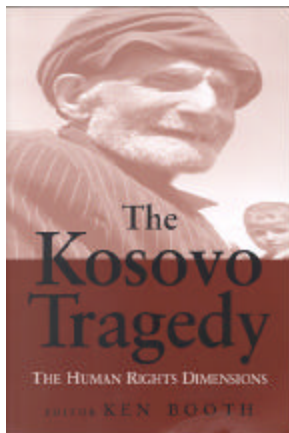




Kosovo and Beyond: Is Humanitarian Intervention Transforming International Society?

By Roberto Belloni

A review of Saving Strangers: Humanitarian Intervention in International Society by Nicholas J. Wheeler. New York: Oxford University Press, 2001. 352pp.



and

The Kosovo Tragedy: The Human Rights Dimensions edited by Ken Booth. Portland, OR: Frank Cass, 2001. 386pp.

If, in those dark days and hours leading up to the genocide [in Rwanda], a coalition of states had been prepared to act in defense of the Tutsi population, but did not receive prompt Council authorization, should such a coalition have stood aside and allowed the horror to unfold?

—Kofi Annan

The rising importance of global human rights is challenging long-established international relations and diplomatic principles, in particular the idea of non-intervention and non-interference in the domestic affairs of sovereign states. United Nations (UN) Secretary General Kofi Annan has often referred to the resulting incoherence between emerging human rights norms that seem to permit external intervention when gross human rights violations are perpetrated, and the cardinal principle of the inviolability of sovereign states embodied in the UN Charter. Hence, efforts to defend human rights worldwide may give rise to curious problems and contradictions. For example, to cite a recent and controversial case, the 1999 NATO war against the Federal Republic of

Yugoslavia that was intended to protect the rights of the Kosovo Albanians may have been *legitimate*, but not *legal*.¹

As Nicholas Wheeler demonstrates in *Saving Strangers: Humanitarian Intervention in International Society*, the idea that human rights can be a legitimating reason for the instrumental use of violence has been very slow to emerge, vehemently contested, and sometimes denied even by intervening states. Through a meticulous analysis of major Cold War and post-Cold War cases, Wheeler has provided the best case to date for a “solidarist” approach to international politics that not only permits but also morally requires external military intervention in cases of supreme humanitarian emergencies.

In his edited book *The Kosovo Tragedy: The Human Rights Dimensions*, Ken Booth shows how much more debate is needed to reach a normative agreement resembling a “solidarist” perspective. By assembling a range of authors with different worldviews and approaches to international politics (including a chapter by Wheeler on the legality and legitimacy of NATO’s war in Yugoslavia), Booth provides an important analysis of the case that has sparked a renewed interest in the doctrine of humanitarian intervention. Booth’s own inclination, well expressed in his “Ten Flaws of Just Wars,” is skeptical of the desirability of intervention in the name of humanitarian principles, while Wheeler is clearly committed to advancing the idea that intervention reflects a new solidarity in the society of states. Both texts confirm and further the tradition of good scholarship arising from the Department of International Politics at the University of Wales, Aberystwyth, where the former serves as Head of the Department and the latter as Senior Lecturer.

International Order versus International Justice

Wheeler places his inquiry within the English School of international relations, which includes scholars such as E. H. Carr, Herbert Butterfield, Martin Wight, Adam Watson, R. J. Vincent, and especially Hedley Bull. What these authors share is the idea that international relations occur in a profoundly social context, a concept recently investigated in North America by social constructivists. Their axiomatic assumption furthers the notion proposed by early modern international lawyers (such as Hugo Grotius and Emmerich de Vattel) that states are bound by legal and moral obligations in their relations with each other. States form a society constituted by norms of sovereignty, non-intervention and the rejection of the use of force. Such a society provides a context for order, and thus is logically and morally prior to other values, in particular human justice. Only after order is guaranteed, the logic goes, may individuals and groups enjoy their rights.

Within the English School, scholars are typically divided between pluralists and solidarists. Pluralists believe that states can agree only on a minimum set of rules of coexistence, in particular sovereignty and non-intervention. In their view, humanitarian intervention is a violation of these rules safeguarding the independent choices of other political communities, and is inherently open to

¹ Independent International Commission on Kosovo, *Kosovo Report: Conflict, International Response, Lessons Learned*, Oxford: Oxford University Press, 2000 (available at: www.kosovocommission.org).

the possibility of abuse by the strong trying to coerce the weak.² Hence, pluralists reject intervention as ultimately subversive to the structure of inter-state order.

Solidarists, on the other hand, argue that intervention is a duty in cases of extreme human suffering. Intervention is thought to actually strengthen the legitimacy of the society of states and deepen its commitment to justice. Indeed, it is Wheeler's central argument that pluralist suspicion of humanitarian intervention as conflicting with the requirements of order and coexistence is flawed. Instead, "there is often a compatibility between protecting the national interest, promoting international order, and enforcing human rights" (p. 309). The promotion of human rights and universal principles and values is slowly becoming part of conceptions of the "national interest." In this account, then, states benefit in the long-run by promoting and enforcing human rights, because an unjust world will be a disorderly one.

The manner in which Wheeler substantiates this claim is through an elaboration of a provocative solidarist theory of humanitarian intervention that distinguishes between degrees of legitimacy, combined with a careful examination of the leading Cold War and post-Cold War cases. To qualify as both legitimate and humanitarian, an intervention has to meet four key requirements, all derived from the Just War tradition (pp. 33-37): there has to be a "supreme humanitarian emergency" where the degree of human rights violations shocks the moral conscience of humanity; all reasonable peaceful remedies have been attempted; the use of force must be proportionate to the harm that it is designed to prevent or stop; and there has to be a strong expectation that the intervention will lead to a positive humanitarian outcome.

Contrary to conventional wisdom, Wheeler claims that humanitarian motives for intervention are not necessary, provided that the means adopted do not jeopardize a positive outcome. Crucially, not every action can be justified in humanitarian terms. Borrowing from the work of constructivists, Wheeler claims that, "rules and norms both constrain and enable actors" (p. 6). An important part of these rules and norms are those that are verbally or legally endorsed by states in an attempt to legitimate their behavior. It is true that Western governments are often hypocritical and inconsistent, but ultimately for Wheeler this is a non-problem. States eventually become entangled in their own justifications. Thus, words matter. The verbal adherence to human rights principles can reinforce a normative framework empowering states to act as global cops (while simultaneously narrowing the range of possible actions legitimated by that framework).

The Cold War Context

Armed with this theoretical framework, Wheeler moves to an examination of post-World War II cases. What is striking during this period is the paucity of interventions. Despite the presence of hundreds of regimes guilty of systematic and persistent violations of human rights, interventions during the Cold War were clearly exceptional. It was widely accepted that the use of force to save

² An authoritative (and in many ways extreme) exposition of this view can be found in Robert Jackson, *The Global Covenant: Human Conduct in a World of States*, Oxford: Oxford University Press, 2000.

victims from gross human rights violations was a breach of the UN Charter. The non-intervention rule led to the passive acquiescence of the slaughter of Tutsi in Burundi in the 1960s, of Ibos during Biafra's war for secession from Nigeria in 1967, and the mass killing of East Timorese after Indonesia took over the island in 1975.

Wheeler analyzes the three major cases when intervention did occur: India's intervention in East Pakistan; Tanzania's intervention in Uganda; and Vietnam's intervention in Cambodia. In the Cold War context of superpower rivalry and proxy wars, the society of states was clearly not prepared to approve these actions. For Wheeler, however, this is seen as a mistake. The society of states should have legitimated these interventions as humanitarian because they met the four threshold requirements of a legitimate action, while the means adopted did not alter a humanitarian result. In the case of India's intervention, although non-humanitarian motives were certainly present, they did not impede achieving humanitarian outcomes. In the case of Vietnam, humanitarian reasons were not invoked but were clearly achieved by overthrowing the Pol Pot regime (which had been labeled by US President Jimmy Carter as the "worst violator of human rights in the world"). Only Tanzania's intervention in Uganda was defended, at least in part, by humanitarian claims and often tacitly approved by the society of states.

Hence, the lack of humanitarian motives does not necessarily jeopardize the possibility of positive outcomes. At first glance, Wheeler is correct in making this claim, although one might object that stripping motives altogether from the criteria for a just intervention fails to consider the realist view that states intervene only when the "national interest" clearly is involved. But for Wheeler this is not a problem as long as positive effects are achieved. There remains, then, the problem of defining a "humanitarian outcome."

Wheeler is clearly content to follow the widely accepted idea that humanitarian intervention, when embarked upon, should be aimed at stopping massive violations of human rights (p. 37). He fails to appreciate that the conflicts that motivated external intervention are not simply human rights problems but political problems that require a political solution beyond the immediate cessation of human rights violations. Indeed, without a clear political solution, humanitarian crises are deemed to repeat themselves. In Uganda, for example, the overthrow of Idi Amin stopped massive killing but did not prevent the establishment of the second Obote regime, whose atrocities could be comparable to those of his predecessor. Had Tanzania had clearer humanitarian motives, perhaps Milton Obote (a protégé of Tanzanian President Julius Nyerere) might have been prevented from taking power, or had his actions limited. In any case, Wheeler rules out motives as part of the requirements for an intervention to be humanitarian. The second Obote regime in Uganda is not even mentioned in Saving Strangers.

Wheeler fails to consider motives and the way they affect political outcomes. If motives are largely non-humanitarian, then it is unlikely that the intervening states would be involved in any way in a post-war transition, because the principles that led to the intervention are only superficially altruistic. If, however, an intervening state decides to remain involved after a war that ended human suffering in the target state, then this is probably due to compelling national interests, as in the case of Vietnam's lengthy occupation of Cambodia. In other words, there is much we can learn by soberly considering the reasons to intervene, beyond the official statements of convenience of the intervening state(s).

But Wheeler, by excluding motives from the key requirements for a just intervention, misses this important aspect. As a result, his theoretical framework lends itself to an ex-post-facto assessment of limited value concerning the authorization to intervene. The consequences are significant. In the case of Kosovo, Wheeler concludes that NATO's intervention was flawed because of the means it adopted and the limited humanitarian results. Had Wheeler considered the claim that NATO's action was designed mostly to boost its credibility, and less to protect human rights, the humanitarian catastrophe resulting from the war would be easier to comprehend.

The Post Cold War Environment: Kosovo and Beyond

In addition to the elaboration of a controversial set of criteria to qualify an intervention as humanitarian, Wheeler's second major contribution is an empirical demonstration that despite lasting suspicion among many states, a "new norm of Security Council-authorized humanitarian intervention" was developed during the 1990s (p. 16). Although this may be true, the practice of unilateral humanitarian intervention continues to be viewed with great skepticism by the society of states, an opinion recently confirmed by the Report to the General Assembly of the International Commission on Intervention and State Sovereignty.³

Wheeler argues that unilateral intervention might support a new solidarity in international society and therefore should not be ruled out. The case of NATO's bombing of the Federal Republic of Yugoslavia in the spring of 1999, and the lively debate that arose as a consequence of this action, reflects the long road ahead to reach the "new solidarity" Wheeler hopes will be achieved.

The Kosovo Tragedy, edited by Ken Booth, provides a good example of the deep disagreements that have arisen on whether the war was legitimate, just, proportionate and effective in bringing about humanitarian results. As is often the case with edited books, some contributions are stronger or more illuminating than others. The article by Ambassador William G. Walker, the Head of the Organization for Security and Cooperation in Europe (OSCE) Kosovo Verification Mission (dispatched to Kosovo in November 1998 to monitor the human rights crisis), is as illuminating for what it says as for what it does not say. Ambassador Walker confidently claims that he is "certain that a thorough examination will prove, once and for all, that Kosovo was the scene of human rights abuses on a previously unimagined scale" (p. 138). One, however, looks unsuccessfully for hints of this evidence in the Ambassador's article. The OSCE report *Kosovo/Kosova—As Seen, As Told* is not even mentioned by the Ambassador, although Part I of the report was meant to be used as evidence by the International Criminal Tribunal for the Former Yugoslavia (ICTY) in its indictment against Yugoslav President Slobodan Milosevic.

Perhaps this gap is due to the fact that the lengthy report mentions only a single episode committed *before* OSCE observers were withdrawn to allow for NATO's war to unfold: the massacre of 45 people in the village of Racak on 15 January 1999. As Dianne Johnston has shown in a series

³ *The Responsibility to Protect*, December 2001 (available at <http://www.iciss.gc.ca/menu-e.asp>).

of articles, all other allegations against the Serbian regime for crimes committed *prior* to NATO's bombing have been largely unsubstantiated.⁴ Even the massacre of Racak—NATO's *casus belli*—raises more questions than it answers, as candidly admitted by the OSCE. Still, Ambassador Walker, who during his assignment in El Salvador in the 1980s was completely oblivious to massacres, did not miss any opportunity to denounce the “genocide in the making.”

Of course, the problem is not with Ambassador Walker's ambiguous behavior but with having enough evidence to legitimate an armed intervention against a non-NATO member—in other words, meeting Wheeler's requirement of a “supreme humanitarian emergency.” Thankfully, the extent of human rights abuses in the province in the 1990s is richly documented in a variety of sources.⁵ Alex Bellamy provides a good overview of Serbian crimes by tracing the dynamics of Serb/Albanian confrontation back to the 1974 Yugoslav constitution. Other contributors to Booth's volume argue that Serb discrimination and violence was evident enough to justify intervention. Chris Brown claims that the Yugoslav government was “grossly violating the human dignity and rights of the majority community in Kosovo” (p. 286). For Melanie McDonagh, “any understanding of our collective response to the situation in Kosovo must take account of the context of what went before, notably in Bosnia” (p. 290).⁶

In addition to the presence of a considerable history of human rights abuses, one of NATO's key reasons for intervening was evidence of a Serbian “final solution” to the Kosovo problem: a plan called “Operation Horseshoe,” in which Albanian Kosovars would be surrounded on three sides and driven through the gap into Albania. The German foreign minister disclosed the existence of the plan at the beginning of NATO's bombing, but interestingly enough, as Eric Herring notes, it was never disclosed to the NATO Supreme Allied Commander in Europe, whose job it was to counter it (p. 230). For this reason, many even doubt the plan ever existed. But even granting that past and future possible human rights violations in the province were enough to warrant an external intervention—and to most accounts they were—there remains the requirement of exhausting all the available peaceful remedies before resorting to violence.

The contributors to The Kosovo Tragedy are divided on this issue almost as much as they are on all other crucial topics. For Erring, the terms for a peaceful settlement put forward by NATO and rejected by the Serbs at Rambouillet in February 1999 were so unworkable as to reveal NATO's unwillingness to reach a peaceful solution. Erring even quotes an off-the-record statement of then-Secretary of State Madeline Albright that the US “intentionally set the bar too high for the Serbs to comply” (p. 228).

Proponents of the bombing campaign claim that all reasonable means to avoid war were exhausted. Chris Brown argues that the idea that the US deliberately sabotaged the peace process relies on a number of “myths and misunderstandings” (p. 286), while Ambassador Walker claims

⁴ See for example: Dianne Johnston, “Humanitarian War: Making the Crime Fit the Punishment,” in Tariq Ali, ed., Master of the Universe?, London: Verso, 2000.

⁵ Human Rights Watch/Helsinki, Open Wounds: Human Rights Abuses in Kosovo, New York: Human Rights Watch, 1993.

⁶ However, the fact that Serbs have committed crimes during the several wars that preceded NATO's campaign is a dubious legal ground upon which to justify intervention. The ICTY has indeed long resisted the prosecutor's suggestion to reunify all counts against Milosević in one single trial, implicitly making the case that the war in Croatia, Bosnia, and Kosovo do not easily reflect an underlying and comprehensive Serbian strategy.

that “the Rambouillet peace process conclusively proved Slobodan Milosevic never intended signing any settlement that diminished his absolute control over Kosovo” (p. 139). In *Saving Strangers*, Wheeler echoes this idea by challenging NATO’s critics to “show that there was a non-violent strategy that could have established the conditions for the protection of human rights in Kosovo” (p. 283).

A conclusive answer to the question of NATO’s real intentions might never be found.⁷ This uncertainty leaves open the possibility, dreaded by pluralists, that intervention will upset the international order by weakening the restraints on the use of force and thus allowing the strong to coerce the weak. The solidarist challenge, then, is “to find ways of making unilateral humanitarian intervention an expression of the collective will of the society of states, and not a fundamental threat to its ordering principles” (Wheeler in Booth, p. 160).

As Wheeler shows in *Saving Strangers*, NATO’s action might be considered as a step in this direction, since it was received with widespread approval within the society of states. But NATO did not act with the authorization of the UN Security Council, although it claimed that it was acting with the backing of international law. The authorization of the Security Council was not requested because Russia and China announced their intentions to veto it. Wheeler considers the possibility that NATO could have placed the issue before the General Assembly under the 1950 “Uniting for Peace” Resolution in order to secure collective legitimization for its actions. However, this would have posed the same problem that Kofi Annan raised in relation to the Council authorization, which was cited at the beginning of this essay: how could a group of states abstain from intervening if they could not grant the necessary votes in the General Assembly while massive human rights violations were taking place?

Wheeler correctly argues that there might be something fundamentally wrong in a system that requires states to break the law in order to “do good.” But, as Hilaire McCoubrey insists, it is not the illegality of the war but the character of the means employed by NATO that ultimately undermined the humanitarian ends of the intervention. NATO’s aim to achieve a “casualty-free” victory by dropping cluster bombs from 15,000 feet, and using depleted uranium tipped armor-piercing shells and missiles—while refusing to commit the ground troops that would have been otherwise required—led to the acceleration of Serb ethnic cleansing, not to mention avoidable civilian casualties among both Serbs and Albanians.⁸ Both Amnesty International and Human Rights Watch (among others) later documented these ostensible “mistakes” and “accidents,” although to date no legal proceeding for violations of the Laws of War has been opened.

⁷ However, partial truths are finally beginning to be revealed. In an interview with *The Guardian* (21 July 2000) the former head of British intelligence disclosed that there were “many people within NATO anxious to go to war...the terms proposed to Milosevic at Rambouillet were deliberately unacceptable.”

⁸ This would include the death of at least 15 European peacekeepers from leukemia, in addition to many other cases of unexplained illness. In the winter of 2001, a Swiss laboratory found traces of uranium isotopes that suggests radioactive contamination from American-made munitions collected on Kosovar battlefields. NATO, however, argues that depleted uranium-tipped shells and missiles, after impact, cannot cause serious health problems.

As Ian Mitchell and Jasmina Husanovic confirm, the post-war situation is marked by many unresolved problems that, taken together, hardly qualify the humanitarian status of the war's outcome. Most Serbs have been expelled from Kosovo in a process sometimes called "reverse ethnic cleansing," thus making a mockery of NATO's claim that the war was about defending multi-cultural values and practices. The few remaining non-Albanian minorities in Kosovo are constantly persecuted and threatened. Meanwhile, the lack of a clear final political settlement for the Kosovo province is a breeding ground for extremism from all sides. And the international community's record in managing ethnic insecurity is, at the very least, shaky.

Because of these flaws, Wheeler concludes that, "NATO's intervention is not a good model of humanitarian intervention" (p. 275). Indeed, Western ineptitude and questionable motives continue to affect the post-conflict transition. The UN Mission to Kosovo has twice been left with almost no funds, while the deployment of the international police force has been painfully slow.⁹ In a highly symbolic move in August 2000, Médecins Sans Frontières (Doctors Without Borders), which received the 1999 Nobel Peace Prize for its work in war-torn areas, left the province to protest the UN's incapacity to protect the safety of the few remaining minorities. Only the November 2001 elections seemed to have given an encouraging sign with the victory of Ibrahim Rugova, the moderate Albanian leader. Rugova, however, immediately announced his intention to achieve the independence of Kosovo as soon as possible, an option opposed by most Western governments, and clearly in opposition to NATO's stated goals.

In sum, NATO's experience in Kosovo provides grounds for two possible interpretations: either humanitarian intervention is not a useful tool to address states' internal political problems and is hardly conducive to peace and order, or there is an inherent limitation in thinking of intervention as a short-term enterprise. If one subscribes to the former possibility, as many realists do, then intervention for humanitarian principles should be rejected altogether. The solidarist challenge, only partly met by Wheeler in *Saving Strangers*, is to think of intervention beyond short-term military action. Even if a military campaign were justified and successful, we still would need to identify institutions and mechanisms that are able to advance participation and shared responsibility for the future of those communities recovering from war.

Conclusion

The problems intrinsic to the idea that human rights values and practices can be defended through violent means are thoughtfully discussed in the last part of Booth's volume, a forum significantly titled "Is Humanitarian War a Contradiction in Terms?" (with contributions by Chris Brown, Melanie McDonagh, John Stremlau, Colin S. Gray, Tarak Barkawi, Ken Booth, and Richard Falk). For Wheeler, however, just or humanitarian motives to wage war are ultimately secondary issues in determining whether an intervention qualifies for humanitarian status. We should rather acknowledge that states are increasingly adopting humanitarian arguments to legitimate their actions. In the 1990s, "even if officials in the Bush and Clinton administrations invoked humanitarian justifications only for ulterior reasons, they found themselves constrained in terms of their

⁹ Roberto Belloni, "Faccia a faccia con la realtà: The Stati Uniti in Kosovo," in Francesco Strazzari, ed., *La pace intrattabile. Kosovo 1999/2000: radiografia del dopo-bombe*, Trieste: Asterios, 2000, pp. 207-211.

subsequent actions by the need to defend these as being in conformity with their humanitarian claims” (p. 288).

The idea that humanitarian arguments can legitimize (and at the same time constrain) states’ actions might be the most lasting contribution of Wheeler’s study of the evolution of solidarism in international politics, and is reflected in NATO’s stated reasons for intervening in Kosovo. The fact that a military alliance intervened in the domestic affairs of a sovereign state in defense of human rights (although with no UN authorization) established a very demanding normative framework to judge future states’ behavior. Whether this precedent represents a passage from pluralist to solidarist norms and behavior in international politics requires additional similar cases. The disagreements raised by NATO’s intervention, well represented in Booth’s volume, testify to the need for deepening the dialogue among all actors involved—states and non-states. Only an agreement on a set of substantive rules governing humanitarian intervention will counter the fear that intervention might continue to be the tool of the strong to coerce the weak.

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Roberto Belloni is a Ph.D. Candidate in the Graduate School of International Studies at the University of Denver.