power, but power suffused with wisdom.

2. Power, Ethics, Practicality, and Responsibility

Why it is that politics was left without any coherent thought, doctrine, or ideology of responsible power? One reason is, as I have said, ideology cannot make sense of the void. Think of Immanuel Kant. Kant does not associate responsibility with power. His ethics has to do with reason, imperative, morality, and not power. He had no sense of conjuncture, which Machiavelli had. Recall Machiavelli’s account of the conjuncture of fortune and virtue that made the Prince possible. Power and responsibility

do not automatically take off from each other. It is a moment of conjuncture where fortune and virtue meet. In politics, practicality was for long overwhelmed by moral injunctions. Hence, Machiavelli, you may say, was side-lined by Kantian ideas. We may indeed go back to Roman thinker Cicero (106–43 BC), who combined philosophy with rhetoric, and produced a notion of practicality – which I think was an argument for power that would inherently lay out a chart of duties. Thus, in *On Duties* he wrote,

...when considering the goodwill with which each regards us, the foremost appropriate action is to bestow the most upon the one who happens to esteem us most. But this goodwill should be judged, not in the custom of adolescents, by a sort of intensity of love, but rather in a steadfast and consistent manner. But if our gratitude is merited, so that it must not be initiated but repaid, greater care must be exercised; for no action is more necessarily appropriate than repaying one's gratitude...since there are two kinds of liberality, one of granting favours, another of returning them, insofar as it is within our power, ought we not be permitted to return them to a good man, provided it can be done without causing injury?...human association and unity will best be preserved if the most kindness is bestowed upon those with whom we are closest...

The human being who courteously points the way to one lost
Kindles, as it were, another's light with his own.
No less does his own light shine, now that he has kindled another's.

From this one example he advises well enough that whatever can be lent without detriment ought to be granted even to a stranger. The following are such “common things”: “Do not obstruct access to running water”; “Permit another to take fire from your fire”; “Give trustworthy counsel to those requesting advice.” Such things are useful to those who receive them, and no trouble to the one who gives them.⁴

The passage contains two insights: (a) help to others may originate from a wise sense of how to exercise power prudently—the way to make power prudent, and (b) there is this idea of commons, something others can

share. Those exercising power must know that others can partake of the commons. This is a theory of hospitality that has less to do with morality but with practicality, or that much abused word, reason. Cicero's *Duties* is a theory of responsibility.

This is different from the liberal idea, made famous by Immanuel Kant, that the supreme principle of morality is a principle of practical rationality, in his words, a "categorical imperative".⁵ "Categorical imperative" is an objective, rationally necessary, and unconditional principle to be followed by us despite any natural desires we may have to the contrary. All specific moral requirements, according to Kant, are justified by the principle of categorical imperative, which means that all immoral actions are irrational because they violate the categorical imperative. Standards of rationality are intrinsically related to moral requirements - not simply instrumental principles of rationality to satisfy one's desires or external rational principles. The categorical imperative is the fundamental principle of morality and is nothing but the law of an autonomous will. We are not slave to passions, our moral philosophy allows for a conception of reason whose reach in practical affairs goes well beyond passion. Thus, there is the contra-position: nature and reason. By nature, we may not be hospitable. But by reason we can be. Our knowledge and understanding of the empirical world, though bound by the limits of our perceptual and cognitive powers, makes human autonomy possible. Morality thus presupposes that we as agents, though bounded, are able to make things happen by our own free choices in a world which we can understand and in which can find out causes.

In the philosopher's language, responsibility becomes a part of "government of the self and others".⁶ Moral philosophy has a function here. Its function is to reveal an inner duty, the truth of our commitment to others. By realising this truth in the form of performing responsibility

we have made up for god's deficiency in creating an equal society, where some will live precarious lives. Moral philosophy in this way has made these extreme metaphysical claims on truth, and we can be rightly sceptical of these claims. Therefore, the supreme question, "What should I do?" goes beyond any fundamental principle of morality, past the domain of specific moral duties, to the difficult issues of common sense and goodwill, that in turn lead to the three themes I mentioned earlier: power, practicality, and commons. The issue of responsibility, in short, is not so much related to duty as to power, practicality, and commons. In any case, responsibility is not a foundational question of ethics, but a practical question. At least this is how politics shapes the theme for us.

Max Weber tried to achieve this delicate understanding of the notion of responsibility. In his famous lecture, "Politics as a Vocation", after surveying lengthy historical narratives of how modern politics emerged, he turns to the description of the politician. The politician needs to balance an "ethic of moral conviction" with an "ethic of responsibility." The first is formed by the core unshakeable beliefs that a politician has to hold. The second refers to the day-to-day need to use the means of the state's violence in a fashion which preserves the peace for the greater good. A politician must know how to balance these two, make compromises between these two ethics. "Politics is made with the head, not with the other parts of body, nor the soul".⁷ Vanity creates problems because politicians control tools of legitimate violence. Politicians are tempted to make decisions based on attachments to followers and sycophants, and not on rational reasoning needed to govern justly and effectively. Rational practice of politics is thus difficult. In the same vein, Max Weber thought that the prospect of the ongoing German revolution of 1919 was gloomy, as it was characterised by excitement and passion and not moderation.

This is where liberal rationality reaches its limits. Responsibility is made out as non-contentious. It can be performed when it is made seamless by wisdom. Once again, power is erased in this understanding. Max Weber refuses the possibility that rebellious politics can be also responsible.

3. Colonial Principle of Responsibility and the Critique

The possibility articulated by the anti-colonial idea of responsibility was something Weber could not visualise. The colonial idea of responsibility was not responsibility of the Prince towards his subjects. It had nothing to do with virtue. In colonial time, the Home Ministry in London was responsible for Indian affairs, the Indians were responsible to the colonial government for their good conduct, and the Crown was responsible for making India civilised. Thus, famines created dispute among the colonial rulers as to who was responsible for mass hunger, also over determination of eligibility for getting food aid. Lord Lytton for example was unwilling to shoulder the responsibility of feeding thousands of hungry Indians during the Deccan Famine and opted for stricter eligibility norms.⁸ The Famine Codes of 1880s were not a sign of admitting responsibility of the Crown, but one of expediency. Thus, displaced Indians were to be herded in camps so that food could be distributed conveniently and hungry Indians would not converge in towns and riot. The measures were therefore punitive and immensely restrictive. Yet colonialism impelled Indians to realise a bond, which inspired them to work for solidarity and launch mutual aid committees for aid campaigns. For instance, from 1870 to 1922 North Bengal witnessed as many as twenty-five floods resulting in massive loss of crops, properties, and lives of cattle and human beings. The devastating flood in the Rajshahi Division was caused by heavy rainfall in entire North Bengal on 22-26 September 1922. Nationalist leaders like

Subhash Chandra Bose visited the affected areas, Bengal Relief Committee with the famous scientist P.C. Ray as its President was formed quickly by various organizations with the Calcutta University Science College campus as its headquarter. Other scientists including Meghnad Saha, then a Professor of Physics at Allahabad University, joined. Nearly 200 volunteers, including students and teachers worked as volunteers. Once again, in the 1929 flood in the Pabna district P.C. Ray arranged for relief with the help of students. The Bengal Famine occasioned a surge of solidarity actions undertaken by communist activists. The Malaria Prevention Cooperative Committee was formed in 1923. We have numerous instances of practice of responsibility.

More significantly, in 1950 the two warring countries, Pakistan and India, parts of one country only three years back, concluded a pact—the Nehru-Liaquat Ali Pact—committing the two countries to protect minorities, who belonged a few years back to each other’s country. The Pact was a bilateral treaty between two countries. It allowed refugees to return and to dispose of their property. Abducted women and looted property were to be returned and minority rights were confirmed. The pact also introduced visa system for refugees, and minority commissions were set up in both countries. More than one million refugees migrated from East Pakistan (now Bangladesh) to West Bengal in India. It was not a perfect or satisfactory solution and the nationalist leaders of the two countries gradually forgot the mutual commitment. Yet the significance of the gesture of responsibility could not be mistaken. The legacy of mutual responsibility among the colonial people weakened over time, but the legacy helped sustain a fragile peace among two feuding states for one and half decade in the post-independent period. Some termed the effect as “animosity at bay”.⁹

We can also recall periodic efforts by Gandhi to protect the endangered minorities in time of communal violence - most symbolically by undertaking indefinite fasts. In January 1948 he started the last fast of his life. He laid down two conditions for ending his fast. The first, for communal amity; all mosques and houses belonging to the Muslims in Delhi were to be vacated and handed over to them. The second, the Government of India was to pay to Pakistan Rs. 55 crores as its share of the treasury at the time of Partition. The Government met both conditions. But, as we know, Gandhi had to pay for this settlement with his life. This is not to say that cohesion makes nation's conduct responsible. There is no pre-given cohesion of the nation. The nation is permanently dissatisfied with the degree of its cohesion. The space of cohesion of the nation is contentious. Race and ethnicity in various ways come to inform nation's membership. Thus, there is an eternal spectre of the alien haunting the nation. Even in a settlers' country like the United States where the indigenous population groups were nearly annihilated and marginalised, "who is an American" invites racist answers. Cases were fought in courts of law to decide whether Hispanics were rightful nationals of the United States. In a rigorous study of the race question in Greece, Sebasti Trubeta has shown the way physical anthropology, race, and eugenics functioned to make the Greek nation, which was pure and different from non-Greeks. Hence the debate raged among the Greek anthropologists: Who was a non-Greek? Thus, who was a minority? Who was an outsider, who was an alien? These crucial questions of governance depended for their resolution on the discovery of who was a Greek—a Hellenic figure spread across Asia Minor, different from the Slavs and Turks—an authentic European maintaining continuity from the classical time.¹⁰

The theme of responsibility in this way tells us of contentious politics. Nevertheless, there is much to learn from the nationalist—in particular, the anti-colonial—repertoire of responsibility. At least we can note this: solidarity accounted to a large extent in the practices of responsibility in the anti-colonial milieu. To be truthful, in politics solidarity and responsibility have always gone hand in hand. The Prince was responsible for the protection of his subjects because they formed a people, without whom the Prince was inconceivable. The nation is responsible because the people make the nation. Likewise, transcending, or to transcend the boundaries of the nation, a feeling of solidarity along some other line becomes a catalyst of international responsibility. This is known as international solidarity and international responsibility, which is different from the doctrine of “responsibility to protect” as enunciated by today’s regime of global governance. Responsibility in this case is to protect, not to ensure justice. We shall come to this complicated question soon.

4. The Global Space of Responsibility

We must remember, through the entire period of the emergence of nation-states the idea of responsibility was being framed along a related but different axis also—the axis of global governance. Wars not surprisingly, provoked arguments of responsibility, something that victorious kings, princes, nations, and states demanded of the vanquished. Responsibility gradually came to imply accountability—accountability for imposing wars on societies, inflicting massive loss of human lives and property, destroying

dignity and rights of individuals, groups, and races, instituting discriminations at every level of life, and enslaving people. All these came to be known as crime under international law. The Nuremberg Principles (1947) listed the codified idea of responsibility as accountability. These principles are:

- (a) Any person who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment;
- (b) The fact that internal law does not impose a penalty for an act which constitutes a crime under international law does not relieve the person who committed the act from responsibility under international law;
- (c) The fact that a person who committed an act which constitutes a crime under international law, acted as Head of State or responsible government official does not relieve him from responsibility under international law;
- (d) The fact that a person acted pursuant to an order of his government or of a superior does not relieve him from responsibility under international law;
- (e) Any person charged with a crime under international law will have the right to a fair trial on the facts and law;
- (f) Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the following crimes are responsible for all acts performed by any persons in execution of such plan, such crimes being: crime against peace; planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements or assurances; participation in a common plan or conspiracy for the accomplishment of any of the acts mentioned before; war crime, such as violation of the laws or customs of war, including murder, ill-treatment or deportation of civilian population for the purpose of slave labour in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, plunder, wanton destruction, or devastation not justified by military necessity; and finally, crime against humanity, which means murder, extermination, enslavement, deportation, other inhumane acts done against any civilian population, or persecution on political, racial, or religious grounds, when such acts are done or such persecutions are carried on in execution of or in connection with any crime against peace or any war crime;

(g) Complicity in the commission of a crime against peace, a war crime, or a crime against humanity as set forth in Principle VI is a crime under international law.

The high noon of international responsibility with this declaration had arrived. Thus, close on the heels of the Nuremberg Principles, nations agreed on the four Geneva Conventions (1949) which in course of defining the laws of war further clarified the principle of responsibility. The Convention on the Prevention and Punishment of the Crime of Genocide, commonly known as the Genocide Convention (1951), was the first human rights treaty that declared genocide as crime and obligated state parties to pursue enforcement of its prohibition. Conceived largely in response to WWII that had witnessed atrocities on an unimaginable scale such as the Holocaust or Nazi occupation of Eastern Europe, the Convention outlawed massacres of indigenous communities and religious minorities which had marked the history of colonialism. The Convention defined genocide as any of five "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group." These five acts were: killing members of the group, causing them serious bodily or mental harm, imposing living conditions intended to destroy the group, preventing births, and forcibly transferring children out of the group. The Convention further criminalized complicity, attempt, or incitement of its commission. All perpetrators were to be tried regardless of whether they were private individuals, public officials, or political leaders with sovereign immunity.

By this time, the UN had already adopted the Universal Declaration of Human Rights in 1948. The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to support the relief and human development of Palestinian refugees was established in 1949. The Geneva Convention for Refugee Protection

followed in 1951. We all know how the emerging rights discourse that enjoined upon state parties to observe civil and political rights and subsequently social and economic rights developed further. Convention on the Elimination of All Forms of Discrimination against Women (1979), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Convention on Child Rights (1989), and other declarations of human rights and the duty of the states to observe those rights were milestones in this process. The Biological Weapons Convention, formally known as “The Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction”, was opened for signature in 1972 and entered into force in 1975. It supplemented the 1925 Geneva Protocol, which had prohibited only the use of biological weapons. States Parties to the Biological Weapons Convention undertook “never in any circumstances to develop, produce, stockpile or otherwise acquire or retain microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes; and weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict.” Likewise, the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, commonly known as the Chemical Weapons Convention, came into effect in 1992.

These conventions laid down the path of an interlinked development of two principles of a responsible power: respecting rights and observing obligations. Responsibility on a global scale was conceptualised in this way. Yet, we must not be carried away by this received history of international responsibility. Remember, we all have rose-tinted glasses. In this post-war period stretching up to our time,

American napalm bombing of Vietnam, bombing of Iraq and embargo on its economic life resulting in deaths of thousands of Iraqi children, bombing of Afghanistan, NATO bombing of Yugoslavia, the dirty wars in Latin America, endless military coups backed and approved by Great Powers, and several other gross violations by aggressive and interventionist powers happened. Coalitions of the willing had little time to be responsible to the international consensus on responsibility. In this milieu, “responsibility to protect” became infamous as a doctrine of responsibility as it increasingly used the ruse of responsibility to subjugate sovereign nations of the developing world. It began on an innocuous note.

After WWII countries strove to create a new world order. Its basis would be respect for sovereignty and the principle of non-interference in internal affairs of a country. To preserve peace and defend human rights, the United Nations periodically organised multinational peacekeeping forces to work in coordination with local governments. The turn came in the 1990s with the advent of a neo-liberal world order, when after a series of conflicts including the Rwandan genocide and the Balkan wars many pressed for a redefinition of the notion of global responsibility. In 2005 the UN members endorsed the “responsibility to protect” doctrine, which states that countries have a fundamental sovereign responsibility to protect their citizens. If they fail to do so, that responsibility falls to the global order to take steps to protect those vulnerable people, violating the sovereignty of the relevant country if needed. In other words, countries acting under UN auspices can use all means necessary including military intervention to prevent large-scale loss of life. The real nature of the doctrine revealed in 2011 in Libya’s civil war, when humanitarian intervention evolved into a regime-change operation.

The evolution of humanitarian intervention showed the strong traces of the colonial past. As an instance we may mention the place of Ottoman Turkey in British imagination in the nineteenth century, as Britain consistently invoked a “concert of Europe” against Ottoman Turkey on the ground of latter’s inability to protect Christian subjects. Britain’s Prime Minister Gladstone’s inflammatory rhetoric in his “Bulgarian Horrors” pamphlet was legitimised by his humanitarian perspective. French operations in Africa or NATO’s bombardment in Serbia carried the colonial lineage of intervention on humanitarian grounds. The chief feature of the colonial and neo-colonial practice of power is that while power is justified in the name of its burden of responsibility, power does not have to account for the consequences of its exercise. A stark instance of this discriminatory history is that while the International Criminal Court (ICC) established by the Rome Statute (1998) is hailed in the West as the ultimate institution of international justice, the United States opted out of it as it had to save its soldiers engaged in various interventionist wars from possible charges of war crimes. The US is one of the few countries in the world that voted against the treaty. The ICC faces objections to its jurisdiction, accusations of bias, Eurocentrism, and racism. These objections are around the question of fairness of its case-selection, trial procedures, and doubts about the effectiveness of ICC.

5. Power and Responsibility at the Margin

This mainstream history of responsibility raises the question: How are power and responsibility linked to each other in the marginal histories? This question is important because as we have seen by now, unlike the Kantian world, the world we live in is characterized by a great dissociation

of power and responsibility. Wars may be launched on countries by great powers, but the burdens of refugee flows created by wars are shouldered by countries that had little to do with them. Wars in and population flows from Syria, Iraq, Yemen, Afghanistan, and Libya readily come to mind. The Vietnam War and the disintegration of Yugoslavia twenty years later—both were followed by massive refugee flows. Millions of Partition refugees in South Asia had little to do with the colonial decision to divide the Indian subcontinent. Yet through all these years the global refugee regime never questioned this dissociation—primarily for two reasons: (a) First, in the age of democracy, responsibility is understood to rest with the people, who must conduct themselves responsibly to prove that they are masters of their destiny; in other words, they self-determine, while in reality power is exercised by the corporate class. (b) Second, international responsibility is exercised by the nation-states, while power is vested in transnational agencies and empires who exercise power without responsibility. In this situation of graded responsibility and the hierarchical history of the notion of responsibility, it is important to inquire about the nature of power and responsibility at the margins.

In this connection, we should also note that the so-called regime of protection cannot address displacement due to war. The present massive refugee flows are not marked by mere discrimination or liminal violence, but brutal war. The 1951 Convention barely touches the problem. It refers to the war in the context of the Second World War, or to rule out protection to persons accused of war crimes. This is the background in which the question of responsibility for war and displacement assumes urgency. In war and war-like conditions the categorical distinctions between various groups seeking shelter, assistance, and protection – such as refugees, asylum seekers, illegal immigrants, immigration labour, climate-induced displaced population groups, etc.-

vanish. In such a time it is important to examine the effectiveness of the global protection apparatus for the refugees.

We evaluate the responsibility of people and groups by how they exercise their power. Sometimes we do this formally, such as in a legal judgment. The question will be: How do we relate moral responsibility and legal responsibility—not only of individuals but of empires, global powers, and other collectives? The refugee protection regime has no idea of (a) responsible agency, whereby an institution such as the state is regarded as a moral agent; (b) retrospective responsibility, by which a state is judged for its actions and is blamed or punished; or (c) responsibility as a virtue, for which a state is praised as being responsible. In the context of post-colonial experiences, we need a wider view of responsibility in order to explore connections between moral and legal responsibility, and between global and national responsibilities. It is only from the margins that the contradictions and fault lines in the architecture of power, influence, and responsibility can be brought to light. Therefore, the need for a perspective “on the margins” of the protection regime is strategic.

After all, there are asymmetries inherent in the fact that an overwhelming part (by some calculations, 86 per cent) of world’s refugees are hosted in the Global South, but an equally overwhelming part (about 80 per cent) of UNHCR’s funding comes from states in the Global North. Yet we try desperately not to draw the only possible conclusion, that this asymmetry means that donors have power and host states have responsibility. Even the expanded mandate of the global protection regime to the needs of a wider set of “persons of concern” does not alter or significantly modify the wide divergence between the root causes of displacement in the Global South and the 1951 Convention, which remains finally a “persecution-centric” approach. Of course, this is not a

new point. The question first appeared in the discussion in *Escape from Violence* more than thirty years ago.¹¹

The relation between care and power is not a simple causal one, as if simply by caring one amasses power. The relation is complex. Care does not simply flow from the sovereign legal authority at the top. The heterogeneity of power builds up and draws on the heterogeneity of the act of caring. At the same time the dispersed state of responsibility orients the power to care. This is the basis of a post-colonial interrogation of the global protection regime of refugees and the stateless. There are all kinds of explanation of the current protection regime: security explanation, kindness explanation, or the international law and international regime-centric explanation. Yet none of this is enough to understand the mysteries behind one of the most observed and least comprehended political phenomena of our time, namely the local and specific nature of asylum and refugee care policy of a post-colonial state. One may argue that a rights-based explanation may appear as the best route, because for instance the refugees of Partition viewed their own arrival in India as a matter of right—returning home, returning to the “natural nation.” Yet we know the situation was ambiguous (the nation was not so “natural,” and the departure too was from a “home”), and refugee protection did not evolve purely as a matter of right of the refugees, because it also evolved as an ethical, humanitarian task involving the principle of responsibility towards the subjects of the nation.

In India, the contest between the notions of charity and rights began when refugees started pouring in and has since influenced the discourse of “hospitality,” a term that is supposed to overcome the contradiction between charity and rights. The current discourse on refugee protection in India arises from this contest between the two notions. The foundations of the legal-administrative discourse on refugees and

foreigners were in that strategic ambiguity. Who became alien, when, and declared by whom became a deeply circumstantial matter, never to be fully defined by law. Alien-hood thereby became the second nature of a democratic state, which required and created the citizens as its political foundation. Because offering shelter and protection became deeply circumstantial, including near-permanent residence, local communities responded with compassion and fatigue, benign care and ill-feeling animosity—a response that characterized the conduct of the state also. Local response and responsibility, regional response, judicial pronouncements, administrative flexibility, traditions of hospitality—all these influenced state policy on refugees. At the same time, keeping shelter-seekers in ghettos, proscribing their movement, creating penal colonies, thus underwriting the nature of charity that the state had been providing, become a feature of the asylum and care practices of the state, though with some exceptions.

To conclude: the other scene of power and influence in the global refugee regime is that of power and responsibility at the margins. Too often we focus on the global regime of power and influence that mark the protection regime, while ignoring the dynamics of responsibility that mark the protection scenario at the margins. Here the most important task will be a rigorous study of the practices of mutual responsibility among the subaltern population groups who engage in collective protection in times of severe bio-political crises. Crisis produces a community in distress engaging in mutual help, protection, and solidarity. This is where we make a break with the individualist-moralist-colonial tradition of responsibility. Responsibility has close relation with the phenomenon of bio-politics from below. Elsewhere I have explained at length the phenomenon of bio-politics from below. Hence, I shall desist from spending more time on this.

In any case, our study of responsibility as an essential component of politics has suffered from a top-down approach. Posing from the margins the question of responsibility is a post-colonial reflection of the way power is organized. A post-colonial framing of responsibility will mean taking into account the background of decolonization, partitions, structural reforms, environmental disasters, and neoliberal development against which population flows continue, and bio-political responses from below to events of crises. It is important to study local dynamics of power and responsibility in protection of the victims of forced migration. We need to study local and variegated experiences of refugee protection, because there is a greater burden of protection at the micro level - at the margin. We need to study the neglected histories of sovereignty as responsibility.

The dual figure of migrant and refugee has emerged as a significant subject under conditions of globalization, aggressive wars, transgression of borders, and a political economy that allows differential inclusion of migrant labour. In this context, post-colonial experiences suggest plural responsibilities for protection and hospitality, and it means that we must accept legal pluralism and regional mechanism as the foundational principle for rebuilding the architecture of protection. The salient feature of the situation at the margins is that there is no transfer of will here from the ruled to the ruler or the other way round, a flexible juridical structure, and a flexible sense of direction: therefore, responsibility does not have a monolithic structure asking the subject to be directed towards a point of direction. Autonomy and responsibility enmesh with each other in unpredictable ways. Responsibility becomes essential to the *government of the living*. Mutual responsibility creates a community. It becomes the name of solidarity, the name of a collective. Solidarity, a sense of the common, and a stake in the common produce responsibility as a collective virtue. While not all post-colonial experiences

are the same, there is a broad pattern. The pattern is indicative of a general experience and problematizes assumptions about the experience of states on the margins of the international system.

¹ Niccolo Machiavelli, “Concerning a Civil Principality,” in *The Prince*, trans. W.K. Marriott (Project Gutenberg, e-Book #1232), accessed on 28 December 2022, <https://www.gutenberg.org/files/1232/1232-h/1232-h.htm>

² Machiavelli, “That One Should Avoid Being Despised and Hated,” in *The Prince*, accessed on 28 December 2022, <https://www.gutenberg.org/files/1232/1232-h/1232-h.htm>.

³ For the English translation of the cited lines from the Mahabharata, I have depended on Badrinath Chaturvedi, *The Mahabharata: An Inquiry into the Human Condition* (Hyderabad: Orient Longman, 2006).

⁴ Marcus Tullius Cicero, *On Duties*, trans. Benjamin Patrick Newton (Ithaca: Cornell University Press, 2016), 42-43.

⁵ Kant wrote, “There can be one categorical imperative and it is this: Act only according to that maxim whereby you can at the same time will that it should become a universal law”, see, Immanuel Kant, *Grounding of the Metaphysics of Morals: On a Supposed Right to Lie Because of Philanthropic Concerns*, trans. James W. Ellington (Indianapolis: Hackett Pub., 1993), 30.

⁶ Michel Foucault, *The Government of Self and Others: Lectures at the Collège de France, 1982-1983*, trans. Graham Burchell (New York: Palgrave Macmillan, 2010); Michel Foucault, *On the Government of the Living: Lectures at the Collège de France 1979-1980*, trans. Graham Burchell (New York: Picador, 2012), 30.

⁷ Max Weber, “Politics as a Vocation,” in *From Max Weber: Essays in Sociology*, trans. and eds. H.H. Gerth and C. Wright Mills (New York: Oxford University Press, 1946), 77-128.

⁸ Mike Davis, *Late Victorian Holocausts: El Nino famines and the Making of the Third World* (London: Verso, 2001), 40.

⁹ Pallavi Raghavan, *Animosity at Bay: An Alternative History of the India-Pakistan Relationship, 1947-1952* (New York: Oxford University Press, 2020).

¹⁰ Sevasti Trubeta, *Physical Anthropology, Race, and Eugenics in Greece 1880s-1870s* (Leiden: Brill, 2013).

¹¹ Aristide R. Zolberg, Astri Suhrke, and Sergio Aguayo, *Escape from Violence: Conflict and the Refugee Crisis in the Developing World* (Oxford: Oxford University Press, 1989)

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